

CHAPTER 13:

NONCONFORMITIES

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CHAPTER 13: NONCONFORMITIES

Section 13.1 Purpose and Applicability

The purpose of this Chapter is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any amendment subsequent thereto) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this Chapter. Much nonconformity may continue, but the provisions of this chapter are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.

Section 13.2 General Provisions for Nonconformities

- A. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation (work estimated to cost more than 10 percent but less than 50 percent of the taxed value of the structure) may be done provided that the work will not result in a violation of any other paragraphs of this Chapter. In no case, however, shall work costing more than 50 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.
- B. Nothing herein shall prevent the maintenance, repair and extension of a nonconforming single-family dwelling, provided it is done in conformance with the dimensional requirements of the RM Residential Medium Density District, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.
- C. Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster provided such reconstruction conforms to the dimensional requirements of the RM Residential Medium Density District.

Section 13.3 Nonconforming Lots

13.3.1 Vacant Lots

This category consists of vacant lots for which plats or deeds have been recorded in the office of the register of deeds of Rowan County, which at the time of adoption of this ordinance fail to comply with the minimum area and/or width requirements of the districts in which they are located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located provided that:

- A. Where the lot area or width is not more than twenty (20) percent below the minimum specified in this ordinance, and other dimensional requirements are otherwise complied with, the zoning enforcement officer is authorized to issue a zoning permit.
- B. Where the lot area or width is more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the board of adjustment is

authorized to consider a variance of such dimensions as shall conform as closely as possible to the required dimensions.

- C. Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be combined to create a single lot or lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

13.3.2 Occupied Lots

This category of nonconformance consists of lots, occupied by buildings or structures at the time of the adoption of this ordinance, that fail to comply with the minimum requirements for area, width, yard and setbacks for the district in which they are located. These lots may continue to be used.

Section 13.4 Nonconforming Uses

13.4.1 Uses of Land

This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

- A. When a nonconforming open use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- B. A nonconforming open use of land shall be changed only to a conforming use.
- C. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- D. When any nonconforming open use of land is discontinued for a period in excess of one hundred eighty (180) days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

13.4.2 Uses of Structures

This category of nonconformance consists of buildings or structures used at the time of enactment of this Ordinance for purposes or uses not permitted in the district in which they are located. Such uses may be continued as follows:

- A. An existing nonconforming use of a structure may not be changed to another nonconforming use.

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- B. When a nonconforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- C. A nonconforming use of a structure may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
 - 1. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible;
 - 2. Maintenance and repair necessary to keep a structure containing a nonconforming use in sound condition are permissible; or
 - 3. Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
- D. When any nonconforming use of a building or structure is discontinued for a period in excess of one hundred eighty (180) days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- E. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment. Such interpretation and finding by the Board of Adjustment shall follow the provisions set forth in Chapter 15.

Section 13.5 Nonconforming Structures

This category includes any structure not in conformance with the restrictions of this ordinance after the effective date of adoption. Such non-conformances shall include, but not be limited to, height, bulk, and setback. Such nonconforming structures shall be allowed to remain with the following conditions:

- A. A nonconforming structure may not be enlarged or altered except where maintenance and repair are necessary to keep the structure in sound condition.
- B. When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.
- C. When any nonconforming structure is damaged, repair must follow the guidelines listed in Section 13.6.
- D. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- E. Conforming uses, except Adult Establishments, may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required

by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

Section 13.6 Reconstruction of Damaged Structures

Any nonconforming structure or structure containing a nonconforming use which has been damaged by fire, wind, flood or other causes may be repaired and used as before provided:

- A. Damage does not exceed 50 percent of assessed value;
- B. Repairs are initiated within six (6) months and completed within one (1) year of such damage;
- C. The total amount of space devoted to a nonconforming use may not be increased;
- D. Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and
- E. Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize or ameliorate the nonconformance(s).

