

# ARTICLE 9: GENERAL PROVISIONS

## Section

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### **§ 9:1 APPLICATION.**

The regulations set forth in this Ordinance, affect all land, every building, and every use of land and/or buildings and shall apply as follows.

#### **9:1.1 New Uses or Construction.**

After the effective date of this Ordinance, all construction and uses of land shall conform to the use and dimensional requirements for the district in which it is to be located, except that construction or uses of land which are substantially complete or developed on the effective date of this Ordinance shall be allowed to be completed provided that in no case shall construction or development of a use extend beyond 90 calendar days from the effective date of this Ordinance.

#### **9:1.2 Open Space Requirements.**

After the effective date of this Ordinance no part of a yard, court, or other open space, or off-street parking or loading space required for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space, or parking and loading space required for any other building.

#### **9:1.3 Reductions of Lot and Yard Area Prohibited.**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the

effective date of this Ordinance shall meet at least the minimum requirements established herein.

#### **9:1.4 Conforming Uses.**

After the effective date of this Ordinance, there shall be only one (1) Use allowed on each lot, with the exception of Planned Development District's and commercial tract developments. Structures or the uses of land or structures which then conform to the regulations for the district in which such structures or uses are located may be continued; provided that any structural alteration or change in use shall conform to the regulations herein specified.

#### **9:1.5 Lot Requirements.**

After the effective date of this ordinance, there shall be only one (1) principal structure allowed on each lot with the exception of Planned Development District's and commercial tract developments and buildings as defined in Article 9:6 Accessory Structures and buildings as defined in Article 9:6 Accessory Structures.

### **§ 9:2 ADEQUATE FACILITIES.**

#### **9:2.1 Water and Sewerage.**

It shall be unlawful to construct or occupy any residential dwelling that is not connected to an approved water supply and sewerage disposal facility. Wherever public or community water and sewerage systems are available, dwellings shall be connected to such systems. In every other case, individual water supply and sewerage disposal facilities must meet the requirements set by the South Carolina Department of Health and Environmental Control (DHEC).

#### **9:2.2 Facility Approval.**

Area requirements for individual lots in all districts are minimum requirements with an approved water and sewerage disposal system accessible to the lot. If a lot of record with less than the minimum area is proposed for use and does not have an approved water and sewerage system available, a certificate from the South Carolina Department of Health and Environmental Control (DHEC) approving the proposed facilities must accompany a request for a building permit.

### **§ 9:3 NONCONFORMING USES AND STRUCTURES.**

#### **9:3.1 Intent.**

1. Nonconformities are considered in general to be incompatible with the current or intended use of land, buildings, or structures in the district in which they are located.
2. Legal nonconformities are uses, structures, lots, or developed site improvements that do not conform to one or more provisions or requirements of this Zoning Ordinance, but were lawfully established prior to the effective date of this Zoning Ordinance or amendments thereto, or those approved by the Planning Commission through 9:3.7 (2). They shall be considered as legal nonconforming uses, structures, buildings, lots or sites.
3. Illegal nonconformities are:
  - a. Uses and/or structures that cannot be conclusively proven to have existed prior to the enactment or amendment of the Zoning Ordinance or amendments thereto.
  - b. Uses and/or structures illegally established after the enactment or amendment of the Zoning Ordinance or amendments thereto.
  - c. Uses and/or structures established prior to the ordinance but became illegal immediately after a Zoning Ordinance Amendment or amendments thereto.
4. This Article has special provisions to permit certain nonconforming situations considered to be less harmful or even beneficial to continue under certain conditions, but to discourage their expansion, enlargement, or extension, except in certain cases where specific conditions can be met.
5. The requirements of this Article are intended to accomplish the following:
  - a. Eliminate nonconforming uses that are considered to be incompatible with the community and adjacent land use and encourage redevelopment into a more conforming use.
  - b. Allow legal nonconforming buildings, structures or uses to remain until they are discontinued or removed, but to discourage their long term survival.
  - c. Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties and the County as a whole.
  - d. Encourage a gradual upgrading of nonconforming site landscaping, parking, paving, signs or other site features that are not in compliance with the requirements of this Ordinance.

