

## ***ARTICLE SIX***

### ***NONCONFORMING ZONING USES AND SITES***

#### **SECTION A: PURPOSE OF ARTICLE AND DEFINITIONS**

**6.a.1. Purpose:** The use of or improvements to real property may become nonconforming when standards established by this Ordinance change. Specifically, legal nonconforming zoning uses and legal nonconforming sites (structures and lots) were initially lawful and existed prior to the adoption of this Ordinance or prior to an amendment hereto but, due to the enactment of this Ordinance or such amendment, no longer conform to the requirements herein. To the extent that such nonconforming uses and nonconforming sites have been in continual use, they have been allowed to remain in use despite the noncompliance with this Ordinance.

The purpose of this Article is to allow the continued use and operation of these nonconforming uses and nonconforming sites pursuant to the requirements of this Article. The goal is not to encourage the persistence of nonconformities, but to ease the burden on property owners and eventually to ensure that all zoning uses, structures, and lots comply with the requirements of this Ordinance.

#### **6.a.2. Definitions**

- a. **Development Standards:** At any given time, the then-current development standards applicable to a property or structure pursuant to this Ordinance.
- b. **Discontinuance:** With respect to:
  - 1. Nonconforming Uses, the discontinuance or cessation of operations or business activity at a structure for a continuous period of not less than 6 months;
  - 2. Nonconforming Sites, the discontinuance or cessation of operations or business activity at a structure for a continuous period of not less than 18 months
- c. **Nonconforming Use:** Any use of property that is not a permitted use pursuant to the current zoning classification or otherwise is not in compliance with this Ordinance.
- d. **Nonconforming Site:** Any structure, building, house, shed, accessory dwelling, or improvement on real property, or any parcel, lot, or unimproved real property, that does not comply with Development Standards.
- e. **Project:** Any improvement, upfit, renovation, rehabilitation, restoration, removal, or addition to a structure or lot that occurs after a discontinuance and within twelve months following the resumption of operations or business activity at such structure or lot.

## SECTION B: NONCONFORMING USES

**6.b.1. Proof of Legal Nonconformance and Continuance of Use:** A Nonconforming Use may continue to operate pursuant to this Article. The Property Owner or permit Applicant bears the full burden of proof that any non-conforming situation is a legally established one and has been in continuous operation. Evidence may include proof of business license, utility statements, business transition receipts, tax returns, or other documentation. The Zoning Administrator shall determine whether a situation is a Nonconforming Use as defined in this Article. A structural improvement qualifying as a Nonconforming Use may be increased in size by no more than 5% of the gross floor area, if the minimum lot areas, yard setbacks, and off-street parking requirements of this Ordinance are met.

**6.b.2. Loss of Nonconforming Use Status.** If a Nonconforming Use is subject to a Discontinuance, then any subsequent use or operation must be in full compliance with all applicable zoning requirements in this Ordinance.

**6.b.3. Accidental Destruction.** If a Nonconforming Use is discontinued due to fire or other natural causes, the Nonconforming Use may be reestablished within 6 months after the fire or other natural cause.

## SECTION C: NONCONFORMING SITES

**6.c.1. Proof of Legal Nonconformance and Continuance:** A Nonconforming Site may continue to operate pursuant to this article. The Property Owner or permit Applicant bears the full burden of proof that any Nonconforming Site is a legally established one and has continually operated. Evidence may include proof of business license, utility statements, business transition receipts, tax returns or other documentation. The Zoning Administrator shall determine whether a situation is a legally Nonconforming Site as defined in this Article.

**6.c.2. Loss of Legal Nonconforming Site Status:** If a Nonconforming Site is subject to a discontinuance then any subsequent reuse, inhabitation, operation, or activity must be in compliance with this Article.

