Article 7. Nonconformities

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Section 701. Purpose and Intent
Nonconformities in the use and development of land and buildings are to be avoided, or eliminated wherever they are now existing, wherever and whenever possible, except when necessary to preserve property rights established prior to the date these regulations became effective as to the property in question, and when necessary to promote the general welfare and to protect the character of surrounding property.

Section 702. Applicability
This Article shall apply to circumstances that became nonconforming by initial adoption of this Ordinance, amendment to this ordinance including changes to district boundaries, or expansion of territory subject to the jurisdiction of the City. It shall also apply to nonconformities that were legal nonconformities under a similar provision of a previously applicable ordinance or resolution and that remain nonconforming with one or more provisions of this Ordinance, even if the type or extent of nonconformity is different.

Section 703. Burden of Proof
The burden of establishing that any nonconformity is a legal nonconformity as defined by this Ordinance shall, in all cases, be upon the owner of such nonconformity and not upon the City of Myrtle Beach or any other person or jurisdiction.

Section 704. Nonconforming Lots.
Except as provided below, no lot shall be reduced in size which will not maintain the total lot area, lot width, necessary yards, courts, open space, lot area per dwelling unit, or other requirements of this ordinance.

704.A. Continuance of nonconforming lots. Subject to all limitations herein set forth, any nonconforming lot may continue without change in boundaries and may be utilized or developed provided that the uses and development are otherwise authorized by the regulations provided in this Ordinance. No new structure shall be placed thereon except in conformity with section 705 and the applicable controls of the zoning district in which the lot is located.

704.B. Discontinuance of nonconforming lots. Any lot which is made conforming by combining with other lots for purpose of sale or development, or by subdividing or re-subdividing, thereafter shall be recognized as a conforming lot and shall comply in full with the provisions of this Ordinance or any amendment thereto.

704.C. Combination of nonconforming lots. Where two or more lots of record are nonconforming with regard to minimum lot sizes or dimensional requirements, said lots may be combined in whole or part, even if the newly formed lot does not meet the current area/dimensional requirements, provided:
1. The resultant lot reduces the degree of nonconformity of the initial lots; and
2. The resultant lot does not create any new lot that is more nonconforming than the initial lot or lots.

However, all yard setback requirements of this Ordinance shall control any new construction or building addition on these lots.

704.D. Whenever a premises comes into conformity, or degree of conformity, regardless of the circumstances that created its conformity, or degree thereof, no subsequent
change shall be made that would result in the premises becoming non-conforming or less conforming.

Section 705. Nonconforming Uses and Structures
Where structures or uses legally existing on the effective date of this Ordinance are not in conformity with the provisions of this Ordinance, it is the intent and purpose of this section to declare such structures and uses within the City to be nonconforming and detrimental to the orderly development of the City and to eliminate such nonconforming uses and structures as quickly as possible consistent with the rights of the owners and users thereof, for the purpose of protecting the public health, safety and general welfare.

705.A. General Provisions.

1. Continuance of existing uses and structures. Any use or structure, existing at the time of the enactment of this Ordinance, which does not conform to the provisions of this Ordinance for the zoning district in which it is located shall be deemed to be a nonconforming use and/or a nonconforming structure and may be continued only as hereinafter specified.

2. Existing uses with non-conforming parking. Where automobile parking facilities are insufficient to meet the parking standards set forth in this Ordinance for a use or uses, the associated structures may not be structurally altered nor any additional facilities be provided within such structures until after the requirements for off-street parking have been satisfied for those facilities.

3. Restoration of damaged structures. Any nonconforming building damaged by fire, flood, explosion, wind, earthquake, war, riot, or other calamity, or act of God, can be built as it existed immediately before destruction and the nonconforming use (if existing before destruction) can be reestablished provided the building permit is obtained within 12 months after destruction and maintained without lapsing. However, replacement of destroyed buildings in a floodplain must be elevated in accordance with the provisions of Article 11 - Floodplain Management Regulations.

4. Extension. A nonconforming use of land or structure shall not be enlarged, intensified, or extended except as is permitted in section 705.C.2 – Existing Buildings With Nonconforming Setbacks.