Section 13.7 Continuation of Nonconforming Manufactured Home Communities

Manufactured Home Communities that become nonconforming uses shall be permitted to continue operation subject to the following stipulations:

- A. The property must be zoned as a residential district with a manufactured home overlay.
- B. Other than what is currently existing, nonconforming manufactured home communities may not be expanded or increased in size nor shall any additional spaces be added to the site except with the provisions contained below.
- C. Replacement standards and individual site upgrades in non-conforming Manufactured Home Communities:
 - The process of updating the space to minimum standards must have a completion date agreed upon by the zoning administrator.
 - A zoning permit is required for new or replacement manufactured homes.
 - When a space at a nonconforming manufactured home community is newly vacated, a conforming manufactured home may be placed on that site within 12 months, providing the site space meets the standards below and properly permitted.
 - Failure to install a conforming manufactured home within 12 months of removal of a manufactured home in a non conforming manufactured home community renders the site space as open space unless the entire community is brought up to standards of a new community.

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- If multiple vacant spaces exist at the time of implementation of this ordinance, a plan for the manufactured home spaces shall be established with the Zoning Administrator, to include a completion date.

Vacant spaces must be filled according to these standards within twelve (12) months. After twelve (12) months the space cannot be filled without updating the entire community.

1. Replacement home setbacks for spaces within nonconforming manufactured home communities shall not be less than the setbacks of the home being replaced. The setbacks for the replacement home may be reduced 10 percent by the Zoning Administrator if warranted by the replacement home and with approval of the Granite Quarry Fire Marshall.
2. Changes to the size of individual spaces requires submission of new plans and can be considered through administrative review.
3. Separation between manufactured homes shall be a minimum of 20 feet.
4. The manufactured homes shall meet all criteria of either Class A (referred to as a double or multi-section manufactured home, constructed after July 1, 1976) or Class B (referred to a single section manufactured home, constructed after July 1, 1976) as defined by this Ordinance (see appendix A, definitions).
5. With the Zoning Administrator's approval, two vacant spaces may be combined into one space to allow for a larger replacement manufactured home if the separation distance of 20 feet between manufactured homes is met and the new home setbacks are no less than the setbacks of the original homes.
6. Individual replacement homes in a nonconforming manufactured home community shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
7. An individual replacement manufactured home in a non conforming manufactured home community must contain at least 600 square feet of interior floor area and must contain a built-in bathroom with a commode, lavatory, and shower or tub which are in working condition and intended for a residence.
8. All manufactured housing shall be skirted. Approval for the type of skirting is required before permitting. Skirting shall be of material acceptable for manufactured skirting exterior construction that will not support combustion. Skirting shall be continuous and un-pierced except for ventilation.
9. No manufactured homes within a manufactured home community shall be located within 300 ft. of any livestock facility.
10. Each manufactured home lot shall be provided with two off-street auto parking spaces. Where parking areas are provided, ingress and egress thereto shall be made accessible

only through driveways or openings to the interior driveway not exceeding 25 feet in width.

11. No manufactured home shall have access to a public street unless a driveway is already in place. All manufactured home lots shall have access to an interior roadway.
 12. Permanent street names shall be assigned to all internal streets.
 - One (1) identification sign is required at each entrance to the manufactured home community.
 13. Each space shall have:
 - an approved site number, a minimum of 4 inches in height clearly visible from the internal street serving the space.
 - Provision of centralized trash dumpsters; or,
 - Provision of individual covered trash containers, picked up at least once a week.
 14. If a patio, terrace or porch is to be constructed or reconstructed for a manufactured home in a non-conforming manufactured home community, the following standards apply:
 - A patio shall be at least 36 square feet in area, shall have sufficient gradient to facilitate adequate drainage away from the manufactured home stand, and shall have a well-graded, well-drained, and compacted base and the surface shall be at least four inches thick of concrete or comparable material.
 - A terrace, deck or porch shall be at least 36 square feet in area and may be made of treated wood material. (Appendix A: definitions) Each manufactured home, as well as the lot on which the manufactured home is located, shall be kept in good repair and at all times be maintained in a clean, safe and sanitary condition.
 15. Maintenance of Manufactured Home Communities. Manufactured home communities shall be maintained in a neat and orderly manner. This shall include but not be limited to maintenance of adequate roads and drainage ways, yards, trees and shrubs.
- D. A nonconforming manufactured home community that is discontinued for 180 days shall not be reestablished. Vacancy and/or non-use of the community, regardless of the intent of the owner, shall constitute discontinuance under this provision.
- E. If an existing nonconforming manufactured home, on a conforming space, within a conforming manufactured home community is removed, it shall only be replaced with a conforming manufactured home or structure meeting the requirements of Section 4.2.8.