### **9:3.2 Applicability.**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, upon which actual building construction has been diligently continued and there is a valid development and/or building permit. Actual construction is defined as including the placing of construction materials in permanent position and fastened in a permanent manner.

### **9:3.3 Continuation of Nonconformity.**

On or after the effective date of the Zoning Ordinance, a nonconforming use, building, structure, lot, or site improvement that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances and regulations in effect at that time, can continue as a legal nonconformity. This right remains if ownership of property, business or structure is transferred.

### **9:3.4 Illegal Nonconforming Uses.**

Illegal nonconforming uses shall be declared illegal uses and shall be discontinued.

### **9:3.5 Nonconforming Lots.**

1. In any district, if a lot of record at the time of adoption of this Ordinance does not contain sufficient land area and/or lot width to meet the minimum lot size requirements of the Ordinance for the district in which it is located, such lot may be used for a permitted use, as a building or placement site for a structure permitted in the district provided the following:
  - a. There is conformance to the minimum yard setback requirements set forth in this Ordinance for the district in which the use is located.
  - b. Any permitted use serviced by a private septic tank system shall meet minimum DHEC regulations.
  - c. All other standards of the Ordinance are met.

### **9:3.6 Nonconforming Buildings and Structures.**

Nonconforming buildings and structures exists and lawful at the time of adoption of this Ordinance or amendments thereto, may be continued even though the building or structure does not conform to the dimensional or other provisions of this Ordinance, subject to the following:

1. Nonconforming residential structures may be expanded, enlarged, or extended provided that the expanded area complies with the setback requirements of the district.
2. Nonresidential nonconforming buildings or structures may be expanded, enlarged, or extended provided that the expanded area complies with the setback requirements of the district provided that structural expansion must be approved by the Planning Commission in accordance with 9:3.7 (2).
3. Structural expansion may not violate setback or height requirements unless hardship is proven and a Variance is granted by the BZA.

### **9:3.7 Nonconforming Uses.**

The lawful use of any building, land or building and land in combination, that existed prior to the effective date of this Ordinance or any amendments thereto, may be continued subject to 9:3.3. Illegal nonconforming uses are subject to the following provisions:

1. Any nonconforming use may be changed to any conforming use permitted within the same Zoning District.
2. Any modifications to a nonconforming use, including a change in use, the re-establishment of a nonconforming use or any expansions or alterations to the use, which do not otherwise conform to all provisions of this Ordinance, shall require approval by the Planning Commission.
  - a. In determining whether a nonconforming use change, re-establishment, or expansion of the nonconforming use is appropriate, the Planning Commission may consider the following standards:
    1. That the proposed nonconforming use will be harmonious with the surrounding area.
    2. That the proposed nonconforming use will be a desirable addition to the physical pattern of the neighborhood.
    3. That any additional traffic resulting from the proposed nonconforming use will not be a burden on existing streets.
    4. That no adverse environmental impacts including noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, vibration, etc. will be created by the proposed nonconforming use.

5. That outdoor storage or activities are limited and subject to review and may require increased setbacks and buffers.
  6. That the proposed use is considered to be benefit to the community and Jasper County as a whole by implementing goals of the Jasper County Comprehensive Plan.
- b. In permitting any nonconforming use, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance to assure that the use will not be detrimental to the adjacent property and surrounding area; including screening and, buffering, etc.
  - c. The nonconforming use shall be subject to the applicable regulations of the Zoning District where the nonconforming use is permitted as deemed appropriate by the Planning Commission.
  - d. Adjacent property owners must be notified by mail at least one week prior to the meeting in which the application is to be considered by the Planning Commission and a public notice sign shall be placed on the subject property.
  - e. If approved by the Planning Commission, the use shall remain a legal nonconformity until it complies with all Zoning regulations.

