



ARTICLE 11 – NONCONFORMITIES

ARTICLE 11 – NONCONFORMITIES

DRAFT DATE – 2.19.2020

Table of Contents

ARTICLE 11 – NONCONFORMITIES	11-2
11.01 PURPOSE (NEW)	11-2
11.02 AUTHORITY TO CONTINUE (NEW)	11-2
11.03 REPAIRS AND MAINTENANCE (NEW).....	11-2
11.04 CHANGE OF OWNERSHIP (NEW)	11-2
11.05 NONCONFORMING LOTS (3-14.1)	11-2
11.06 NONCONFORMING USES (MODIFIED 3-14.2)	11-3
11.07 NONCONFORMING STRUCTURES (MODIFIED 3-14.3)	11-4
11.08 NONCONFORMING SIGNS (MODIFIED 6-1.10)	11-5
11.09 NONCONFORMING SITUATION RESULTING FROM ACQUISITION (3-14.4)	11-7
11.10 RESERVED	11-7



ARTICLE 11 – NONCONFORMITIES

ARTICLE 11 – NONCONFORMITIES

11.01 PURPOSE (NEW)

This Article governs lots, uses, structures, buildings, signs, site elements such as parking areas, accessory structures, landscaping, and other on-site elements, and other aspects of development that came into existence lawfully but that do not conform to one or more requirements of this Ordinance. These are referred to as “nonconformities.”

The regulations of this Article are intended to:

- A. Allow nonconformities to continue until they are removed or brought into conformity, but not to encourage their continual use;
- B. Reduce the overall presence and operation of nonconformities over time, and generally bring nonconforming instances closer to conformity;
- C. Recognize the interests of property owners in continuing to use their property for purposes that were lawful at the time of establishment;
- D. Promote reuse and rehabilitation of existing buildings;
- E. Place reasonable limits on the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole; and
- F. Bring existing properties and conditions into conformance with the Comprehensive Plan.

11.02 AUTHORITY TO CONTINUE (NEW)

Any valid nonconformity that existed on the effective date of this Ordinance or that becomes nonconforming upon the adoption of any amendment to this Ordinance may be continued in accordance with the provisions of this Article.

11.03 REPAIRS AND MAINTENANCE (NEW)

- A. Minor repairs and routine maintenance of nonconformities are permitted and encouraged unless such repairs are otherwise expressly prohibited by this Ordinance.
- B. Nothing in this Article is to be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the Administrator or other duly authorized public official.

11.04 CHANGE OF OWNERSHIP (NEW)

The status of a nonconformity is not affected by changes of tenancy, ownership, or management.

11.05 NONCONFORMING LOTS (3-14.1)

A. SINGLE LOTS OF RECORD

- 1. When a lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided the following are complied with, setback dimensions and other requirements, except area or width.

ARTICLE 11

2. In residential zones, only a single family dwelling shall be permitted on the nonconforming lot.
3. Nothing contained herein exempts a lot from meeting the applicable provisions of the Guilford County Health Department regulations.

B. LOTS WITH CONTIGUOUS FRONTAGE IN ONE OWNERSHIP

1. This section applies when:
 - a. Two (2) or more adjoining vacant lots with contiguous frontage are in one (1) ownership; and
 - b. Said lots individually have area or width which does not conform to the dimensional requirements of the district where located; and
 - c. Such lots were of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lots nonconforming.
2. Such lots shall be considered as a single buildable lot or several buildable lots for any use permitted in the district where located provided the setback and all other requirements, not involving area or width, are complied with.
3. Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Guilford County Health Department regulations.

C. REDUCTION OF A LOT OF RECORD

A lot of record reduced to less than the required area, width, or setback dimension as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

11.06 NONCONFORMING USES (MODIFIED 3-14.2)

A. CONTINUANCE OF NONCONFORMING USE OF LAND

Any nonconforming use legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful subject to conditions provided in this Section.

B. CONDITIONS FOR CONTINUANCE OR EXPANSION OF NONCONFORMING USE OF LAND

1. No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Adjustment shall consider:
 - a. Probable traffic of each use;
 - b. Parking requirements of each use;
 - c. Probable number of persons on the premises of each use at a time of peak demand;
 - d. Off-site impacts of each use, such as noise, glare, dust, vibration or smoke.
 - e. Hours of operation
2. In general, no nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. The number of dwelling units in a nonconforming residential use shall not be increased.



