

## CHAPTER 10: NONCONFORMITIES

### **ARTICLE 1. PURPOSE**

The zoning regulations established by this Ordinance are designed to ensure that development meets the existing and future needs of the community while promoting the public health, safety, morals, convenience, order, prosperity and general welfare. To that end, this Ordinance promotes the appropriate grouping or compatible and related uses. The continued existence of nonconforming lots, structures, uses of properties and characteristics of use frequently interferes with the ability of existing regulations to ensure compatibility and appropriateness in relation to neighboring districts and uses. This Chapter provides for the regulation of legal nonconformities and specifies those circumstances and conditions under which such nonconformities may be permitted to continue.

### **ARTICLE 2. APPLICABILITY**

This Chapter shall apply to all lots, structures, uses of property, and characteristics of use that become nonconforming by initial adoption of this Zoning Ordinance or future amendment to this Ordinance. It shall also apply to nonconformities that were legal nonconformities under a similar provision of a previously applicable ordinance or resolution and that remain nonconforming with one or more provisions of this Zoning Ordinance, even if the type or extent of nonconformity is different.

### **ARTICLE 3. AUTHORITY TO CONTINUE**

It is the intent of this Ordinance to permit nonconformities to continue until they are removed, but not to encourage their profliferity. Nonconforming uses are declared by this section to be incompatible with permitted uses in the districts involved. It is the further intent of this section that nonconformities shall not be enlarged, expanded, or extended, reconstructed to continue nonconformity after major damage, or used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as otherwise specified in this Chapter.

### **ARTICLE 4. BURDEN OF PROOF**

The burden of establishing that any nonconformity is a legal nonconformity as defined by this Zoning Ordinance shall, in all cases, be upon the owner of such nonconformity and not upon the City of Greenwood or any other person.

### **ARTICLE 5. NONCONFORMING LOTS OF RECORD**

Where a lot of record at the time of the effective date of this Ordinance has less area, width, or depth than herein required in the district in which it is located, and the owner of such lot does not own any other adjacent parcel or tract, said lot may be used for a single family dwelling or manufactured home (if permitted in a given zoning district) within the district in which it is located, provided that the yard requirements are reduced no more than 40 percent. Additionally, reduction is proportionate to the size of the lot.

**ARTICLE 6. NONCONFORMING USES****10.6.1. Continuation of Nonconforming Use**

If no structural alterations are made and no change of use occurs, the nonconforming use of a property may be continued until perpetuity.

**10.6.2. Change in Use**

A nonconforming use shall not be changed to any other nonconforming use.

**10.6.3. Enlargements and Alterations**

- A. Any building or structure, conforming or nonconforming which houses a nonconforming land use shall not be enlarged or altered in excess of 20 percent of existing floor area. The 20 percent expansion can only occur if all applicable district requirements (setbacks, height restrictions, *etc.*) are met. If not, the 20 percent expansion shall be prohibited. This is a one-time expense only.
- B. No additional accessory use or structure may be established on the site of a nonconforming use.
- C. Ordinary repairs to a nonconforming structure, including repairs to interior non-load bearing walls, fixtures or plumbing to meet building codes may be permitted, provided the floor area occupied by the nonconforming use is not increased by the repairs.

**10.6.4. Relocation**

No nonconforming use may be moved, in whole or in part, to any other portion of such parcel not to another lot unless the use is permitted in the zoning district into which it is moved.

**10.6.5. Discontinuance or Abandonment**

A nonconforming use that has been discontinued for 180 consecutive days in a residential zoning district or 24 consecutive months in all other zoning districts may not be renewed. No nonconforming manufactured home shall be replaced by another nonconforming manufactured home after removal for 180 consecutive days. Removal of fixtures and/or equipment shall not be considered in the determination by the Zoning Official of the discontinuance of a nonconforming use. Any subsequent use shall conform to the applicable regulations for the zoning district in which the property and/or structure is located.

**10.6.6. Damage or Destruction of Structure****10.6.6.1. Single Family or Manufactured Home**

Any single family attached, single family detached, or manufactured or mobile home used for a residential purpose and existing within Greenwood County or applicable jurisdiction that is damaged or destroyed, and is either permitted in the zoning district, may be rebuilt, restored or repaired consistent with the building code requirements of the County or jurisdiction where it is

located, provided that a building permit for reconstruction is obtained within 180 days of the date of destruction of the premises. In the event that such permit is not obtained within 180 days, all rights as a nonconforming use shall be terminated.

Single-wide manufactured homes may be replaced with double-wide manufactured units in any zoning district, provided all applicable district regulations can be met.

#### **10.6.6.2. Structures Other than Single Family and Manufactured Home**

No structure, excluding single family residences or manufactured or mobile homes used for a residential purpose, which has been damaged by any cause to the extent of more than 60 percent of the most recent assessed value of the building for tax purposes assessed prior to the damage, shall be restored except in conformity with the regulations of this Ordinance. If a building is damaged by less than 60 percent of the assessed value, it may be repaired or reconstructed and used as before the time of damage, provided that such repair or reconstruction be substantially completed within twelve (12) months of the date of such damage. In the event that such permit is not obtained within twelve (12) months, all rights as a nonconforming use shall be terminated. Substantially complete is defined as the issuance of a Certificate of Occupancy.

#### **10.6.7. Accessory Use**

No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated unless it conforms to all provisions of this Zoning Ordinance.

