

ARTICLE 4 GENERAL AND ANCILLARY REGULATIONS

The regulations set forth in this Article are intended to clarify, supplement, or modify the regulations set forth elsewhere in this Ordinance.

Section 4.01 Application of Regulations

The regulations established herein are declared to be the minimum requirements necessary to carry out the purposes of this Ordinance. These regulations are the minimum standards for all site clearing, development, buildings, structures, or alterations to land or structures within the jurisdiction of this Ordinance.

No part of a yard, open space, or off-street parking required in connection with any building for the purpose of complying with the regulations of this Ordinance shall be included as part or all of the required yard, open space, or off-street parking for another building or structure, except as hereinafter provided.

Section 4.02 Exceptions and Modifications

1. Setbacks - Corner Lots

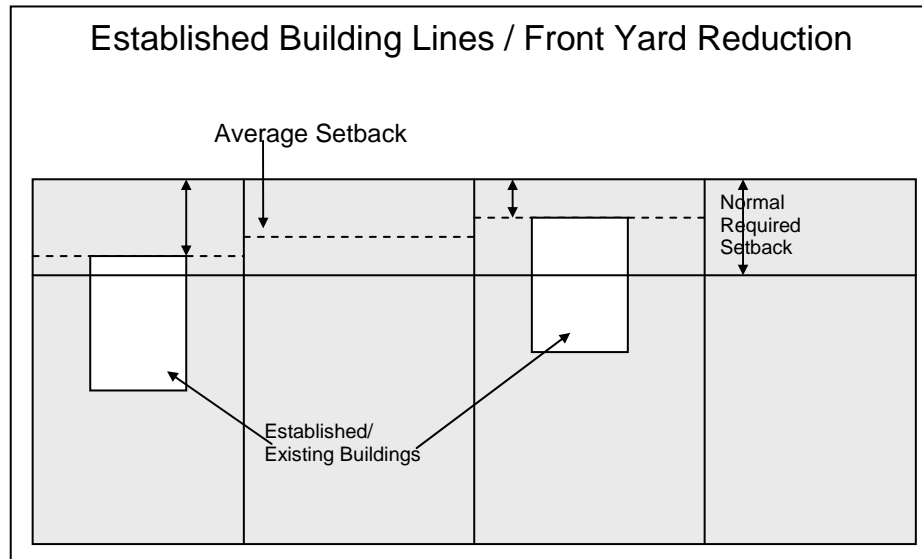
The setback from the street upon which the principal building will face shall be the minimum required front yard setback. The setback from the street upon which the side of the building will face shall be established by Table 3 for the use in question.

2. Setbacks - Partially Developed Areas

Where the majority of lots in a block fronting on the same side of a street between two intersecting streets are lawfully occupied with buildings having greater or lesser front yard depth than required by these regulations, no building hereafter erected or altered shall vary in the front yard setback by more than five (5) feet from the average depth of said existing front yard setbacks without written approval of contiguous property owners. However, in no case shall setbacks be less than 15 feet.

Section 4.03 Measurements

1. Yards, Setbacks, Buildable Area



The required front, side, and rear yards for individual lots, as set forth for by Table 3 shall be measured inward toward the center of said lot from all points along the respective front, side, and rear property lines of the lot. Once the yard areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side, or rear lot shall be known as the "buildable" area within which the approved structure(s) shall be placed.

2. Height

The height of a building or structure shall be measured from the lowest grade elevation of the structure or from the base of a tree when computing height in the Airport Environ Zones, to the highest point of the building, structure, or tree.

Section 4.04 Conversion of Residential Property

When the conversion of a house to a commercial use is proposed, the house shall be made to meet all applicable codes for commercial buildings. Where a house will be used for a dwelling and a commercial use, that section of the house that will be open to the public shall meet all requirements for a commercial building. All parking, landscaping, buffering, and other requirements of this Ordinance for the commercial use of the property shall be met.

