Article 11.0 Nonconformities

Sec. 11.1 Generally

The purpose of this Article is to establish regulations and limitations on the continued existence of uses, lots, structures, signs, parking areas and other development features that came into existence legally, in conformance with then-applicable regulations, but that do not conform to one or more of the requirements of this Ordinance. These are referred to in this Ordinance as “nonconformities”.

Sec. 11.2 Intent

a. To encourage development that is consistent with this Ordinance and to provide owners with reasonable use of their uses, lots, structures, signs, parking areas and other development features that came into existence legally, such uses, lots, structures, signs, parking areas and other development features are encouraged to continue to exist and be put to productive use.

b. The regulations of this Article are intended to clarify the effect of such nonconforming status and to avoid confusion with illegal uses, lots, structures, signs, parking areas and development features. Furthermore, the regulations are intended to:
   i. Recognize the interest of owners in continuing to use their property;
   ii. Promote reuse and rehabilitation of nonconformities, where applicable; and,
   iii. Prohibit the expansion and alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

Sec. 11.3 General Standards

11.3.1 Exemptions

The provisions of this Article shall not be construed to prohibit the reconstruction of any lawfully established nonconforming, single-family residential building (including the replacement of manufactured single-family residential buildings) if such building is damaged or destroyed by a natural calamity or other involuntary act, provided that:

a. The extent of the nonconformity is not expanded in scale, scope or intensity beyond that of the original building (e.g., the square footage of the replacement building cannot exceed that of the original building).

b. Any dimensional nonconformities are corrected to the extent reasonable and practicable as determined by the City Manager or his or her designee.

c. Adequate documentation (e.g., an insurance report) is provided to demonstrate that the damage or destruction necessitating the reconstruction or total replacement is the result of a natural calamity or other involuntary act.

d. A valid plot plan, as required by the City Manager or his or her designee, and building permit for its reconstruction must be applied for within 12 months of the date that the damage occurred.

11.3.2 Authority to Continue
Any lawful nonconformity that existed on Effective Date of this Ordinance or that was lawfully completed pursuant to the Transitional Provisions of Sec. 1.4 of this Ordinance may be continued in accordance with the regulations of this Article.

11.3.3 Reserved

11.3.4 Repairs and Maintenance

a. Nonconformities shall be maintained to be safe and in good repair.

b. Incidental repairs and normal maintenance necessary to keep a lawful nonconformity in sound condition are permitted unless otherwise expressly prohibited by this Ordinance.

c. Installation or relocation of non-load bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

d. Nothing in this Article shall prevent the strengthening or restoration to a safe condition of a structure, sign, parking area or development feature in accordance with an order of the City Manager or his or her designee who declares such structure, sign, parking area or development feature to be unsafe and orders it to be restored to a safe condition provided such restoration is not otherwise in violation of the various provisions of this Ordinance prohibiting repair or restoration of partially damaged or destroyed structures, signs, parking areas or development features.

11.3.5 Changes in Ownership, Tenancy or Management

Nonconforming status is not affected by changes of ownership, tenancy or management.

Sec. 11.4 Nonconforming Uses and Structures

11.4.1 Definition

Any use or structure that lawfully existed at the time it was constructed or established but which fails to comply with one or more of the applicable regulations or standards of this Ordinance.

11.4.2 Regulations

a. Change in Use

A nonconforming use of land or of a structure shall not be changed to any use not permitted in the base zoning district or overlay district, if applicable, unless authorized by the Zoning Board of Appeals in accordance with Sec. 3.24, Relief for Nonconforming Uses. However, when such nonconforming use has been changed to a permitted use, it shall only be used thereafter only for a use allowed in the zoning district in which it is located and shall meet any applicable use standard(s). For purposes of this paragraph, a use shall be deemed to have been changed when an existing nonconforming use has been terminated and a business license or tax certificate for the permitted use has been obtained.

b. Enlargement, Expansion

i. Nonconforming Uses

A nonconforming use shall not be enlarged or expanded to occupy a greater area of land or of a structure unless authorized by the Zoning Board of Appeals in accordance with Sec. 3.24, Relief for Nonconforming Uses and Structures.

ii. Nonconforming Structures
Any nonconforming structure may be enlarged, maintained, repaired or altered in accordance with Sec. 3.24, Relief for Nonconforming Uses and Structures.

c. **Relocation**

i. **Nonconforming Uses**

No nonconforming use of land shall be relocated in whole or in part to any other location on the same or any other lot, unless such use conforms to all the regulations of the district in which such use of land is located after being so relocated.

