

CHAPTER 13: NONCONFORMITIES

Section	Page
13.1 Purpose & Applicability.....	13-2
13.2 General Provisions for Nonconformities.....	13-2
13.3 Nonconforming Lots.....	13-2
13.4 Nonconforming Uses.....	13-3
13.5 Nonconforming Structures.....	13-4
13.6 Reconstruction of Damaged Structures.....	13-5
13.7 Continuation of Manufactured Home Parks.....	13-5
13.8 Continuation of Manufactured Homes on Individual Lots.....	13-7
13.9 Nonconforming Signs.....	13-8
13.10 Nonconforming Landscaping & Buffering.....	13-9
13.11 Nonconforming Parking & Loading.....	13-9
13.12 Nonconforming Automobile Storage, Junk Yards, & Salvage Yards.....	13-10
13.13 Nonconforming Adult Establishments.....	13-10

CHAPTER 13: NONCONFORMITIES

Section 13.1 Purpose & Applicability

- A. 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.
- B. After the effective date of this Ordinance, pre-existing lots or structures, or uses of lots or structures which are prohibited under the regulations for the district in which located, shall be considered as nonconforming. Nonconforming lots, structures or uses may be continued, provided they conform to the following provisions.
- C. Many nonconformities 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, 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.

Section 13.3 Nonconforming Lots

13.3.1 Adjoining and Vacant Lots of Record

- A. If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance.

- B. Except as set forth in (A) above, if a lot, which was recorded prior to the passage of this Ordinance, fails to meet lot area or width requirements or both in a district where single family dwellings are permitted, such lot may be used as the location of a single-family dwelling with related accessory buildings. In such cases, the Administrator is authorized to issue a permit with reduced width or area requirements, but in no case shall the lot size and/or yard requirements be reduced by more than 20 percent.

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 so long as the nonconformity is not increased.

Section 13.4 Nonconforming Uses

13.4.1 Uses of Land: Open Storage & Sales

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 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 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 except as set forth in Subsection E below.
- 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.

CHAPTER 13: NONCONFORMITIES

- 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 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. Any nonconforming use may be changed to a conforming use, or with the approval of the Board of Adjustment, to use in character with the uses permitted in the district. In permitting such changes, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

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 nonconformities 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 Oriented Businesses, 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 Manufactured Home Parks

All manufactured home parks existing at the time of the adoption of this Ordinance must apply for a Business License. A Business License shall be valid for a period of one (1) year subject to the provisions of this Ordinance and upon a yearly inspection performed under the direction of the Administrator. All manufactured home parks shall maintain a valid business license. The business license issued to the owner shall constitute the authority to operate the manufactured home park in accordance with this Ordinance. All permits to parks shall be withheld without a valid business license. Failure to maintain a valid business license, or to obtain a business license within six (6) months from the adoption date of this Ordinance, shall be subject to the enforcement provisions of Chapter 15 of this Ordinance.

13.7.1 General Provisions

The installation or establishment of new manufactured home parks shall be prohibited. The following provisions shall apply to all manufactured home parks existing prior to adoption of this Ordinance.

- A. It shall be unlawful to conduct on any business on a commercial basis, including but not limited to the sale of manufactured homes, recreational vehicles, or travel trailers within a manufactured home park.
- B. No manufactured home park shall permit a recreational vehicle or travel trailer as herein defined to locate within its boundaries for periods greater than one (1) week.
- C. Each manufactured home shall have a flush toilet, lavatory, bathtub or shower, cooking facilities, and electric wiring and shall be required to connect with the utilities provided at each manufactured home space.

