

CHAPTER 11. GRANDFATHERED DEVELOPMENT

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CHAPTER 11. GRANDFATHERED DEVELOPMENT

ARTICLE I. PURPOSE OF CHAPTER 11.

This Chapter sets out the provisions that protect uses, structures, lots, and signs that lawfully existed prior to the adoption of this Development Code or a subsequent amendment, but no longer conform to the new regulations. The primary intent of the treatment of nonconformity is to allow continuation of these uses, structures, lots and signs until the end of their useful life, while encouraging conformance to the new regulations when it becomes reasonable.

ARTICLE II. NONCONFORMING DEVELOPMENT; IN GENERAL.

- (a) Lawful nonconforming uses, structures, lots, and signs are declared by this Development Code to be incompatible with land uses, structures, lots, and signs that conform to the requirements of the zoning districts in which the nonconformity exists. However, such nonconforming uses, structures, lots, and signs may be “grandfathered” and may continue under the circumstances presented in this Chapter.
- (b) For the purpose of this Article, “value” shall be computed from the amount a building or structure, as applicable, is appraised for tax purposes by Crisp County.
- (c) Continuation of illegal nonconformity prohibited.

Any use, structure, lot, or sign that did not conform to the applicable codes or ordinances of Crisp County at the time of the creation, construction, or placement of said use, structure, lot, or sign, or became nonconforming as a result of subsequent unauthorized enlargement or expansion of such use, structure, lot, or sign, shall not be considered a lawful nonconforming use, structure, lot, or sign and is prohibited.

ARTICLE III. NONCONFORMING USES.

Sec. 11-1 Nonconforming uses; defined.

A lawful nonconforming use is a use or activity that was lawfully established prior to the adoption, revision, or amendment of this Land Development Code, but which, by reason of such adoption, revision, or amendment, is no longer a use or activity allowed by right or no longer meets or conforms to the requirements of this Land Development Code.

Sec. 11-2 Grandfathered nonconforming uses.

Except as provided under Sec. 11-3 below, to avoid undue hardship, the lawful but nonconforming use of any building, structure, or tract of land existing at the time of the adoption of this Land Development Code or any subsequent amendment may be continued even though the use does not conform to the provisions of this Land Development Code, except that the nonconforming use:

- (a) Shall not be changed to another nonconforming use.

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- (b) Shall not be extended in any way to occupy a greater area of land, either on the same or adjoining property.
 - (c) Shall not be extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the time of the passage or amendment of this Land Development Code and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.
 - (d) Shall not be re-established after its discontinuance for 3 months or more, unless leased but unoccupied, regardless of the intent of the owner or occupier to resume the nonconforming use.
 - (e) Shall not be repaired, rebuilt or altered after damage exceeding 50% of its replacement cost at the time of destruction; provided that allowed reconstruction is to begin within 6 months after damage of 50% or less is incurred.
 - (f) Shall not be enlarged or altered in a way that increases its nonconformity.

Sec. 11-3 Agricultural exception.

In lieu of the restrictions imposed under Sec. 11-2 above, the following shall apply to the nonconforming use of land and buildings for agricultural activities:

- (a) There shall be no time limit within which an agricultural use of open land or a principal building may be re-established on land that was previously used or capable to have been used for agricultural activities but which is no longer allowed under its current zoning, within the following limitations:
 - (1) For an open land agricultural use, such as crop production, beef cattle ranching, or a horse farm and pasturage, such use may be reestablished on areas previously used for such use or previously prepared and ready for such use (such as cleared land). New fencing may be provided around the property, and accessory structures such as a tractor or equipment shed, barn, or stable may be allowed to be built as an accessory use to support such open land agricultural use. Such newly constructed accessory structures shall be located at least 1,000 feet from any property zoned for residential use other than RR.
 - (2) For an agricultural use primarily dependent on the occupancy of a principal building, such as a greenhouse, dairy, poultry house, horse breeding stable, or riding academy, the nonconforming use may reoccupy an existing principal building designed and intended for such nonconforming use.
- (b) An existing principal agricultural building:
 - (1) May be renovated or repaired for re-occupancy by a nonconforming agricultural use to the extent of no more than 50% of its replacement cost; but,
 - (2) May not be enlarged or replaced.

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- (c) No new principal agricultural buildings, such as a greenhouse, dairy, poultry house, horse breeding stable, or riding academy, may be constructed for a nonconforming agricultural use.
 - (d) Any agricultural use for which Special Use approval is required in the RR zoning district shall not be re-established as a nonconforming agricultural use except by Special Use approval in the zoning district where such nonconforming use is to be located.
 - (e) A re-established nonconforming agricultural use of open land or a principal building must comply with the setbacks for agricultural waste disposal areas in Chapter 4 of this Development Code.

Sec. 11-4 Other provisions for nonconforming uses.

- (a) If an existing use was lawfully established in a zoning district that is subsequently amended to require Special Use approval for such use, the existing use shall not be subject to the provisions of this Subsection while located within such zoning district.
- (b) The strengthening or restoration to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety or health shall be allowed upon order of such official.
- (c) Any intended but not yet existing nonconforming use for which a vested right was acquired prior to the adoption of this Code or the adoption of an amendment to it shall be prohibited unless such intended nonconforming use for which a vested right was acquired is actually commenced within one year of the adoption of this Code or the adoption of an amendment to it regardless of the intent or expectation to commence or abandon such nonconforming use.