ARTICLE 11 – NONCONFORMITIES

- a. The Planning & Development Director may approve a modification in allowing alteration of a nonconforming use that does not increase the degree of nonconformity, or have a greater adverse impact on the surrounding area.
- b. Modifications may be approved if the Planning & Development Director determines that at least one of the following criteria are met:
 - i. that the proposed modification will result in equal or better performance than the standard being modified;
 - ii. that the size, topography, or existing development of the property or of adjoining areas prevents compliance with a standard; or
 - iii. that a federal, state, or local law or regulation prevents compliance with the standard.
- c. A nonconforming use may not be relocated, in whole or in part, to another portion of the subject lot or parcel.
- d. A nonconforming use may not be expanded, enlarged, or extended to occupy a greater area of land or floor area.
- e. Expansion or alteration decisions may be appealed to the Board of Adjustment.

C. LOSS OF NONCONFORMING USE STATUS

1. If any nonconforming use of land ceases for any reason for a continuous period of more than three hundred and sixty-five (365) days as documented by the Administrator, any subsequent use of such land shall be a permitted use per in the district (see Article 4 – Zoning Districts) in which such land is located.
2. The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
3. No additional structure(s) not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

D. JUNKED MOTOR VEHICLES

Any junked motor vehicle made nonconforming by subsequent amendment to this Article shall be discontinued within three hundred and sixty-five (365) days following the date of such amendment. If the owner or occupant of a property fails to comply with a Notice of Violation concerning a junked motor vehicle any penalty assessed by the Enforcement Officer for a violation under the subsection shall be stayed until all appeals are resolved.

11.07 NONCONFORMING STRUCTURES (MODIFIED 3-14.3)

A. CONTINUANCE OF NONCONFORMING STRUCTURE

1. Any nonconforming structure legally existing at the time of adoption or amendment of this Ordinance may be continued so long as it remains otherwise lawful, subject to the conditions contained in this Section.
2. A nonconforming manufactured home or mobile home may be replaced with a similar manufactured home or mobile home as long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback

ARTICLE 11

requirements. Such replacement must occur within six (6) months of the removal of the nonconforming manufactured home.

B. ENLARGEMENT OR MODIFICATION

1. No nonconforming structure may be enlarged or modified in any way which increases its dimensional deficiencies; however, any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirement.
2. No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is relocated.

C. DAMAGE OR DESTRUCTION

1. In the event of damage by fire or other causes to the extent causing fifty (50) percent or less of its value prior to such damage as established by the Guilford County Tax Department, reconstruction of a nonconforming structure shall be permitted only in compliance with the dimensional provisions of this Ordinance.
2. In the event of damage by fire or other causes to the extent causing less than fifty (50) percent of its value prior to such damage as established by the County Tax Department, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
 - a. In the same manner in which it originally existed; or
 - b. In compliance with the dimensional requirements.

D. PRESERVATION OF SAFE OR LAWFUL CONDITIONS

Nothing in this Article shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful, by the Administrator or other duly authorized official.

E. VACANT STRUCTURE (NEW)

When a nonconforming structure or any aspect of a structure that is used in a nonconforming manner is vacant or discontinued for a consecutive period of 365 days, the structure may thereafter be used only for conforming purposes.

11.08 NONCONFORMING SIGNS (MODIFIED 6-1.10)

A. CONTINUATION OF NONCONFORMING SIGNS

Nonconforming signs may remain in use, subject to the regulations of this Section and all other applicable requirements. Nonconforming signs shall be maintained in good repair (per Article 7 - Signs) and must comply with all other requirements of this Ordinance.

B. MODIFICATION OR RELOCATION

1. Nonconforming signs shall not be modified or altered, except that the copy may be changed on an existing sign.
2. Nonconforming signs shall not be moved on the site or relocated to another site, except in conformance with this Ordinance.

C. RECONSTRUCTION OF DAMAGED SIGNS OR SIGN STRUCTURES



ARTICLE 11 – NONCONFORMITIES

Any nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within ninety (90) business days and completed within 120 business days of such damage. However, if the Administrator declares the sign unsafe, the owner of the sign or the owner of the property where the sign is located shall immediately correct all unsafe conditions to the satisfaction of the Administrator or remove the sign and structure.

