
ARTICLE 7. NONCONFORMITIES

7.1 Intent

It is the intent of this Article to minimize the impact of changed regulations on development that existed (or for which a vested right had been established) as of the effective date of the changed regulations.

7.2 Nonconforming Lots

7.2.1 Definition

A nonconforming lot is a lot that was lawfully created prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Section 3.8 for the zoning district in which it is located.

7.2.2 Required Combination or Recombination of Nonconforming Lots

Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this Chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this Chapter.

Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

7.2.3 Use of Nonconforming Lots

Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure(s) with applicable use regulations and with applicable LUI ratios and setback and height regulations. However, any use (e.g. two-family or multi-family dwelling) that requires a greater gross land area than the minimum gross land area listed in Section 3.8 for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement,

If compliance of the structure(s) intended on the nonconforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of variance from such setback regulations by the Board of Adjustment in accord with the provisions of Section 4.12 of this Chapter.

7.3 Nonconforming Uses

7.3.1 Definition

A nonconforming use is a use of land, buildings, or structures that was lawfully established (or for which a vested right had been established) on a property prior to the effective date of current use regulations, but does not conform to the Use Regulations of Article 3 for the zoning district in which it is located.

7.3.2 Regulations

Two-family duplex dwelling units existing or for which a vested right had been established as of October 21, 2002, may be continued as a use without limitation and shall not be considered as a nonconforming use as defined herein. Nonconforming uses, other than two-family duplex dwelling units, may be continued subject to the following limitations:

- (a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- (b) No building or structure devoted to a nonconforming use shall be enlarged, extended, or moved unless such building or structure is thereafter devoted to a conforming use.
- (c) If a nonconforming use ceases for more than ninety (90) consecutive days or a total of one hundred and eighty (180) days in any twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

7.4 Nonconforming Features

7.4.1 Definition

A nonconforming feature is a physical feature or characteristic of a use, building, structure or other development of land that was lawfully established (or for which a vested right had been established) prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the Intensity Regulations of Article 3 or the Design Standards of Article 5 applicable to such use, building, structure, or development of land. Nonconforming features include, but are not limited to, physical features and characteristics of development that exceed allowable maximum standards (floor area, height), and those that lack or fall short of required minimum standards (impervious surface, recreation space, setback, building spacing, access and circulation arrangement and design, sight line triangle, off-street parking and loading spaces and design, water supply and sewage disposal arrangement and design, utility design, refuse storage and collection facilities and design, buffer width and landscaping design, screening height and design, landscaping maintenance, outdoor lighting design).



7.4.2 Regulations

Nonconforming features may be continued subject to the following limitations:

- (a) No action shall be taken which increases the degree or extent of the nonconforming feature. Any enlargement, extension or structural alteration shall conform to all current requirements of this Article.
- (b) For development existing (or for which a vested right had been established) prior to the effective date of current regulations, nonconforming features created by a change in regulations may continue to exist, and structures with such nonconforming features may be reconstructed if demolished or destroyed.

7.4.3 Discontinuance

Any sign having a nonconforming feature shall be either eliminated or made to conform with the provisions of this Chapter when any substantial alteration to the sign is proposed.

7.5 Nonconforming Signs

7.5.1 Definition

A nonconforming sign is a sign that was lawfully established prior to the effective date of this Chapter or a subsequent amendment thereto, but does not conform to the Design Standards of Article 5 applicable to such sign.

7.5.2 Regulations

Nonconforming signs may be continued subject to the following limitations:

- (a) No nonconforming sign, including its permanent message or its structure, shall be extended, enlarged, moved, or otherwise altered unless such sign is made to conform to the current regulations of this Chapter.
- (b) When a nonconforming sign is demolished or damaged to the extent where more than fifty percent (50%) of its display area requires replacement, such sign shall be eliminated or made to conform to the current regulations of this Chapter.
- (c) When the repair, maintenance, or replacement cost of a nonconforming sign exceeds five hundred dollars (\$500), such sign shall be eliminated or made to conform to the current regulations of this Chapter.

7.5.3 Amortization of Nonconforming Signs

Any nonconforming sign shall be either eliminated or made to conform to current regulations of this Chapter in accord with the following schedule:

- (a) Any nonconforming sign that does not conform to the requirements of Section 5.14.4, Traffic Safety Precautions, shall be either eliminated or made to conform to the current regulations of this Chapter within ninety (90) days after the date of the notice of nonconformity.
- (b) Any nonconforming sign that is exempt from regulation under Section 5.14.3, but that does not conform to the temporary sign limitations in Section 5.14.3(f) - (k), shall be either eliminated or made to conform to the current regulations of this Chapter within ninety (90) days after the date of the notice of nonconformity.
- (c) Any nonconforming sign other than those to which a. or b. above applies shall be either eliminated or made to conform to the current regulations of this Chapter within three (3) years after the date of the notice of nonconformity.

7.6 Nonconforming Parking Areas in Front Yards

Any nonconforming parking area in a front yard shall either be eliminated or made to conform to current regulations of this Chapter within six (6) months after the date of notice of nonconformity.

7.7 Development in Watershed Protection District

- (a) This provision of the Watershed Protection District shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, or for which preliminary plat approval, site plan approval, or special use permit approval has been received on or before the effective date of the applicable district. With respect to the requirements of this Article, such development shall not be considered as non-conforming within the meaning of Article 7.
- (b) This provision of the Watershed Protection District shall not apply to single family or two-family development constructed or to be constructed on existing lots created prior to July 1, 1993.
- (c) This Watershed Protection District shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, on or before July 1, 1993. In addition, the Watershed Protection District shall not apply to existing development which has established a vested right under North Carolina zoning law as of July 1, 1993, based on the following criteria:
 - (1) substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid approval to proceed with the project;
 - (2) having an outstanding valid building permit; or
 - (3) having expended substantial resources (time, labor, money) and having an approved Site Specific Development Plan pursuant to this Ordinance.

- (d) Multiple lots under single ownership as of July 1, 1993, are not subject to the provisions of the Watershed Protection District if vested rights have been established in accordance with North Carolina law. If no vested rights are established, then owners must comply with the provisions of this Chapter. Compliance may include requiring the recombination of lots.

- (e) The Watershed Protection District shall not apply to single family and two-family development constructed or to be constructed on existing single-family lots created prior to July 1, 1993. This exemption is not applicable to multiple lots under single ownership. For purposes of constructing a single-family or two-family dwelling, lots of record as of July 1, 1993, which are established through a duly approved and properly recorded final plat shall be exempt from the provisions of this Chapter.