5. Construction approved prior to a change in the Ordinance. Nothing herein shall require any change in plans, construction, or designated use of a structure for which a building permit has been issued prior the effective date of the Ordinance change that affects the permitted project, provided that construction is begun and diligently pursued in accordance with the provisions of the city building code. After construction such structure or use shall be deemed nonconforming and shall thereafter be subject to the regulations of Article 7 - Nonconformities.

705.B. Nonconforming Uses

1. Change of use. Once changed to a conforming use, no building or use of land shall be permitted to revert to a nonconforming use.
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2. Abandonment of use.
   a. Definition. As used herein a use shall be deemed to have been abandoned when it has been discontinued, whether temporarily or permanently, whether with the intent to abandon said use or not.
   b. Abandoned use. A nonconforming use of a building or land that has been abandoned for a period of 12 consecutive months shall not thereafter be reestablished except in conformity with the provisions of this Ordinance.

3. Cessation of nonconforming uses. All nonconforming uses below shall be discontinued and brought into conformity with the provisions of this Ordinance within the following periods of time after said Ordinance is enacted:
   a. Nonconforming storage yards, including but not limited to auto wrecking; salvage and junk yards; automotive storage and sales yards; storage yards for lumber, building materials, and contractor's equipment; and major recreational and mobile home equipment sales areas shall be brought into compliance one year from the effective date of this Ordinance. When such nonconformities exist on properties which have been annexed, the nonconformity must be brought into compliance within one year following the effective date of the annexation.
   b. Nonconforming coin-operated amusement devices must be removed within two years from the effective date of annexation into the City.
   c. Existing therapeutic massage establishments made nonconforming by rezoning or by annexation into the City may remain as a nonconforming use provided that the conditional requirements of 1501.X are met immediately upon the effective date of the rezoning or annexation.
   d. Visitor accommodations made nonconforming by rezoning requested by the property owner: immediately upon the effective date of the rezoning.

705.C. Nonconforming Structures

1. Alterations. Structural alterations to a nonconforming structure shall not be permitted except as permitted in section 705.C.2 – Existing Buildings With Nonconforming Setbacks or as required by law or ordinance. Nothing in this Ordinance, with the exception of signs regulated by Article 8 – Sign Regulations shall prevent the strengthening or restoring to a safe condition of any part of any structure declared unsafe as determined by the zoning administrator.

2. Existing buildings with nonconforming setbacks. Additions may be made to buildings with nonconforming setbacks or yards, provided such buildings do not house nonconforming uses, were originally constructed under a valid permit and that any such addition meets current setback or yard requirements as provided in this Ordinance. This section shall also be applicable to the construction of separate buildings on a lot containing a building with nonconforming setbacks or yards.

3. Cessation of nonconformities impeding vision at intersections. All nonconforming structures, fences, hedges, shrubbery and signs located within the sight line or sight triangle as defined in section 203 shall immediately be brought into compliance by removal, relocation or alteration.
4. Special requirements for the Mixed-Use High Density (MU-H) district. The intent of the section is to allow existing nonconforming buildings within the Mixed-Use High Density (MU-H) district to be replaced or re-built if the following conditions are met:
   a. Reconstruction (including replacement) of existing buildings and swimming pools shall be allowed as long as the structures are not enlarged or expanded to the extent that the structure or structures exceed the gross square footage, excluding existing parking garages, which existed on the lot before the enactment of this Ordinance.
   b. Although such reconstruction is exempt from maximum building coverage and maximum height restrictions of the zone, the reconstruction or replacement of structures is allowed only if such new structures conform to all parking requirements and drainage regulations applicable at the time of reconstruction, redevelopment or replacement.
   c. When structures which are to be replaced contain nonconforming uses, the nonconforming uses are not permitted to be continued when the new structure is built.

Section 706. Nonconforming Signs. See Article 8 - Sign Regulations.

Section 707. Nonconforming Landscaping. See Article 9 - Landscaping and Tree Protection.


Section 709. Nonconforming Mobile or Manufactured Homes.
All manufactured or mobile homes located within the City prior to the effective date of Section 1501.N - Manufactured Homes shall be nonconforming and shall be allowed to remain provided that:

709.A. The home is not moved from its location as of the effective date of Section 1501.N - Manufactured Homes of this Ordinance; and

709.B. The home continues to meet the minimum standards of S.C. Reg. 79-43 Used Manufactured Homes Minimum Habitability Requirements.