Section 13.8 Continuation of Nonconforming Manufactured Homes on Individual Lots

- A. Manufactured homes located on individual lots which become nonconforming structures may be continued until such time as the home is replaced. The replacement unit may not be another nonconforming structure. Manufactured homes on nonconforming lots may be continued. At such time as they are removed, the reestablishment of a manufactured home or any other

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structure on that lot is prohibited until such time as the lot is made to conform to the requirements of this ordinance.

- B. If an existing nonconforming manufactured home on a conforming lot is removed, it shall only be replaced with a conforming structure or building.
- C. If a nonconforming manufactured home is abandoned for a period of more than 180 days, the rehabilitation of the manufactured home shall be prohibited. The date of abandonment shall be that date at which the abandonment of the manufactured home becomes evident.

Section 13.9 Nonconforming Signs

- A. Subject to the restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- B. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming.
- C. A nonconforming sign may remain if only the sign face is replaced. The structure of a nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a nonconforming sign is removed from the premises or otherwise taken down or moved, said sign may only be replaced with a sign which is in conformance with the terms of this Ordinance.
- D. Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted. If repair or maintenance of a nonconforming sign results in the removal of the sign frame structure for any length of time, the replaced sign frame structure and any copy placed on it shall be in conformance with this Ordinance.
- E. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign shall be considered "destroyed" if it receives damage to an extent of more than 60 percent of the cost of replacing the sign copy.
- F. Notwithstanding other provisions contained in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
- G. If a nonconforming sign which advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 30 days after the use has ceased operation or the service or commodity has ceased being offered. If there is a change of use or name of business on a particular piece of property, and there were one (1) or more on-premise signs which advertised the business, any new signs placed for the new use or business name must meet all sign requirements for the underlying

zoning district.

H. If a nonconforming sign remains blank for a continuous period of 180 days, that sign shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this Ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Ordinance, a sign shall be deemed "blank" if:

1. It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
2. The advertising message it displays becomes illegible in whole or substantial part; or
3. It does not contain a message.

Section 13.10 Nonconforming Landscaping and Buffering

In accordance with Chapter 8 of this Ordinance, certain uses are required to provide buffering and/or landscaping on-site. The following shall apply to nonconforming buffering and landscaping:

- A. Except as herein provided, any expansion of greater than 20 percent of an existing use which is deficient in landscaping, buffering, and/or screening or any change in principal use cannot occur without the required landscaping, buffering, and/or screening having first been provided on-site. The Central Business (CB) District is exempt from this requirement.
- B. Expansions to the parking area or loading areas which increase the total area more than 20 percent shall be required to comply with all applicable parking and loading area landscaping and screening.

Section 13.11 Nonconforming Parking and Loading

- A. On any lot in any zoning district except the Central-Business (CB) district, which contains a use which does not comply with the off-street parking and loading regulations contained in Chapter 8 of this Ordinance, no expansion or any change of use shall be approved which would result in a need to increase the number of off-street parking and/or loading spaces required (except as herein provided), until the requisite number of off-street parking spaces and all paving requirements have been met.
- B. A Zoning Permit may be issued when there has been a change in a principal use and the number of off-street parking spaces required for the new use (per Chapter 9 of this Ordinance) is within ten (10) percent or ten (10) spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned development. In such instances where relief is provided, the additional parking spaces need not be paved (but shall have a graded gravel, crushed-stone or similar dust-reducing surface) if the parking lot prior to said expansion was not paved.

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Section 13.12 Nonconforming Automobile Storage, Junk Yards, and Salvage Yards

Nonconforming automobile storage, junk yards, and salvage yards shall provide a Type A opaque buffer in accordance with Chapter 8 no later than one (1) year after the date of notification by the Administrator.

Section 13.13 Nonconforming Adult Establishments

- A. Any Adult Establishments that fails to comply with the use and locational requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be nonconforming. Any such business which ceases active operation for a period of 30 days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- B. Any Adult Establishments lawfully operating as of the effective date of this Ordinance, but which subsequently fails to comply with the use and locational requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be nonconforming. Any such business which ceases active operation for a period of 30 days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- C. Any Adult Establishments that is rendered a nonconforming use as a result of (A) and (B) above shall either cease to operate or meet all of the requirements of this Ordinance for the use no later than five (5) years from the date that the Adult Establishments becomes a nonconforming use.