

CHAPTER 12: NONCONFORMITIES

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Section 12.1 Purpose and Applicability

The purpose of this Chapter is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any amendment subsequent thereto) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this chapter. Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

Section 12.2 Nonconforming Uses

- A. Nonconforming uses of land or structures, and nonconforming structures that contain nonconforming uses, may continue only in accordance with the provisions of this section.
- B. Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming use. Also, a nonconforming use may be re-established in case of damage (to an extent of less than 60 percent of its assessed value) due to fire or other disaster event pursuant to the issuance of a permit by the Board of Adjustment. This shall include, as well, the repair or reconstruction of any structure or on-site utility, parking or street infrastructure in support of said nonconforming use. If said structure was also nonconforming, the reconstruction shall meet the setback requirements of the applicable district. An application must be filed for such building permit no later than 30 days after the use has been destroyed or damaged, otherwise the use will not be allowed to be rebuilt.
- C. A nonconforming non-residential use shall not be expanded, changed or enlarged, nor shall such a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located (either attached or detached). However, if a nonconforming non-residential use can expand within the existing structure, it may do so as long as the Zoning Administrator determines that the interior expansion will not have a negative impact upon surrounding conforming uses. Any occupation of additional lands beyond the boundaries of the lot on which said nonconforming use is located is prohibited. An existing nonconforming residential use located in a non-residential district may, however, be enlarged or altered. Any such enlargement or alteration shall be in compliance with all yard requirements of such structures as required in the specific District.
- D. A nonconforming use may be changed to another equal or less intense nonconforming use.
- E. Once a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- F. If a nonconforming use is abandoned for 180 days or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming. If said use is located in a structure which is destroyed (i.e. received damage to an extent of more than 60 percent of its assessed value at the time of destruction), a use may only be allowed to re-establish in accordance with the zoning regulations in effect in the district in which it is located. Assessed value shall be determined by using tax assessment records provided by the tax assessor's office for the year in which the structure was destroyed.

- G. If a nonconforming manufactured home, located on the same lot as a principal structure, is occupied by a blood relative of the owner-occupant of the principal structure, such manufactured home shall be permitted, subject to Section 12.3 of this chapter.

Section 12.3 Nonconforming Structures

12.3.1 Nonconforming Principal Structures

- A. A nonconforming structure containing a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section.
- B. Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- C. A nonconforming structure may not, under any circumstances, be enlarged or altered in a way which increases its nonconformity. (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). Expansion of the structure in a way that complies with applicable dimensional standards or that decreases the degree of nonconformity is permitted. All expansions must comply with the stormwater management requirements of this Ordinance (Section 8.11).
- D. If a nonconforming non-residential structure is damaged to an extent greater than 60 percent of its assessed value for tax purposes it shall be rebuilt only after the issuance of a permit from the Zoning Administrator. A building permit for reconstruction of such structure must be secured no later than 180 days from the date of its destruction. In the issuance of said permit, the Zoning Administrator shall follow these standards:
- If the structure can be rebuilt on the same lot and meet all setback requirements, it shall be.
 - If the structure cannot be rebuilt at the same size (ground floor area) in accordance with the minimum standards of the district in which it is located, then it shall be placed on the lot in as conforming a manner as possible.
 - A nonconforming structure shall not be rebuilt in a manner, which increases its nonconformity.
 - The reconstruction of a nonconforming structure (at the same or smaller size) shall require the installation of sufficient parking, landscaping or buffering.
- E. Should a nonconforming structure be moved for any distance on the lot upon which it is located, if possible, it shall be moved so as to make the structure conforming. Otherwise the structure, if moved shall be placed on the lot in as conforming a manner as possible.
- F. A nonconforming manufactured home used as a principal residential structure may be replaced with another manufactured home only if 1) the replacement is a manufactured home which bears a valid seal indicating conformance with the 1976 National Manufactured Housing Construction and Safety Standards Act, and 2) the replacement manufactured home is newer in age than the one it is replacing. The replacement manufactured home must receive a Certificate of Occupancy within six months of the removal of the original manufactured home. The manufactured home must meet all district requirements.

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12.3.2 Nonconforming Accessory Structures

- A. A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.
- B. No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

Section 12.4 Nonconforming Lots

- A. Except as provided in (B) and (C) of this Section, a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all applicable yard, setback requirements for the zoning district in which the lot is located.
- B. A nonconforming vacant lot shall not be developed if it could be combined with an adjoining lot, (said lot being owned by the same person and any or all future assigns) on or after the effective date of these regulations in order to create a single lot. If said combination, however, results in the creation of a single lot that is more than one and one-half (1-1/2) times the minimum lot width or area required in the zoning district, then the single lot may be divided into two lots of equal width and area without being further classified as nonconforming. For purposes of this Section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
- C. Notwithstanding (B) of this Section, a nonconforming lot may be developed if, at the effective date of this Ordinance or any subsequent date upon which the lot became nonconforming, the lot
 - had an area of twenty-thousand (20,000) square feet or greater; or
 - the subdivision in which the lot was located (if in a major subdivision) had received preliminary plat approval; or
 - the subdivision in which the lot was located (if in a minor subdivision) had received final plat approval, or
 - the lot was in a subdivision where the preliminary plat was accepted for review prior to the effective date of this Ordinance or a vested right had been granted.

