

## **ARTICLE 15 - NON-CONFORMITIES**

A lawful pre-existing use, structure, or lot which does not meet the requirements of the current adopted zoning Ordinance is called a nonconformity. Special provisions apply to nonconformities and these are listed in this Article of the Ordinance. In lieu of the provisions in this Article, nonconforming signs shall comply with the requirements in Section 11.3.

### **15.1 Existing Substandard Structure**

- (1) The conforming use of a structure as explained in Section 15.4 of this Ordinance, existing at the time of the adoption of this Ordinance, may be continued although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area and lot coverage provisions of this Ordinance. Such structures are called substandard structures.
- (2) Substandard structures with conforming uses may be added to or enlarged provided that the enlargements comply with the yard, height, parking, loading, access and all other applicable requirements of this Ordinance for the district in which such a structure is located.
- (3) Substandard structures which, by fire, explosion, flood, or other calamity, are damaged up to an amount of seventy five percent (75%) of the assessed value may be reconstructed so long as no unconformity is enlarged.
- (4) Substandard structures which, by fire, explosion, flood, or other calamity, are damaged in the amount of greater than seventy five percent (75%) of their assessed value or destroyed may be reconstructed, provided that the repaired or reconstructed structure shall comply with the yard, height, parking, loading, access and all other applicable provisions of this Ordinance for the district in which such structure is located unless the structure is situated on a substandard lot of record in which case the provisions concerning substandard lots of record shall apply.
- (5) Any substandard residential structure which is damaged or destroyed by fire, explosion, flood, or other calamity may be reconstructed so long as no nonconformity is enlarged.
- (6) A substandard structure may not be moved off the lot or lots on which it is located unless when relocated it complies with the regulations for the district in which it is located.

### **15.2 Existing Nonconforming Uses**

The lawful nonconforming use of a structure, land or water existing at the time of the adoption of this Ordinance may be continued except the following:

- (1) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended. Additional structures may not be added which will be occupied by the nonconforming use, except that

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existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.

- (2) Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use. A structure occupied by a non-conforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located.
- (3) If a structure containing a nonconforming use is damaged by fire, explosion, flood or other calamity to the extent of more than seventy-five percent (75%) of its current equalized value, it shall not be restored except so as to comply with the use provisions of this Ordinance.
- (4) If a structure containing a nonconforming residential use is damaged by fire, explosion, flood or other calamity, the pre-existing residential use may be restored.
- (5) If such nonconforming use is discontinued or terminated for a period of more than one-hundred eighty (180) days, any future use of the structure, land or water shall comply with the provisions of this Ordinance.
- (6) A nonconforming use may not be moved off the lot or lots on which it is located unless when relocated, it complies with the regulations for the district in which it is relocated.
- (7) The Board of Adjustment may permit as a conditional use a change in the nonconforming use provided that the requirements of above Sections 15.2(1) to 15.2(6) are met and the Board of Adjustment finds that such new use would be more in character with the uses permitted in the district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.
- (8) Once a nonconforming use has been changed or altered so as to comply with the provisions of this Ordinance, it shall not revert back to a nonconforming use. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district, it shall not subsequently be changed to be less in character.

### 15.3 Existing Vacant Substandard Lots

- (1) Where the owner of a lot at the time of adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the lot area or lot width requirements of this Ordinance, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than twenty percent (20%) below the minimum specified in this Ordinance, and further

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provided that the Brunswick County Health Department approves the reduction if on-site water or wastewater facilities are involved. In cases where the lot area and lot width are more than twenty percent (20%) below the minimum specified in this Ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions. A letter of approval from the Brunswick County Health Department is required if on-site water or wastewater facilities are involved. If the pre-existing substandard lot is not in a district where single-family residences are permitted, the Board of Adjustment may issue a dimensional variance to allow some reasonable use.

- (2) If two or more adjoining and vacant lots are in one ownership when this Ordinance is adopted or at any time after the adoption of this Ordinance, and such lots individually do not meet the minimum dimensional requirements of this Ordinance for the district in which such lots are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and areas for the district in which located, and therefore, the provisions of above Section 15.3(1) do not apply.

### **15.4 Conforming Uses and Structures**

- (1) Any use or structure existing prior to the effective date of this Ordinance which conforms to the regulations of this Ordinance for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located may be continued, provided any changes shall comply with the provisions of this Ordinance.
- (2) Any structure or use existing prior to the effective date of this Ordinance which would be permitted by this Ordinance as a conditional use in the district in which it is located may be continued as if a condition use permit had been applied for and issued, provided that any changes shall comply with the provisions of this Ordinance.

### **15.5 Effect of Amendment**

If subsequent amendments (Section 16.7) to this Ordinance or the official zoning map result in the creation of additional nonconformities or conformities, such nonconformities and conformities shall be governed by the provisions of this section unless otherwise stated in the amendment.