ii. **Nonconforming Structures**

No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot, unless the entire structure after its relocation conforms to all the regulations of the district in which the building is located after being so relocated.

d. **Damage or Destruction**

i. **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 not be rebuilt, altered or repaired unless authorized to do so by the Zoning Board of Appeals in accordance with Sec. 3.24, Relief for Nonconforming Uses and Structures, within 24 months of the date of occurrence of such damage.

ii. **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 damage or destruction, a building permit must be secured within 24 months of the date of occurrence of such damage or destruction. 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.

e. **Abandonment**

Once a nonconforming use is abandoned, the nonconforming status of the use is lost and any subsequent use or occupancy of such land or structure shall comply with the regulations of the zoning district in which such use or structure is located unless the nonconforming use is re-established by the Zoning Board of Appeals in accordance with Sec 3.24, Relief for Nonconforming Uses. A nonconforming use will be considered abandoned when any of the following occurs:

i. The use has been discontinued for a period of at least 12 months regardless of whether the intent is to resume the nonconforming use;

ii. The nonconforming use has been replaced by a conforming use; or

iii. A building permit to reconstruct a damaged structure that housed a nonconforming use has not been secured within 24 months of the date of occurrence of such damage or the building permit has expired, or construction has not been diligently pursued.
Sec. 11.5 Nonconforming Lots of Record

11.5.1 Definition
A nonconforming lot is a tract of land that was lawfully established in accordance with all regulations in effect at the time of its establishment, but which no longer complies with the applicable lot area, lot width, lot frontage, or access standards as of Effective Date of this Ordinance or because of a subsequent map or text amendment.

11.5.2 Determination of Nonconforming Lot Status
A nonconforming lot shall be considered a legal building site if it meets one or more of the criteria specified below:

a. Approved Subdivision
   The lot was created through a subdivision plat approved in accordance with the Subdivision Ordinance.

b. Individual Lot Legally Created by Deed
   The lot was legally created by a recorded deed before the effective date of the amendment that made the lot nonconforming, or before the City of Savannah adopted regulations requiring a recorded plat.

c. Recombination Subdivision
   The current configuration of the lot resulted from a recombination subdivision approved in accordance with the Subdivision Ordinance.

d. Partial Government Acquisition
   The lot was created in conformity with the provisions of this Ordinance but was made nonconforming when a portion of the lot was acquired by a government entity.

11.5.3 Development on Nonconforming Lots
Development on nonconforming lots is subject to the following exceptions and modifications:

a. Adjoining Lots
   i. When two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of this Ordinance and such lots, individually, are less than 5,000 square feet in area or are less than 50 feet in width, then such group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located.

   ii. However, when such combination of lots would create a single lot having a width of 90 feet or more and an area of 9,000 square feet or more, such lot may be divided into two lots of equal width and area; provided, each of the two lots shall be served by public water and public sewers.

   iii. Provided however, in order to reflect the area’s prevailing historic lot size pattern, such adjoining substandard lots may be replatted for single-family residential development to a minimum area of 3,000 square feet and minimum width of 40 feet where the cumulative majority (greater than 50 percent) of all residential lots in the same block face are of equal or lesser area of width than the proposed replatted lots.

b. Lot not meeting minimum lot size requirements.
   Except as set forth in subsection (a) of this section, in any district in which single-family dwellings are permitted, any lot of record existing at the time of adoption of this Ordinance
which has an area or a width which is less than that required by these regulations may be used as a building site for a one-family dwelling, provided such lot is served by public water and public sewers or a private system approved by the City Manager or his or her designee.

11.5.4 Further Subdivision

A nonconforming lot may be subdivided if that subdivision does not create a nonconforming lot.
Sec. 11.6 Nonconforming Signs

11.6.1 Definition

A nonconforming sign is any sign that lawfully existed before the Effective Date of this Ordinance or subsequent amendment to this Ordinance but that fails, by reason of such adoption or because of a subsequent map or text amendment, to conform to the current provisions of Sec. 9.9, Signs.

11.6.2 Signs Granted a Variance

Any sign granted a variance shall be considered a conforming sign. However, any aspect of such sign that was not approved for a variance, and that is in violation of this Ordinance, shall be considered nonconforming.

