

Article XII. Non-Conforming Situations

This article includes standards for the continuance, expansion and termination of non-conforming lots, structures and uses.

Table of Contents

Section 1200.	Purpose.....	XII-1
Section 1201.	Non-Conforming Lots and Sites.....	XII-1
Section 1202.	Non-Conforming Structures.....	XII-2
Section 1203.	Non-Conforming Uses.....	XII-2
Section 1204.	Procedures for Obtaining Non-Conforming Status for Non-Complying Lots.....	XII-4
Section 1205.	Compliance with Other Laws.....	XII-4

Section 1200. Purpose.

It is the intent of this article to avoid any unreasonable invasion of established private property rights; however, this UDO recognizes that the elimination of existing lots, structures and uses that are not in conformance or compliance with this ordinance is as much a subject of health, safety and general welfare as is the prevention of the establishment of new uses which would violate the purpose, intent and provisions of this UDO. The objective is to gradually bring all non-complying lots, structures and uses into compliance with this UDO and reduce the number of non-conforming situations over time. Non-conforming situations are those that complied with the applicable rules at the time the lot, structure or use was established. Non-complying situations include lots, structures and uses that did not comply with applicable regulations when they were established. No building or development permits may be approved for non-complying lots, structures, or uses unless non-conforming or conforming status has been granted by the Community Development Director pursuant to this Article.

Section 1201. Non-Conforming Lots and Sites.

- (a) Except as provided in paragraph (b) of this section, an existing lot of record may be used for the erection of any structure (including accessory structures) permitted in the zoning district in which the lot is situated, even if the existing lot of record is determined to be non-conforming. Front, side and rear setbacks shall conform to the requirements of this UDO.
- (b) Where a non-conforming lot is less than the minimum lot area required by this UDO, and such non-conforming lot is adjacent to another lot under the same ownership at the effective date of this ordinance, such lots shall be considered a single lot for zoning purposes and shall be combined prior to a building permit being issued. Recombinations of lots shall not be required when such recombinations will result in more than one (1) dwelling or principal structure being situated on a single lot.
- (c) A lot that was legally established prior to November 11, 1995, that does not have access to an approved public or private road or legal easement shall be considered a non-conforming lot for purposes of this ordinance and may be developed subject to paragraphs (a) and (b) of this section, but may not be resubdivided unless all resulting lots have access to an approved public or private road or easement.

Section 1202. Non-Conforming Structures.

- (a) **Enlarging.** A non-conforming structure may be enlarged or extended, provided such enlargement or extension does not increase the non-conforming condition and the enlargement or extension complies with this UDO.
- (b) **Damage or Destruction Exceeding 75% of the Replacement Cost.** Any nonconforming structure which is damaged or destroyed by a natural calamity or other involuntary act, to beyond 75% of its replacement cost at the time of damage or destruction, shall be rebuilt to meet all current UDO requirements. The Board of Adjustment, however, may authorize an owner to rebuild to the pre-existing nonconforming standard(s). An application for such relief must be submitted and a public hearing is required. In allowing the structure to be rebuilt with the nonconforming standard(s), the Board of Adjustment shall make the following findings:
 - (1) The application to rebuild was submitted within one (1) year of the destruction;
 - (2) The nonconformity will not be increased;
 - (3) The applicant is proposing a new structure that complies with this UDO to the maximum extent practicable; and
 - (4) The reconstructed structure will not be detrimental to the public interest, health, safety, welfare, or negatively impact the function of the adjacent uses or uses in the general vicinity by reason of one or more of the following: the size, location, height, orientation or relation to the neighborhood or adjacent uses.
- (c) **Damage or Destruction 75% or Less of the Replacement Cost.** If the damage is 75% or less of such replacement cost at the time of the damage or destruction, a building permit must be secured within 24 months of the date of occurrence of such damage or destruction in order to be built to the nonconforming standard. If a building permit has not been obtained within that time, or if a building permit is obtained but expires, the structure cannot be rebuilt, altered or repaired, unless it meets the requirements of this UDO.
- (d) **Manufactured Homes.** An existing non-conforming manufactured home or mobile home or one made non-conforming by this UDO and located within the unincorporated limits of County, may be moved to another location within the unincorporated limits of County provided the following conditions are met:
 - (1) The manufactured home or mobile home must pass a habitability inspection by the Community Development Department.
 - (2) Evidence is submitted that all required taxes and fees due the County in connection with the structure are current.
 - (3) All required permits are applied for and the required fee paid.

Section 1203. Non-Conforming Uses.

- (a) Except as provided for herein, this UDO shall not prohibit a continuation of a lawful use of a lot or structure that is legally existing at the effective date of this UDO; provided, however, that if any such legally existing use changes to a different use after the effective date of this UDO, such different use shall conform to the provisions of this UDO.
- (b) Nothing contained in this UDO shall prohibit the continuation of agricultural or forestry uses on tracts ten (10) acres or greater, regardless of the zoning district in which such tract is situated.

