

ARTICLE ____. **NONCONFORMITIES**

A. Compliance with Code

Within the zoning districts herein defined and as indicated on the Official Zoning Map and subject to the requirements of ARTICLES _____, no building or structure shall be erected, reconstructed, or structurally altered, nor shall any land, building, or structure be used for any purpose except in conformity with the district regulations in which such building, land or use is located.

B. Nonconforming Uses and Structures – Purpose and Intent

Adoption of these zoning district regulations and any subsequent changes to these regulations can impact the status of legal existing uses, lots, structures, and site features. It is the general policy of the County to allow uses, structures, and lots that came into existence legally to continue to exist and be put to productive use. As these uses and structures change, they should be brought into compliance with applicable regulations as expediently as is reasonably possible. These regulations are intended to:

- 1) Recognize the interests of property owners in continuing to use their property;
- 2) Promote the reuse and rehabilitation of existing buildings; and
- 3) Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties, neighborhoods, or the special zoning district as a whole.

C. General Applicability

The provisions of this article shall apply to buildings, structures, land, uses, and site features that become nonconforming as a result of adoption, revision, or amendment to the special zoning district regulations.

The effective date for these regulations is _____ for any property that was within the limits of the zoning district on or before that date.

Any permit application or development approval that had been accepted by the County as a complete application as of _____ shall be subject to the provisions of Section D.

D. Nonconformity

Any existing use of land or buildings or an approved use of land as evidenced by a County permit or a complete County development application as of the effective date of this Zoning Code, may be a legal nonconforming use or structure under the provisions of the Resolution. Any illegal use of land cannot become a legal nonconforming use of land under the provisions of this Resolution.

E. Repairs and Maintenance

Any building or other structure containing a nonconforming use, or any nonconforming structure or portion thereof, declared unsafe by the County Commissioners may be strengthened or restored to a safe condition.

F. Continuation of Nonconforming Status

- 1) A nonconforming structure may continue to be used in conformance with the zone district where it is located so long as the structure remains lawfully occupied.
- 2) The structure may not be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration is required by law or by subsection E. above. Structural alterations may be permitted when necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement greater than 10% of the GFA that is necessary to adapt to new technologies shall be authorized only by a variance, as described in Article _____.

G. Abandonment and Termination

- 1) When a nonconforming structure is abandoned for 12 consecutive months or more, the nonconforming status shall be considered terminated and the structure shall be brought into compliance with the current district regulations prior to any subsequent use.
- 2) Should the structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Resolution.
- 3) If the structure is brought into conformance or compliance with the zone district in which it is located, the structural nonconformity may not be resumed.
- 4) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the zone district in which it is located after it is moved.

I. Nonconforming Uses

- 1) Continuation of Use
 - (a) Nonconforming uses may be continued so long as the use remains otherwise lawful.
 - (b) Any nonconforming use may be extended throughout any parts of a building designed for such use that existed as of _____, but no such use shall be extended to occupy any land outside such building.
- 2) Continuation of Structure Specific to Use
 - (a) No existing structure specific to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conjunction with changing to a conforming use.
- 3) Discontinuance
 - (a) Compliance with Code

- (i) When a nonconforming use is replaced with a conforming use, the nonconforming use is considered terminated and may not be resumed.
- (ii) Any structure specific to the use, or structures and land in combination specific to the use, in or on which a nonconforming use is replaced by a permitted use shall be brought into compliance with the zone district in which the structure(s) is located and the nonconforming use may not be resumed.

4) Abandonment

- (a) When a nonconforming use is abandoned for 12 consecutive months or more it shall be considered terminated.
- (b) When a nonconforming use of a structure specific to a use, or structures and land in combination specific to a use, is abandoned for 12 consecutive months or more, the structure, or structures and premises in combination, shall be brought into conformance with the applicable zone district regulations and the nonconforming use may not be resumed.

5) Demolition, Destruction, or Obsolescence

- (a) Where nonconforming use status applies to (1) a structure specific to a use (such as a gas station or small business), or (2) a structure and land in combination specific to a use (such as a retail business with a parking lot), removal or destruction of the structure shall presumptively eliminate the nonconforming status of the land.
- (b) Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction. The operation of a noncompliant residential use located in any residential zone shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.
- (c) Obsolete or Substandard Non-Residential Structure: The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the non-residential structure in which the use is operated and maintained becomes obsolete or substandard under any applicable state or County code and the cost of placing such structure in lawful compliance with the applicable resolution exceeds 50 percent of the replacement cost of such structure on the date that the County determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.
- (d) Within a period of one year or less of its removal from a lot of record, a manufactured home used for residential purposes which is a legal nonconforming use of land may be replaced by another manufactured home for residential purposes, so long as the new home is not more than 50% larger in Gross Floor Area (GFA) than the manufactured home that it replaced and can be placed on the lot in compliance with the applicable zone district standards.

J. Compliant Single Unit Residential Lots

A single unit dwelling and customary accessory buildings may be erected on any vacant single lot of record as of the effective date of this Resolution, _____.