#### **9:3.8 Damage or Destruction of Nonconforming Uses.**

Any nonconforming building or structure, use, or any building or structure containing a nonconforming use, which has been damaged by fire or other natural causes, may be reconstructed or replaced, and used as before, if reconstruction or replacement is substantially begun within twelve (12) months of such damage. An extension of the twelve (12) month timeframe may be approved by the Planning Commission in accordance with Section 9:3.7 (2), if requested during the original twelve (12) month timeframe. However, reconstructed or replaced buildings or structures shall not exceed the square footage contained in the structure at the time the damage occurred. by more than 25%.

Furthermore, all reconstructed or replaced buildings, structures, or uses which alter, improve, or are built on a different location on the same parcel from the original construction shall meet all applicable requirements for the Zoning District in which the building, structure, or use is to be located unless such requirements are modified by the Board of Zoning Appeals pursuant to its powers enumerated in Article 2.

Damage or destruction of nonconforming buildings, structures, or uses shall not include the deterioration of such due to a failure to adequately maintain or allow structures to fall into disrepair.

### **9:3.9 Repair and Alteration of Nonconforming Uses.**

Normal maintenance and repair of a building or structure occupied by a nonconforming use is permitted provided no other provisions of this Ordinance are violated.

### **9:3.10 Cessation of Nonconforming Uses of Land, Buildings and Structures.**

When a nonconforming use of land ceases for continuous period of twelve (12) months, subsequent use of the land shall conform to the regulations for the Zoning District in which the land is located unless otherwise provided for in this Ordinance. An extension of the twelve (12) month timeframe may be approved by the Planning Commission in accordance with Section 9:3.7 (2), if requested during the original twelve (12) month timeframe.

When a nonconforming use of a structure is discontinued or abandoned for twelve (12) months, the use shall not be resumed and the subsequent use shall conform to the regulations for the district in which the structure is located, unless otherwise provided for in this Ordinance. An extension of the twelve (12) month timeframe may be approved by the Planning Commission in accordance with Section 9:3.7 (2), if requested during the original twelve (12) month timeframe.

When a mobile home is removed or an applicant wishes to replace a mobile home the dwelling may be re-established within a twelve (12) month timeframe. Past twelve months, adherence to all current Zoning Ordinance regulations is required. In regard to shared septic systems, any replaced mobile home must adhere to current DHEC regulations.

### **9:3.11 Temporary Nonconforming Uses of Land.**

Temporary nonconforming uses of land for carnivals, waste lots during the development of lots, and similar uses may be permitted according to the provisions of Section 10:1, Provisions for Group Development.

### **9:3.12 Change of Tenancy or Ownership.**

There may be a change of tenancy, ownership, or management of a nonconforming use, buildings, structures or lot, provided there is no change in character to the nonconformity and that all building and fire codes are met.

### **9:3.13 Right-of-Way Relocation.**

Where a nonconforming front yard setback or buffer is created as a result of additional road right-of-way width being acquired by the South Carolina Department of Transportation or Jasper County Public Works, the building or parking lot may be

improved or expanded without the need to obtain a variance from the Board of Zoning Appeals, provided the following conditions are met:

1. The building or parking lot complied with the front yard setback prior to the acquisition of the additional road right-of-way.
2. The building or parking lot expansion will not reduce the depth of the front yard setback.
3. All other Ordinance requirements are met and necessary approvals obtained.

#### **9:3.14 Nonconforming Mobile Home Parks.**

1. This chapter shall regulate Mobile Home Parks (See Article 21) which are legal nonconformities as well this chapter regulates illegal nonconforming parcels.
2. After March 18, 2007, Mobile Home Parks and may continue only through compliance with the parking and operational requirements driveway restrictions, screening requirements and performance standards of this Ordinance and the Land Development Regulations. Also, the mobile home park must meet the requirements of any applicable Federal, State or County regulations or guidelines, including but not limited to DHEC Regulations, the Addressing and Road Naming Ordinance, the Standard Building Code, and the Assessor's Mobile Home Registration process.
3. Whenever all mobile homes within a Mobile Home Park are removed or become unoccupied for a continuous period of twelve (12) months including up to twelve (12) months prior to the adoption of this Ordinance, the Mobile Home Park may be reestablished only through compliance with all of the restrictions applicable to a new park.
4. If a structure in a legally nonconforming Mobile Home Park is damaged or destroyed the structure may be repaired or replaced without increasing the degree of nonconformity as allowed through Section 9:3.8.
5. Nothing in this Chapter shall be deemed to prevent the ordinary maintenance and repair of a structure in a legally nonconforming Mobile Home Park. However, no alterations are allowed except in compliance with Article 21.
7. If a legal nonconforming Mobile Home Park is replaced by an allowed use, and the owner wishes to reestablish the Mobile Home Park before the six (6) month abandonment period for the park elapsed, the reestablished park must comply with all restrictions applicable to a new park.