CHAPTER 13: NONCONFORMITIES

- D. All garbage and refuse in every manufactured home park shall be stored in suitable water-tight and fly-tight receptacles which shall be kept covered with closely fitting covers. The size and type of all garbage receptacles shall be in conformance with town standards. No person shall throw or leave garbage or refuse upon the ground of any manufactured home park. It shall be the duty of the manufactured home park operator to make certain that all garbage and refuse are regularly disposed of in a sanitary manner.
- E. All applicable health regulations shall apply to manufactured home parks within the jurisdiction of the Town except where such regulations are in conflict with the provisions of this section, in which case the more restrictive provisions shall apply.
- F. The owner of the manufactured home park shall be responsible to see that each manufactured home parked within the manufactured home park is properly tied down in accordance with the State of North Carolina regulations for manufactured homes.
- G. Each manufactured home shall be installed with skirting manufactured specifically for such use. The skirting shall be made of a material compatible with the siding of the manufactured home and shall surround the entire perimeter of the home at all times.
- H. One (1) accessory building shall be permitted per manufactured home park for the use of all park tenants. Manufactured home parks existing at the adoption date of this Ordinance with more than one (1) accessory building shall have a period of one (1) year from adoption of this Ordinance to remove additional accessory buildings.
- I. The towing hitch on all manufactured homes shall be removed or completely landscaped from view.
- J. A driveway and parking space sufficient to accommodate at least two (2) automobiles shall be constructed within or assigned to each manufactured home space and shall be paved or covered with crushed stone or other suitable material. Such driveways and parking spaces shall be maintained in a manner to be free from pot holes, breaks in pavement, rough surfaces, standing water, and associated problems which would impede or cause hazards to motor vehicles.
- K. All private streets and right(s)-of-way shall be the responsibility of the park owner and shall be maintained in a manner to be free from pot holes, breaks in pavement, rough surfaces, standing water, and associated problems which would impede or cause hazards to motor vehicles. Closed ends of dead-end streets shall be provided with an adequately surfaced vehicular turning circle, cul-de-sac, at least 40 feet in diameter or a turning "Y" with an angle of at least 90 degrees, as applicable. Installation of said provisions shall be made within one (1) year of adoption of this Ordinance.
- L. Signs for the identification of manufactured home parks must meet the requirements of Chapter 10 as applicable. All manufactured home park signs shall include the name of the park and the phone number of the owner(s) and/or manager.

- M. Buffers shall be maintained around the entire perimeter of the manufactured home park where currently existing. Any new buffer or landscaping material shall be properly maintained.
- N. Each manufactured home stand shall be equipped with plumbing and electrical connections grouped together within the manufactured home stand.
- O. Each manufactured home park shall obtain water from a public water supply. The supply shall be adequate for the park requirements. The drinking, cooking, laundry, and general bathroom water supply for each individual manufactured home shall be obtained from faucets or other plumbing connections located within, each manufactured home.
- P. Each manufactured home park shall be provided with an adequate sewage disposal system. All sewage wastes from each manufactured home shall be piped into the manufactured home park sewage disposal system.
- Q. In addition to any fire prevention regulations of the Town of Angier the following shall apply:
 - 1. The park owner or operator shall maintain the park area free of rubbish, dry brush, leaves, weeds, and any other materials which might communicate fires between manufactured homes and other buildings.
 - 2. Empty liquefied petroleum gas containers and other objects and materials not approved by the Fire Department shall not be stored under manufactured homes.
 - 3. The manufactured home park owner shall be responsible for payment of any applicable fee if the Fire Department is called upon.

13.7.2 Manufactured Home Park Inspections

All manufactured home parks existing at the time of adoption of this Ordinance shall be inspected, under the direction of the Administrator, on a once yearly basis. Upon passing inspection, a valid business license shall be issued for the manufactured home park. All items listed in the General Provisions of this section shall be verified prior to issuance of a business license.

13.7.3 Alterations of Manufactured Home Parks

No person shall make any alteration to a manufactured home park that either increases the number of sites for manufactured homes within the park, acreage of the park, or affects the facilities required therein.

Section 13.8 Continuation of Nonconforming Manufactured Homes on Individual Lots

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

CHAPTER 13: NONCONFORMITIES

such time as they are removed, the reestablishment of a manufactured home or any other structure on that lot is prohibited until such time as the lot is made to conform to the requirements of this Ordinance.

If an existing nonconforming manufactured home on a conforming lot is removed, it shall only be replaced with a conforming structure.

Section 13.7 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.
- 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 an advertising message. (For such purposes, the terms "Sign For Rent", "Sign For Lease", "Sign For Sale", etc. shall not be deemed to be an advertising message except for billboards).

Section 13.8 Nonconforming Landscaping and Buffering

In accordance with Chapter 7 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 an existing use, which is deficient in landscaping and/or buffering, or any change in principal use cannot occur without the required screening and/or landscaping having first been provided on-site. The 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 13.9 Nonconforming Parking and Loading

- A. On any lot in any zoning district, except the 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 8 of this Ordinance) is within 10 percent or 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.

CHAPTER 13: NONCONFORMITIES

Section 13.10 Nonconforming Automobile Storage, Junk Yards, and Salvage Yards

Nonconforming automobile storage, junk yards, and salvage yards shall provide an opaque buffer in accordance with Chapter 7's requirement for outdoor storage no later than one (1) year after the date of notification by the Administrator.

Section 13.11 Nonconforming Adult Establishments

- A. Any Adult Establishment 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 Establishment 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 Establishment 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 Oriented Business becomes a nonconforming use.