

## ARTICLE 7

### NONCONFORMING USES

#### **Section 7.1 General Intent and Exceptions**

Nonconforming uses are uses of structures or of land existing at the Effective Date of initial adoption of this Ordinance, which do not comply with the provisions of this Ordinance. The intent of this Article is to permit the continued use of a structure, or portion thereof, or of the use of land legally existing prior to the Effective Date of this Ordinance, until such uses are discontinued, but not to encourage their survival. This practice is also commonly referred to as “grandfathering”. Such nonconforming uses shall not be expanded, extended, or changed in any manner except as specifically provided for in this Article. Creation of additional nonconforming uses is not to be encouraged, nor shall be permitted.

#### **Section 7.2 Nonconforming Uses of Structures**

- 7.2.1** A conforming structure in which a nonconforming use is being conducted may be used to expand and enlarge such nonconforming use into an area of the structure then in existence, and designed for such nonconforming use.
- 7.2.2** No structural changes shall be made to any structure occupied by a nonconforming use except as follows:
- 1) Those structural changes ordered by an authorized official in order to insure the safety of the structure.
  - 2) Maintenance and repairs to keep a structure in sound condition shall be acceptable.
- 7.2.3** When a nonconforming use of a structure has been changed to a conforming use it shall not thereafter be used for any nonconforming use.
- 7.2.4** If said use is discontinued for 180 days or more, the use shall not be allowed to be re-established. All new uses in said structure shall thereafter be conforming.
- 7.2.5** If said conforming structure housing a nonconforming use is destroyed to an extent of greater than fifty percent (50%) of its replacement cost at the time of destruction, it may be rebuilt and may then be used for the same nonconforming use.
- 7.2.6** A nonconforming use of a structure shall not be changed to another nonconforming use.

### **Section 7.3 Nonconforming Uses of Land**

Nonconforming uses of land, which may include structures incidental and accessory to the use of the land, such as but not limited to, storage yards for various materials, or areas used for recreational purposes, shall not be used for other nonconforming purposes, once the nonconforming use has been abandoned.

**7.3.1** No such nonconforming use of land shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the Effective Date of initial adoption of this Ordinance.

**7.3.2** If said land use is abandoned for 180 days or more, or materially altered, the land use shall be considered discontinued and shall not be re-established unless the use is in conformance with the regulations of the district in which it is located. Material alteration for the purpose of this subsection is defined as change to size, contour, etc. to an extent of more than fifty percent (50%) of the replacement cost at the time of said alteration.

**7.3.3** A nonconforming use of land shall not be changed to another nonconforming use of land.

### **Section 7.4 Nonconforming Structures**

**7.4.1** Where a structure exists at the Effective Date of initial adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may remain so long as it remains otherwise lawful, subject to the following provisions:

- a) A nonconforming structure may be enlarged by up to twenty-five (25) percent of the existing floor area subject to the conditional use permit process prescribed in Section 6.3.1 of this Ordinance.
- b) If a nonconforming structure or nonconforming portion of a structure is destroyed to an extent of more than seventy-five percent (75%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Nonconforming manufactured homes used for residential purposes may be replaced with an equivalent year model or newer manufactured home.

- c) Said nonconforming structure may be moved to another lot so long as the structure is permitted in accordance with this Ordinance on said lot.

## **Section 7.5 Nonconforming Lots of Record**

**7.5.1** In any district where a lot has been recorded on a plat filed with the Union County Office of the Register of Deeds, and is not in violation of the Union County Zoning Ordinance or Subdivision Ordinance prior to the Effective Date of this Ordinance, and such lot does not comply with the minimum lot area and width requirements for the zoning districts in which such lot is located, such lot may be used for any use permitted in that zoning district provided that the principal and accessory structures meet all applicable front, side and rear yard requirements of this Ordinance. In the case of lots subdivided and approved under the Union County Zoning and Subdivision Ordinance prior to the Effective Date of this Ordinance, the setbacks recorded on the final plat may be used.

## **Section 7.6 Nonconforming Signs**

**7.6.1** Nonconforming advertising signs shall be allowed to continue as provided as follows:

- a) No structural changes to the support structure or changes to the sign face itself except message changes, which do not renew or extend the life of said sign shall be allowed.
- b) Maintenance to nonconforming advertising signs shall be limited to painting and repair of the existing sign.
- c) Once a nonconforming advertising sign is removed, taken down, or destroyed (i.e., receiving damage to an extent of more than fifty percent (50%) of the replacement cost at the time of destruction), such sign shall not be replaced with another sign unless such sign is in conformance with this Ordinance.

**7.6.2** Nonconforming business or identification signs shall be allowed to continue provided as follows:

- 1) Signs which are nonconforming with respect to size or illumination requirements may be repaired and/or repainted or relettered provided such nonconformance is not increased. No other changes to this category of nonconforming signs shall be allowed.
- 2) Signs which are nonconforming with respect to location or number permitted or any other provision of this Article shall not be altered in any way except to make such sign comply with the provisions of this Ordinance.

**7.6.3** Signs for Nonconforming Uses. Signs associated with a legal nonconforming use of a structure or land shall be allowed to continue provided as follows:

- 1) Nonconforming signs associated with a nonconforming use of a structure or land shall not be changed except to make such signs comply with the applicable sign regulations for the district in which said use or land is located.
- 2) Replacement signs for a legal nonconforming use of a structure or land shall be permitted in accordance with the applicable sign regulations for the district in which said use or land is located.

### **Section 7.7 Abandonment**

A nonconforming use of a structure, or nonconforming use of land, or nonconforming sign which have been abandoned as defined in Section 2.2 of this Ordinance shall not thereafter be re-established. Such structures or land shall thereafter be used only for such purpose as permitted in the applicable zoning districts and in full compliance with this Ordinance.

### **Section 7.8 Alterations**

If a nonconforming building or a building which houses a nonconforming use which has been damaged less than seventy-five percent (75%) of its replacement cost, then such structure may be restored to the same degree of nonconformity as existed before such damage.

### **Section 7.9 Change of Tenancy or Ownership**

There may be a change in tenancy, ownership or management in an existing nonconforming use, provided there is no change in the nature, or character of such nonconforming use and provided all other applicable requirements of this Ordinance are met.

### **Section 7.10 Nonconforming Lighting**

Nonconforming outdoor lighting applications are governed by the provisions of subsection 4.10.7 of this Ordinance.