ARTICLE IV. NONCONFORMING STRUCTURES.

Sec. 11-5 Nonconforming structure; defined.

A lawful nonconforming structure is a structure or building whose size, dimensions, or location on a property were lawful prior to the adoption, revision, or amendment of this Land Development Code, but which, by reason of such adoption, revision, or amendment, no longer meets or conforms to one or more such requirements of this Development Code.

Sec. 11-6 Continuance of nonconforming structures.

- (a) A legal nonconforming structure shall be maintained or repaired only in accordance with all pertinent building codes and ordinances.
- (b) Change of ownership, tenancy, or management of a nonconforming structure shall not affect its legal, nonconforming status.
- (c) Whenever a nonconforming structure is damaged by any means and the extent of the damage is 50% or less of the floor area of the structure or 50% or less of the replacement

value of the structure, as determined by the Planning Director, the structure may be restored, provided its restoration begins within six months.

- (d) Whenever a nonconforming structure is damaged by any means and the extent of the damage is more than 50% of the floor area of the structure or 50% or more of the replacement value of the structure, as determined by the Planning Director, the structure shall not be restored unless in conformity with all applicable ordinances and County regulations. Such ordinances and regulations include, but are not limited to, the Flood Damage Protection Ordinance (especially with regard to floor area elevations), the Soil Erosion, Sedimentation and Pollution Control Ordinance, applicable Building Codes, County Health Department regulations, and this Land Development Code.
- (e) Without regard to the provisions of Sec. 11-6 (c) and Sec. 11-6 (d), a nonconforming manufactured home may be replaced by another manufactured home in any zoning district, upon approval as a hardship variance.

ARTICLE V. NONCONFORMING LOTS.

Sec. 11-7 Nonconforming lots; defined

A nonconforming lot is a lot of record whose area, frontage, width or other dimensions, or location were lawful prior to the adoption, revision, or amendment of this Land Development Code, and which, by reason of such adoption, revision, or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

Sec. 11-8 Grandfathered nonconforming lots.

- (a) Where the owner of a legal lot of record at the time of the adoption of this Development Code does not own sufficient land to conform to the minimum lot size or lot width requirement of this Development Code, such lot may be approved by the planning director to be used as a building site provided that the minimum building setbacks are not reduced below the minimum specified in this Development Code by more than 20%.
- (b) Any nonconforming lot requiring a setback reduction of more than 20% of the minimum set forth in this Code in order to allow a reasonable use of the lot may be approved as a special exception variance by the Zoning Board of Appeals, provided that:
 - (1) Further decreased setback requirements shall conform as closely as possible to the required dimensions; and
 - (2) Access to a public street is provided directly or through a recorded easement.

ARTICLE VI. NONCONFORMING SIGNS.

Sec. 11-9 Nonconforming signs; defined.

A nonconforming sign is a sign that was lawfully erected and maintained prior to the adoption, revision, or amendment of this Land Development Code, and which by reason of such

adoption, revision, or amendment fails to conform to all applicable regulations and restrictions of this Land Development Code.

Sec. 11-10 Continuance of nonconforming signs.

Any sign that was legally in existence on the effective date of adoption of this Land Development Code or any amendments thereto, and became nonconforming with respect to the requirements of this Land Development Code or any amendments thereto, may continue in existence as long as the size of the sign is not increased beyond that existing size on the effective date of this Code and any change thereto is made in conformance with this Code.

(a) Nonconforming signs; registration.

The burden of proof that an existing sign qualifies as a legal nonconforming sign lies with the owner of the sign. Registration of a nonconforming sign is encouraged to establish its status, but is not required.

- (1) Any sign or sign structure that is or has become a nonconforming sign may be registered by the owner with the Planning Department. If the sign was legally erected prior to the effective date of this Code or any amendments thereto, the sign shall be registered and allowed to continue to exist in its pre-existing condition.
- (2) The type and extent of the nonconformity shall be documented by the owner of the sign by description, photographic evidence, drawings, or by any other means that fully describes or illustrates the nonconformity being registered.
- (3) At the time that a legal nonconforming sign is registered, such registration shall be recognized by the Planning Director in writing.

(b) Nonconforming signs; provisions.

- (1) A nonconforming sign shall not be replaced, enlarged, or altered except within the provisions of this Code.
- (2) The substitution or interchange of poster panels or painted boards on nonconforming signs shall be allowed provided the size, shape or location of said sign does not change.
- (3) Repair and maintenance of nonconforming signs may be performed as necessary unless more than 50% of the sign is repaired, altered, or replaced, as determined by the Planning Director. If more than 50% of the sign is affected, then any legal nonconforming status is lost and the sign must be brought into compliance with the current sign regulations contained in this Land Development Code; provided that signs damaged by fire or act of God may be restored to their original condition.

(c) Relocation of a nonconforming sign.

- (1) An existing sign that was legally erected and that becomes nonconforming as to the setback requirements of this Land Development Code due to road widening may be moved to meet the setback requirements of this Code. Such sign shall not be increased in size or changed in any manner except as to become conforming.

- (2) Any sign erected to replace a nonconforming sign must meet all requirements and provisions of this Land Development Code.

Sec. 11-11 Temporary signs to be removed.

Any sign that is temporary in nature and not permanently affixed to the ground or to a building, such as a streamer or pennant, shall be removed within 60 days of becoming a nonconforming sign.