Article XII: Non-Conforming Situations

- (c) Non-conforming uses of a structure may be changed to another non-conforming use that the Community Development Director determines is less intensive than the existing non-conforming use. After changing to a less-intensive non-conforming use, the previous non-conforming use may not be reestablished.
- (d) Non-conforming use of a structure and accessory structures may be continued but the structure(s) may not be expanded or extended. No additional customary accessory uses may be established.
- (e) If the non-conforming use requires a business license, the operator of the business must have either a current business license at the time of adoption of this UDO or obtain a business license within six (6) months of adoption of this UDO. Failure to comply with this provision will result in a loss of non-conforming status.
- (f) If a non-conforming use is abandoned for any reason for a period of more than 12 months, any subsequent use shall conform to the requirements of this UDO. A non-conforming use shall be determined to be abandoned if one (1) or more of the following conditions exists and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - (1) Utilities, such as water, gas, and electricity to the property, have been disconnected;
 - (2) The property, buildings, and grounds, have fallen into disrepair;
 - (3) Signs or other indications of the existence of the nonconforming use have been removed;
 - (4) Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - (5) The use no longer has the required valid business license;
 - (6) Required state or federal permits have expired; or
 - (7) Other actions, which in the opinion of the Community Development Director, constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.
- (g) Uses consisting of lots occupied by storage yards, used car lots, auto wrecking, junk yards, golf driving ranges, miniature golf courses and similar open uses, where the only buildings on the property are ancillary to the open use and where the use is non-conforming, shall be subject to the following restrictions, in addition to all other applicable provisions of this article.
 - (1) When a non-conforming open use of land has been changed to a conforming use, it shall not be used again for any other nonconforming use.
 - (2) Non-conforming open uses of land shall only be converted to a conforming use.
 - (3) A non-conforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
 - (4) When any non-conforming open use of land is discontinued for a period of more than six (6) months, any future use of the land shall be limited to those uses permitted in the zoning district under which the property is governed. Vacancy and/or nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

Section 1204. Procedures for Obtaining Non-Conforming Status for Non-Complying Lots.

A non-complying lot may not be developed or have additional structures approved unless the non-complying status is changed to non-conforming. A non-complying lot may be certified as a non-conforming lot through the procedures established in this section or it may become a conforming lot through the resubdivision process. A non-complying lot can be granted the status of a non-conforming or conforming lot by the Community Development Director if the following conditions are met:

- (1) An application is filed with the Community Development Director on forms prepared by the Community Development department and the required fee paid;
- (2) Evidence is submitted to the Community Development Director that all required taxes and fees due the county in connection with the lot are current;
- (3) The applicant submits evidence showing the lot meets the definition of non-complying lot.
- (4) The applicant submits to the Community Development Director a plat of the lot, which plat may be either a new plat meeting the requirements of the Georgia Plat Act, as amended at the time of application, or a copy of a previously recorded plat;
- (5) Certification of Bryan County Health Department approval of the lot and any existing sewerage system serving the lot is submitted to the Community Development Director; and
- (6) The Community Development Director determines that the lot:
 - a. Abuts, for a distance of at least twenty (20) feet, either a public road, an approved private road or a recorded access easement and meets the minimum area and dimensional requirements for the zoning district in which the lot is situated; or
 - b. Abuts, for a distance of at least twenty (20) feet, either a public road, an approved private road or a recorded access easement and the size of the lot is: 1) at least one (1) acre if using an individual well and individual waste management system; 2) at least one half (1/2) acre and served by either public water or public sewer; or 3) if the lot is served by public water and public sewer, the size of the lot is at least 15,000 square feet.
- (7) If the lot does not meet the access requirements identified in 6(a) or 6(b), the Community Development Director may grant non-conforming status if a plat, with the lot shown, was recorded prior to November 7, 1995, and the plat contains a note that says:

NOTICE TO PURCHASERS: THIS LOT IS AN RPAR LOT AS DEFINED BY THE BRYAN COUNTY ZONING ORDINANCE. SOME PUBLIC SERVICES PROVIDED BY FEDERAL STATE OR COUNTY GOVERNMENTS MAY NOT BE AVAILABLE TO A DWELLING CONSTRUCTED ON THIS LOT. THIS LOT DOES NOT HAVE ACCESS TO A DEDICATED PUBLIC ROAD MAINTAINED BY BRYAN COUNTY OR AN APPROVED PRIVATE ROAD SYSTEM. THIS LOT CANNOT BE SUBDIVIDED.

Section 1205. Compliance with Other Laws.

Compliance with Other Codes or Regulations. Notwithstanding any rights granted under this article, all structures and uses must comply with all applicable federal, state and county laws, rules, regulations and codes and when Bryan County Health Department approval or certification is required, such approval or certification must certify that water and sewerage disposal systems are operating in accordance with, and not in violation of, all applicable State and County laws, rules, regulations, codes and ordinances.

Sections 1206-1299 Reserved