D. SIGN CERTIFICATES

The owner of a lot containing signs requiring a permit under this Ordinance shall maintain a Sign Certificate or Nonconforming Sign Certificate for such sign(s). Sign Certificates and Nonconforming Sign Certificates shall be issued by the Administrator for individual signs on each zone lot.

1. Signs Existing on Effective Date

- a. For any sign existing on the effective date of this Ordinance, an application for a Sign Certificate must be submitted within one hundred eighty (180) days after the effective date of this Ordinance. Signs which are the subject of permit applications received after this one hundred eighty (180) day grace period shall be subject to all terms and conditions of this Ordinance and shall not be entitled to protection as nonconforming signs unless the sign has a Sign Certificate.
- b. A sign that would be allowed by this Ordinance only with a sign permit and was constructed in accordance with the applicable laws and ordinances in effect on the date of construction, but by reason of its size, height, location, design, or construction is not in conformance with the requirements of this Ordinance, shall be issued a Nonconforming Sign Certificate. If a property contains a greater number of legally-erected signs than would be permitted by this Ordinance, then such signs shall be entitled to Nonconforming Sign Certificates if applications.
 - i. A Nonconforming Sign Certificate shall allow the sign to remain in place and be maintained indefinitely as a legal nonconforming sign subject to compliance with the following:
 - a. Normal maintenance of such sign shall be allowed including changing of copy, nonstructural repairs such as repainting or electrical repairs, and incidental alterations which do not increase the degree or extent of the nonconformity.
 - b. No structural alteration, enlargement or extension of such sign shall be allowed.
 - c. No relocation of such sign upon the premises shall be allowed.
 - d. If damage to such sign from any cause is less than fifty (50) percent of either the original or replacement value, whichever is less, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed.
 - ii. The application for a Nonconforming Sign Certificate may include multiple signs on the same zone lot and shall contain the following:
 - a. A color print showing the entire sign(s) including any supporting framework;
 - b. Dimensions of the sign(s) including length, width, height, and area in square feet

ARTICLE 11

- c. An elevation drawing with dimensions of the facade or wall area showing the location of any attached sign(s) in approximate scale; and
 - d. A site plan showing the location of all signs on the same zone lot including any setback or spacing measurements, if appropriate. This information shall be certified as to its accuracy and completeness by the owner and/or occupant, whoever is in control of the sign(s).
 - c. A sign that would be allowed by this Section only with a sign permit and was in existence on the adoption date of this ordinance but does not have a Nonconforming Sign Certificate shall either be removed or brought into compliance within five (5) years of the adoption date of this ordinance.
 - d. A sign that would be allowed by this Section only with a sign permit and was in existence on the adoption date of this ordinance, and is in compliance with all provisions of the Section but does not have a Sign Certificate may be issued a Sign Certificate upon application to the Administrator.
- 2. Signs Erected after Effective Date**
For signs erected after the effective date of this Ordinance, a Sign Certificate shall be issued after approval of all inspections.
- 3. Lapse of Sign Certificate or Nonconforming Sign Certificate**
A Nonconforming Sign Certificate shall lapse automatically, and the nonconforming sign shall be brought into compliance with this Section or removed if one (1) of the following occurs:
- 1. If such sign is damaged from any cause to an extent of fifty (50) percent or more of either the original or replacement value, whichever is less;
 - 2. If there is a change in the sign such that a sign or electrical permit is required; or
 - 3. If the business activity on the premises is discontinued for a period of ninety (90) days or more.
- 4. Assignment of Sign Certificate**
A current and valid Sign Certificate or Nonconforming Sign Certificate shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Administrator may require. The assignment shall be accomplished by filing and shall not require approval.
- 5. Rezoning (Zoning Map Amendment) or Text Amendment**
Any sign that is made nonconforming by reason of a rezoning (zoning map amendment) or any subsequent amendment to the text of this Ordinance, shall be removed or brought into compliance as provided in this Section.

11.09 NONCONFORMING SITUATION RESULTING FROM ACQUISITION (3-14.4)

Any lot reduced in size by municipal, county or state condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this Ordinance.

11.10 RESERVED