**6.c.3. Loss of Legal Nonconforming Status (Manufactured Home Parks):** A nonconforming manufactured home park must be discontinued when 50% or more of the homes in the park become uninhabitable as determined by the Sumter Building Official or remain vacant for a period 6 months or longer. Resumption of the use of the property as a manufactured home park may be permitted if the use is permitted in the then-current zoning district and conforms to Development Standards for manufactured home parks.

**6.c.4. Projects at Nonconforming Sites.** The Property Owner or Applicant may not undertake a Project that will create new nonconformities with Development Standards unless approved by the Zoning Administrator. In addition, any Project at a Nonconforming Site must comply with the following requirements:

- a. Any Project with a total cost of 25% or less of the most current fair market value of the structure, dwelling, or improvement, as determined by the Sumter County Tax Assessor, shall not be required to increase their compliance with Development Standards, but must establish compliance with all Fire and Building Codes.
- b. Any Project with a total cost of between 25% and 75% of the most current fair market value of the structure, dwelling, or improvement, as determined by the Sumter County Tax Assessor, must achieve a comparable percentage compliance with Development Standards as determined by the Zoning Administrator, and must establish compliance with all Fire and Building Codes.
- c. Any Project with a total cost of greater than 75% of the most current fair market value of the structure, dwelling, or improvement, as determined by the Sumter County Tax Assessor, must achieve full compliance with Development Standards, and must establish compliance with all Fire and Building Codes.
- d. A private fair market assessment prepared by a qualified fee appraiser and acceptable to the zoning administrator may be utilized in lieu of the Tax Assessor determination.

**6.c.5 Nonconforming Sites Incapable of Compliance.** Sites, lots, or parcels that are physically constrained from complying with Development Standards shall comply to the maximum extent practicable, as determined by the Zoning Administrator.

**6.c.6. Accidental Destruction.** A Nonconforming Site may be altered, extended, or replaced if razed by fire or other natural causes, provided such alteration, extension, or replacement does not increase the degree of nonconformity by size, lot area, floor space, or otherwise result in a greater degree of nonconformity with Development Standards in any respect.

## **SECTION D: NONCONFORMING LOTS OF RECORD**

**6.d.1.** If an existing lot of record is not of sufficient size to conform to the dimension requirements of the zoning district (minimum lot area, minimum lot width) such lot may be used for by-right permitted uses as a building site without need for a variance from the Board of Zoning Appeals provided the minimum yard area and building setback requirements can be met.

If an existing lot of record is not of sufficient size to conform to the dimensional requirements of the zoning district (minimum lot area, minimum lot width) and cannot meet minimum yard area and building setback requirements to construct a project, but the owner of the lot also owns an adjacent lot that shares a common parcel boundary unseparated by public right-of-way that could be combined with the nonconforming lot in such a manner as to allow compliance with minimum yard area and building setback requirements, the owner must combine the two lots into a single lot prior to undertaking a building project.

If an existing lot of record is not of sufficient size to conform to the dimensional requirements of the zoning district (minimum lot area, minimum lot width) and cannot meet minimum yard area

and building setback requirements to construct a project, and the owner of the lot does not own additional land that can be combined with the nonconforming lot of record, development variances approved by the Board of Zoning Appeals shall be required prior to issuance of any building permit(s).

## **SECTION E: CHANGE OF NONCONFORMING USES**

**6.e.1.** If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same NAICS classification. Wherever a nonconforming use of land or buildings has changed to a more restricted use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.

## **SECTION F: Non-Conforming Mobile & Manufactured Homes**

**6.f.1. Non-Conforming Manufactured Homes.** Any legally established manufactured home located within the jurisdiction of the City of Sumter may be moved to another property, parcel, or lot within jurisdiction of the City of Sumter in accordance with the applicable zoning district development standards outlined in *Article 3* or may remain in continuous use on the property in which they are currently located.

**6.f.2. Non-Conforming Mobile Homes:** Mobile homes, as defined by *Article 10*, may not be installed on any property, parcel, or lot within the jurisdiction of the City of Sumter. Existing mobile homes may remain in continuous use on the property in which they are currently located.