11.6.3 Alteration, Enlargement, Relocation

A nonconforming sign shall not be changed or altered in any manner which would increase the degree of its nonconformity; enlarged; structurally altered to prolong its useful life; or relocated in whole or in part to any other location where it would be nonconforming. Replacing the support structure of the sign shall be considered structurally altering the sign to prolong its useful life. A change in the copy or advertising message on the sign shall not constitute an alteration of the sign. Routine maintenance of the sign shall be permitted in order to keep it in a safe condition and neat and orderly appearance.

11.6.4 Removal of Nonconforming Signs

a. Removal by Abandonment, Change of Business

i. Any nonconforming sign, the use of which is discontinued or removed for a period of 12 months, regardless of any intent to resume or not to abandon such sign, shall be deemed to be abandoned and shall not thereafter be re-established.

ii. Any period of such discontinuance caused by government actions, natural calamity or other involuntary act, without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for the purposes of this Section.

b. Removal by Damage or Destruction

Any nonconforming sign which is partially damaged or destroyed by a natural calamity or other involuntary act, to beyond 75% of its replacement cost at the time of destruction, shall not be restored, but shall be removed or brought into compliance with Sec. 9.9, Signs.

c. Removal of Nonconforming Signs upon Demolition of a Principal Use Structure

When a principal use structure is demolished, any nonconforming signs on the property where the structure was located shall be brought into compliance with Sec. 9.9, Signs or removed from the property.

d. Process for Removal of Nonconforming Signs

If any nonconforming sign is not removed as required by this Section, the City Manager or his or her designee shall initiate the necessary proceedings to secure removal of such nonconforming sign, or secure compliance with the provisions of this Ordinance as provided below.

i. Notice to Correct, Remove or Appeal

Upon mailed notification from the City Manager or his or her designee the property owner shall have 30 days to bring the nonconforming sign into compliance, appeal the
decision of the City Manager or his or her designee to the Zoning Board of Appeals or remove said sign. Notice shall be deemed delivered five (5) days after being mailed, first class mail, postage prepaid, through the U.S. Mail, to the owner as shown on the most recently available Chatham County Tax Digest.

ii. Enforcement Actions

It shall be a violation of this Ordinance and the property owner shall be subject to criminal prosecution as provided in this Ordinance upon the occurrence of either one of the following:

(1) The property owner does not remove the nonconforming sign within 30 days as provided in subsection i. above and does not appeal the decision of the City Manager or his or her designee to the Zoning Board of Appeals.

(2) The property owner appeals the decision of the City Manager or his or her designee but does not remove the nonconforming sign within 30 days of a decision of the Zoning Board of Appeals affirming the decision of the City Manager or his or her designee.
Sec. 11.7 Nonconforming Parking Areas

11.7.1 Definition

A nonconforming parking area is any parking area that lawfully existed before Effective Date of this Ordinance or subsequent amendment to this Ordinance but that fails, by reason of such adoption or amendment, to conform to the current provisions of Sec. 9.3, Off-street Parking and Loading. For certain circumstances, nonconforming parking areas shall be brought into compliance as provided below.

11.7.2 Change of Use

a. When the use of a structure or land is discontinued for any period of time and the subsequent use does not require additional off-street parking, such parking area shall not be required to comply with Sec. 9.3, Off-street Parking and Loading, unless specified elsewhere in this Ordinance.

b. When a change in use of a structure or land to another use requires additional off-street parking spaces, the following shall be required:
   i. New parking areas shall comply with the requirements of this Ordinance.

11.7.3 Expansion of Use

Where the increase in area devoted to an existing use, whether a structure or land, results in additional off-street parking spaces,

a. New parking areas shall comply with the requirements of this Ordinance; however, where the expansion results in an increase of 40% or more required off-street parking spaces, the existing and new parking area shall comply with all of the requirements of this Ordinance.

11.7.4 Site Redevelopment

Where an existing principal use structure on a property is replaced with a new principal use structure, new and existing parking areas associated with that use shall comply with this Ordinance.
Sec. 11.8 Nonconforming Development Features

11.8.1 Definition
A nonconforming development feature is any aspect of a development (other than those described in Sec. 11.4 thru 11.7) that was lawfully established, in accordance with the regulations at the time of its establishment but that no longer complies with one or more standards of this Ordinance. Examples of nonconforming development features are sites that do not comply with the lighting or screening and buffer standards of this Ordinance.

11.8.2 Regulations

a. No action may be taken that increases the degree or extent of the nonconforming development feature.

b. If a structure or development containing a nonconforming development feature is damaged or destroyed to the extent of 75% of the replacement cost at the time of damage or destruction, it may not be altered, rebuilt or repaired unless the nonconforming development feature is made conforming.