#### **10.6.8. Intermittent Use**

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

**ARTICLE 7. NONCONFORMING STRUCTURES****10.7.1. Expansion or Relocation**

A nonconforming structure shall not be expanded, enlarged or relocated, in whole or in part, unless the resulting expansion, enlargement, or relocation brings the structure into compliance with the provisions of this Zoning Ordinance.

- A. A nonconforming building, if it houses an allowed land use, may be enlarged or altered to any degree provided that the enlargement or alteration meets all setbacks and other requirements of the district.
- B. Ordinary repairs to a nonconforming structure, including repairs to interior non-load bearing walls, fixtures or plumbing to meet building codes may be permitted, provided the area occupied by the nonconforming use is not increased by the repairs.

**10.7.2. Abandonment**

A nonconforming structure that has been abandoned for 180 consecutive days in a residential zoning district or 24 consecutive months in all other zoning districts may not be re-occupied unless the structure is brought into full conformity with the provisions of this Zoning Ordinance. Once removed for 180 consecutive days, no nonconforming manufactured home shall be replaced by another nonconforming manufactured home. The period of abandonment shall be calculated from the date that written notice advising of the requirements of this paragraph is mailed by the Zoning Official to the landowner.

**10.7.3. Damage or Destruction of Nonconforming Structure****10.7.3.1. Single Family and Manufactured Home**

Any single family attached or single family detached structure, or manufactured or mobile home used for a residential purpose and existing within Greenwood County that is damaged or destroyed, and is either permitted in the zoning district in which it is located, or is a legally established nonconforming use in that zoning district, may be rebuilt, restored or repaired consistent with the building code requirements of the County or municipality where it is located, provided that a building permit for reconstruction is obtained within 180 days of the date of destruction of the premises. In the event that such permit is not obtained within 180 days, all rights as a nonconforming structure shall be terminated.

**10.7.3.2. Structures Other than Single Family and Manufactured Home**

No structure, excluding single family residences or manufactured or mobile homes used for a residential purpose, which has been damaged by any cause to the extent of more than 60 percent of the assessed value of the structure assessed prior to the damage, shall be restored except in conformity with the regulations of this Ordinance. If a structure is damaged by less than 60 percent of the assessed value, it may be repaired or reconstructed and used as before the time of damage, provided that such repair or reconstruction be substantially completed within twelve (12) months of the date of such damage. In the event that repair or reconstruction is not obtained within twelve (12) months, all rights as a nonconforming structure shall be terminated.

**ARTICLE 8. NONCONFORMING SIGNS****10.8.1. Applicability**

Any sign for which a valid permit has been issued or that is exempt, but that does not conform to the provisions of this Zoning Ordinance is hereby deemed to be nonconforming.

- A. A sign which was in existence on August 16, 2004, or a later date when the property was annexed to the City of Greenwood, and which was constructed in accordance with the ordinances or other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this ordinance shall be deemed to be nonconforming.

**10.8.2. Provisions**

- A. Nonconforming signs shall be allowed to remain in place and to be maintained provided no action is taken which increases the degree or extent of the nonconformity except as provided below. However, any nonconforming sign shall be eliminated or made to conform to the requirements of this ordinance when any proposed change, repair or maintenance would constitute an expense of more than 40 percent of the lesser of the original value or replacement value of the sign.
- B. No permits for additional signs shall be issued for any location on which there is any sign in disrepair.
- C. Supporting structures for a nonconforming sign may continue in use for a conforming sign if said support structures comply with all applicable requirements of this ordinance, other codes and ordinances.

**ARTICLE 9. NONCONFORMING SITE FEATURES****10.9.1. Definition**

Nonconforming site features include, but are not limited to the following:

- A. Fence or berm height or location.
- B. Lack of buffers or screening.
- C. Lack of adequate landscaping.
- D. Lack of adequate off-street parking.
- E. Other nonconformities not involving the basic design or structural aspects of the structure, location of the structure on the lot, lot dimensions or land or building use.

Since by nature nonconforming site features are more easily brought into compliance than nonconformities involving uses and structures, it is the intent of this Ordinance to require the elimination of nonconforming site features as soon as reasonably possible.

**10.9.2. Applicability**

A nonconforming site feature shall be brought into conformance with the standards of this Ordinance upon occurrence of any activity that requires an alteration to such site feature.

**10.9.3. Increase Prohibited**

The extent of existing nonconforming site features shall not be increased without a variance.

**ARTICLE 10. HOME OCCUPATIONS IN NONCONFORMING RESIDENTIAL USES**

Home occupations are allowed in nonconforming residential uses, subject to the provisions of *Chapter 3 – Zoning District Regulations, Section 3.2.1.5. – Home Occupation*. No home occupation located in a nonconforming residential use shall continue after such residential use has ceased or terminated unless it conforms to all provisions of this Zoning Ordinance.

**ARTICLE 11. NONCONFORMING SEXUALLY ORIENTED BUSINESSES**

Nonconforming sexually oriented businesses as described and regulated in *Chapter 6 – Supplemental Regulations, Section 6.6.13* shall be governed by the requirements of that Section.

**ARTICLE 12. NONCONFORMING OUTDOOR LIGHTING**

Nonconforming outdoor lighting as described and regulated in *Chapter 5 – Design and Performance Standards, Section 5.5.1.6.* shall be governed by the requirements of that Section.