

**ARTICLE V
GENERAL PROVISIONS**

500 NONCONFORMING USES

It is the intent of this Ordinance to permit nonconformities to continue until they are removed, but not to encourage their survival. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is the further intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, reconstructed to continue nonconformity after major damage, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

500.1 CONTINUANCE OF NONCONFORMING USES, STRUCTURES, OR CHARACTERISTICS OF USE

500.1.1 CHANGE TO ANOTHER NONCONFORMING USE

A nonconforming use structure, or characteristic of use shall not be changed to any other nonconforming use, structure, or characteristic of use unless the Board of Zoning Appeals finds that the new use, structure or characteristic of use is more in character with the uses permitted in the district, in which case the Board may permit such change as a special exception. In permitting the change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the purpose of this Ordinance.

500.1.2 CONVERSION OF USE OF NONCONFORMING LOTS

The minimum yard requirements of this Ordinance shall not be construed as prohibiting the conversion of an existing building which does not meet the minimum yard requirements to another permitted use, so long as no further encroachment is made into the existing yards.

500.1.3 RECONSTRUCTION

A nonconforming structure shall not be demolished and rebuilt as a nonconforming structure.

500.1.4 EXTENSION OR ENLARGEMENT

A nonconforming use, structure, or characteristic of use shall not be extended, enlarged, or intensified except in conformity with this Ordinance; provided, however, that any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside that building.

500.1.5 **REESTABLISHMENT**

A nonconforming use, or characteristic of use, shall not be reestablished after vacancy, abandonment, or discontinuance of any period of six (6) consecutive months, except where Subsection 6 below applies. When a nonconforming use has been replaced by a conforming use, the nonconforming use may not be reestablished at any time.

500.1.6 **RECONSTRUCTION AFTER DAMAGE**

A nonconforming structure shall not be rebuilt, altered, or repaired except in conformity with this Ordinance after sustaining damage exceeding seventy-five (75) percent of the replacement costs of the structure at the time of damage, provided that any permitted reconstruction shall begin within six (6) months from the time of damage and shall be completed within twelve (12) months after the issuance of a building permit.

500.1.7 **REPAIR OR MAINTENANCE OF NONCONFORMING STRUCTURES**

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. A Declaration of Nonconforming Use shall be filed with the Zoning Administrator prior to any work beginning.

501. **NONCONFORMING USE DISCONTINUANCE**

Notwithstanding other provisions of this Ordinance, fences, hedges, etc., impeding vision at intersections shall be considered nonconforming uses and shall be discontinued, altered or otherwise made to conform with this Ordinance within a period of sixty (60) days following adoption of this Ordinance. Upon application to the Board of Zoning Appeals, the Board may, either according to general rule or upon findings in the specific case, permit extension for not more than thirty (30) days.

Notice shall be sent by the Zoning Administrator to all non-conforming users stating wherein they do not conform to said Ordinance and stating the date by which they must either comply or cease to exist. The date by which they must either comply or cease to exist shall be measured from the date of enactment of this Ordinance and shall be observed regardless of whether Notice of Nonconformity is sent by the Zoning Administrator or received by the affected owner.

502. **STRUCTURES IN REQUIRED YARDS**

The general definition of "yards" as set forth in Section 201 states that yards are unoccupied and unobstructed by a structure or portion of a structure from thirty (30) inches above the finished grade level of the

ground upward. However, the general definition shall be construed subject to the following exceptions and interpretations.

- 502.1** Those objects which are excluded from the definition of a "structure" under Section 201.57 shall not be subject to regulation as an interpretation of the definition of "yard".
- 502.2** Steps and open porches without roofs shall be allowed in any required yard.
- 502.3** Screening or retaining walls and fences over thirty (30) inches in height that substantially impede vision may be permitted in a required yard as a special exception; however, screening walls and fences not over eight (8) feet in height in the GC and LI zoning district and six (6) feet in the other districts are permitted outright in side and rear yards, provided no screening wall or fence in excess of five (5) feet is permitted within six (6) feet of a residential structure on adjacent property.
- 502.4** Eaves, cornices, gutters and other minor architectural features projecting less than eighteen (18) inches from the main portion of a building shall be allowed to project into any yard.
- 502.5** In IC, GC and LI Districts, structures and devices incidental to servicing, and roofs over such structures and devices are permitted, within required front yards, provided that they do not constitute a substantial impediment to visibility across such yards which would contribute to the creation of traffic hazards, and further provided that servicing operations in connection therewith can be conducted so as not to interfere with public use of adjacent sidewalks and public streets.
- 502.6** No fence or wall shall be permitted in any required front yard which substantially impedes vision above a height of thirty (30) inches, except as provided for in IC, GC and LI Districts in Section 502.5 above.
- 502.7** Fences or walls are permitted in required side yards or required rear yards, provided that such fences or walls do not substantially impede visibility above a height of eight (8) feet in GC and LI districts and six (6) feet in residential districts.
- 502.8** Signs are permitted to encroach upon required yards in certain instances as set forth in Article 9, "Sign Regulations".
- 502.9** Screening between commercial or industrial uses and lots zoned residentially as required by Section 7.

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NUISANCES

Any business which is judged by Town Council or the appropriate agency thereof to constitute a nuisance beyond its premises by emitting noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation, other injurious or obnoxious conditions, or which poses a documented threat to water or wetlands within the Town limits of Summerton is not permitted in any District.