Section 4.05 Transitioning Landuses on Arterial Streets

In cases where it is determined by the Planning Department staff that residential landuses along arterial streets are in the process of transitioning to commercial, industrial, and office development, Planning Department staff, upon review and approval of the Planning Director, has the option of reducing the required bufferyard between an existing residential use and a proposed commercial or office use by one bufferyard class increment. The Planning Department staff will utilize the future landuse map of the County Comprehensive Plan to assist in evaluating these transitioning area requests.

Section 4.06 Nonconformities

Section 4.06-1 Continuation (Grandfather Clause)

Nonconforming uses, buildings, or structures are deemed by this Ordinance to be incompatible with new permitted construction.

Section 4.06-2 Types of Nonconformities

Land uses may be nonconforming with respect to this Ordinance in the following ways:

- a. Violates height requirements.
- b. Insufficient bufferyard.
- c. Insufficient setback from street right-of-way or property line.
- d. Excessive density as defined by the floor area ratio.
- e. Excessive impervious surface ratio.
- f. Not enough parking or loading spaces.
- g. Does not conform with respect to the size and spacing of curb cuts.
- h. Does not conform with respect to entrance/exit spacing.
- i. Does not conform with respect to access to the street system (road classification system).

Except as otherwise provided nonconforming uses may not be enlarged, extended, reconstructed or structurally altered except in compliance with the provisions of this Article.

Section 4.06-3 Existing Nonconforming Use

1. Continuation

A use that is in existence at the effective date of this Ordinance may continue provided it does not require an increase in the total square footage of buildings or other structures or change to a more intense land use. Such buildings or other structures may be structurally altered or reconstructed as long as the total square footage of such buildings does not increase. Existing mining operations may continue until the existing body of ore or rock is exhausted.

2. Nonconforming Sexually Oriented Business

Any sexually oriented business lawfully operating on the effective date of this Ordinance that is in violation of this Ordinance shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a use identified on Table 3 within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

Section 4.06-4 Intermittent Use

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

Section 4.06-5 Change of Nonconforming Use

Land uses existing on the effective date of this Ordinance may expand to any size provided the use can meet setback, bufferyard and parking requirements of this Ordinance.

A change to a more intense land use or movement of buildings/structures on site may be permitted if the new or relocated use can meet bufferyard, setback requirements, parking requirements, curb cut size and spacing requirements, and entrance/exit requirements if applicable.

Section 4.06-6 Replacement of Nonconforming Use

A use that is destroyed beyond 50 percent of the fair market value immediately prior to the damage must meet all applicable requirements of this Ordinance in order to rebuild or reconstruct.

A use that is damaged 50 percent or less of fair market value immediately prior to the damage may repair or reconstruct such use, provided that repair and reconstruction are completed within twelve (12) months of the date of damage and provided the use is no greater size or land use intensity.

Section 4.06-7 Extension of Use within Existing Building

The nonconforming use of a building may be hereafter extended throughout those parts of a building which are primarily arranged or designed for such use at the time of enactment of this Ordinance.

Section 4.06-8 Discontinued Nonconforming Uses

If a use which was in existence and occupied on the date of enactment is discontinued for a period of six (6) months or more, it must comply with the Ordinance in as much as it is physically possible to do so in order to reopen. Discontinued for the purpose of this section is defined as the discontinuation of occupancy and utility services which can be clearly documented by the utility provider (i.e., electricity, water, sewer, gas, and telephone).

The provisions of this section shall not apply to any residential use.

Section 4.06-9 Lot of Record

Where a lot of record existed before September 30, 1974, or where a lot of record was created in accordance with applicable county ordinances between the dates of October 1, 1974, and December 31, 1999, and does not contain sufficient land to conform to the dimensional requirements of this ordinance or where such lot does not have sufficient frontage on a privately or publicly maintained road or street, such lot may nonetheless be used as a building site for a single-family dwelling or one manufactured home, and the Building Official is hereby authorized to issue a permit for the use of the property which conforms to the requirements (setbacks, heights, bufferyards, parking, etc.) established in Table 3 of this Ordinance. Applicable setback requirements shall not be reduced by more than twenty-five (25%) percent by the Planning Department staff. Setback reductions greater than twenty-five (25%) percent shall be referred to the Board of Appeals for consideration and final action. (Amended 10/16/2000)