

**CITY OF GRAYSON, KENTUCKY
PLANNING AND ZONING REGULATIONS**

ARTICLE 4

NON-CONFORMING USES, STRUCTURES AND PREMISES

ESTABLISHED BY: ORDINANCE #13-2001 on NOVEMBER 6, 2001

AMENDED: ORD #4-2005; JUNE 21, 2005

4.1 INTENT.

Within the zones and districts established by this Zoning Ordinance, or amendments thereto, there exist lots, structure, uses of land and structures, and characteristics of use which were lawful before this Zoning Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Zoning Ordinance or future amendment. It is the intent of this Zoning Ordinance to permit these non-conformities to continue, but not to encourage their survival. Non-conformity uses shall not be enlarged or extended beyond the scope and area of their operation at the time of the adoption or amendment of this Zoning Ordinance, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone. Non-conforming uses are declared by this Zoning Ordinance to be incompatible with permitted uses in the zones and districts involved.

- 4.11 To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or land on which an application for a building permit was filed with the Building Inspector prior to the date of adoption of this Zoning Ordinance, or amendment thereto. The issuance of said permit shall be valid only in the event that construction of said structure or premises, in accordance with the plans and specifications submitted with the application for building permit, is begun within sixty (60) days after the date of issuance of said permit and is diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where grading or excavation, or demolition or removal of an existing building has been begun preparatory to rebuilding or reusing the premises, such excavation, grading, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

4.2 NON-CONFORMING LOTS OF RECORD.

In any zone or district in which residential dwellings are permitted, any new construction of a residential dwelling as appropriately permitted in said zone and customary accessory buildings may be erected on any single lot of record at the date of adoption or amendment of the Zoning Ordinance, or Amendment notwithstanding limitations imposed by this Article or other provisions of this Zoning Ordinance, so long as the new construction is consistent with the general dimensional encroachments of the neighborhood as judged by the Board of Adjustment. A request for variance is required. Existing residential dwellings, which are non-conforming due to dimensional encroachments, may be enlarged along with customary accessory buildings as long as the dimensional encroachments are not increased.

- 4.21 If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the date of adoption or amendment of

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this Zoning Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Zoning Ordinance. No subdivision of such parcel shall be made which creates a lot with width or area below the requirements stated in this Zoning Ordinance.

- 4.22 If upon one lot of record at the date of adoption or amendment of this Zoning Ordinance there exists two or more dwelling units, would result in a creation of a lot or lots not meeting the requirements for lot width, area, or yards as otherwise required in this Zoning Ordinance, then such a subdivision shall not be permitted, notwithstanding any other provision of this Zoning Ordinance.

4.3 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If lawful use involving land, structure, or structure and land in combination exists at the date of adoption or amendment of this Zoning Ordinance that would not be allowed in the zone or district under the terms of this Zoning Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 4.31 No existing land or structure devoted to a use not permitted by this Zoning Ordinance in the zone or district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone or district in which it is located except as provided in Section 4.35 herein below, altered to decrease its non-conformity, or moved in whole or in part to another portion if through appeal to the Board of Adjustment under Section 6.4 herein below.
- 4.32 Any non-conforming use may be extended throughout any parts of a building, which were arranged or designed for such use at the date of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
- 4.33 If no structural alternations are made, any non-conforming use of a structure, or structure and premises in combination, may be changed to another non-conforming use by appeal to the Board of Adjustment if the proposed use is in the same or a more restrictive classification as provided under Section 6.4 herein below. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Zoning Ordinance.
- 4.34 Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone or district and the non-conforming use may not thereafter be resumed.
- 4.35 When a non-conforming use of a structure or structure and land in combination is halted because of the damage, destruction or demolition of the structure by any means, the structure may be reconstructed or repaired, but not to exceed the number

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of square feet existing in it prior to such event, and the non-conforming use resumed but not to extend or enlarge the scope and area of its operation prior to such event.

- 4.36 When a non-conforming use of land, structure, or structure and land in combination intentionally is discontinued or abandoned for any reason whatsoever for one year or more (except when government action prevents such use), the land, structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zone or district in which it is located.

4.4 REPAIRS AND MAINTENANCE.

On any non-conforming structure or portion of structure, and on any structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring or plumbing or other parts, provided that the cubic content of the non-conforming structure or portion shall not be increased. Nothing in this Zoning Ordinance shall be deemed to prevent the strengthening, repairing or restoring to a safe condition of any structure or part thereof.

4.5 CONDITIONAL USES NOT NON-CONFORMING USES.

Any existing principal permitted use at the date of the adoption or amendment of this Zoning Ordinance which would thereafter require a conditional use permit shall without further action be deemed a conforming use, but any enlargement or replacement of such use, in buildings or on land, shall require a conditional use permit as provided by Section 6.32 hereinbelow.

4.6 NON-CONFORMING MOBILE HOMES.

Mobile homes that are non-conforming may continue to exist at their present site. That mobile home may be sold, bought, rented and/or replaced on that site. If there is an absence of a mobile home or if the mobile home is unoccupied for any longer than one hundred eighty (180) calendar days from that site, any right to have a mobile home on that site is forfeited regardless of ownership or rental.