Section 12.5 Nonconforming Signs

- A. Subject to the restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- B. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming.
- C. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a nonconforming sign is removed from the premises or otherwise taken down or moved, said sign may only be replaced with a sign which is in conformance with the terms of this Ordinance.

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- D. Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted. If repair or maintenance of a nonconforming sign results in the removal of the sign frame structure for any length of time, the replaced sign frame structure and any copy placed on it shall be in conformance with this Ordinance.
- E. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign shall be considered "destroyed" if it receives damage to an extent of more than sixty (60) percent of the cost of replacing the sign copy.
- F. Notwithstanding other provisions contained in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
- G. If a nonconforming sign which advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within thirty (30) days after the use has ceased operation or the service or commodity has ceased being offered. If there is a change of use or name of business on a particular piece of property, and there were one or more on-premise signs which advertised the business, any new signs placed for the new use or business name must meet all sign requirements for the underlying zoning district.
- H. If a nonconforming sign remains blank for a continuous period of six (6) months, that sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Ordinance, a sign shall be deemed "blank" if:
- It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
 - The advertising message it displays becomes illegible in whole or substantial part; or
 - It does not contain an advertising message. (For such purposes, the terms "Sign For Rent", "Sign For Lease", "Sign For Sale", etc. shall not be deemed to be an advertising message).
- I. Any nonconforming advertising sign which is located in a residential district shall be removed within seven (7) years following the effective date of this Ordinance, except as provided in (J) of this Section. Any such sign which becomes nonconforming due to its location within a particular residential district after the effective date of this Ordinance (due to a subsequent change in the Zoning map) shall be removed within seven (7) years following the date the sign becomes nonconforming, except as provided in (J) of this Section. All other advertising signs which are nonconforming by virtue of their height, setback, spacing, or location in a zoning district other than a residential district, shall not be required to be removed and may continue subject to all other applicable portions of this Section.
- J. North Carolina General Statute 136-131.1 requires that "just compensation" be paid upon removal of certain outdoor advertising signs adjacent to the highway on the national system of interstate and defense highways or a highway on the Federal-aid primary highway system for which a valid permit has been issued. (I) of this Section shall not require that any sign be removed if compensation must be paid upon removal of such sign due to any State or Federal law that mandates such form of "just compensation" upon removal. Should any such State or Federal requirement become inoperative or

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otherwise fail to apply to a given sign, then such sign shall be removed within five and one-half (5-1/2) years of such State or Federal requirement becoming inoperative or otherwise failing to apply to such sign.

Section 12.6 Nonconforming Landscaping and Buffering

In accordance with Chapter 7 of this Ordinance, certain uses are required to provide screening and/or landscaping on-site.

- A. Except as herein provided, any expansion of an existing use which is deficient in landscaping and/or buffering or any change in principal use cannot occur without the required screening and/or landscaping having first been provided on-site. The Central Business (C-B) District is exempt from this requirement.
- B. Expansions to the parking area or loading areas which increase the total area more than 20 percent shall be required to comply with all applicable parking and loading area landscaping and screening.

Section 12.7 Nonconforming Parking or Loading

- A. Improvements to existing parking areas are permitted provided the improvements decrease the degree of nonconformity (ie gravel parking to paved, compliance with applicable setbacks, installation of trees, etc.)
- B. Expansions to the parking or loading areas which increase the total impervious area shall be required to comply with all applicable parking and loading requirements, such as, but not limited to, landscaping, surface materials, exterior lighting, screening standards, and curb and gutter. Expansions under 25% may be granted relief on a one time only basis per lot or planned development. All increases must comply with the stormwater management requirements of this Ordinance (Section 8.11). For increases less than 25%, curb and gutter may be omitted if other adequate means of stormwater control are used.

Section 12.8 Nonconforming Junkyards and Landfills

- A. All junkyards and landfills not found in compliance with this Ordinance shall either cease or desist or meet full compliance of these standards no later than three (3) years from the effective date of this section (December 9, 2010).
- B. All nonconforming junkyards and landfills in any area annexed or brought into the extraterritorial jurisdiction of the Town of Troutman after the effective date shall also be removed or brought into compliance with this Ordinance within three (3) years after the effective date of annexation or extraterritorial jurisdiction, or until removed, renovated, altered, destroyed, or damaged, whichever is earlier.

Section 12.9 Nonconforming Manufactured Homes

12.9.1 Nonconforming Manufactured Homes on Individual Lots

A non-conforming manufactured home may not be enlarged or altered externally in any way. A non-conforming manufactured home on an individual lot outside of a mobile home park may not be replaced except by a conforming dwelling or by a manufactured home that meets the requirements set forth in Sections 4.16 and 5.3.3 of this Ordinance.

12.9.2 Nonconforming Manufactured Home Parks

Existing mobile home parks which provide mobile home spaces having a width or area less than that required by this Ordinance may continue to operate with spaces of existing width or area provided they meet the standards of the County Health Department and may continue to replace existing mobile homes. In no event shall any non-conforming park be allowed to expand unless the entire park is improved to meet the requirements of this Ordinance for the establishment of a mobile home park.