#### **9:3.15 Nonconforming Camper and Recreation Vehicle Parks.**

Notwithstanding the provisions of Section 9:3 hereof, nonconforming camper and recreation vehicle (RV) parks shall meet the requirements of Section 6:2.12 not later than one (1) year following the adoption of this ordinance or such use shall immediately cease.

#### **§ 9:4 PUBLIC ACCESS TO PROPERTY.**

Every building hereafter erected or moved shall be located on a lot adjacent to and have a minimum of fifty (50) feet of access frontage to a public street, highway, road, or other public right-of-way or private road with the exception of cul-de-sac radii in which case the frontage can be reduced to thirty (30) feet.

#### **§ 9:5 PARKING AND STORAGE OF VEHICLES.**

##### **9:5.1 Storage and use of Recreational Vehicles.**

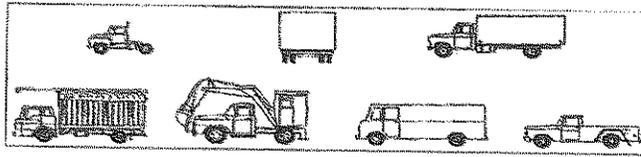
Effective one (1) year from the date of adoption, no more than three (3) recreational vehicles may be stored outdoors in the Residential Zoning District. Effective one (1) year from the date of adoption, no more than three (3) recreational vehicles can be parked outdoors in the Rural Preservation, Resource Conservation, Community Commercial and General Commercial Districts unless approved through "Camps and Recreational Vehicle Parks" conditional use review.

In the Residential Zoning District, no recreational vehicles shall be stored in front yards aside from in an established driveway. Parking is prohibited within the building area setback, however, such item may be parked anywhere on a residential lot for a period not to exceed forty-eight (48) hours during loading or unloading. Recreational vehicles may be used for temporary lodging up to seven (7) days, but permanent power sources shall not be approved.

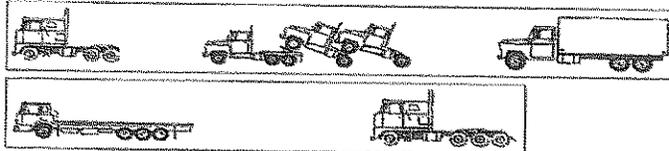
In all districts, recreational vehicles shall be parked no less than five (5) feet away from a habitable structure.

##### **9:5.2 Parking, Storage and Use of Non-Residential Vehicles and Equipment.**

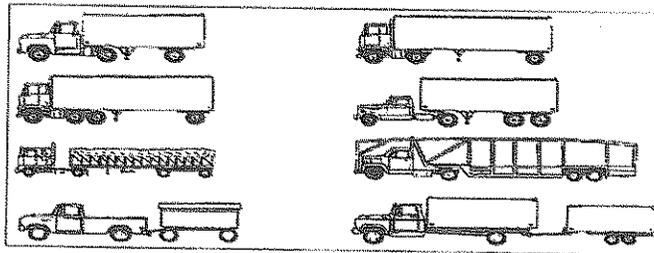
1. No automobile, truck, or trailer of any kind or type, without current registration and license plates, shall be parked and construction equipment shall not be stored on any lot in the R or RP Zoning Districts, other than in completely enclosed buildings, or physically removed from vision from the public street serving the property.
2. Parking of vehicles, implements and/or equipment used for commercial, industrial, or construction purposes in the R Zone District shall be limited to one FHWA Class 8 or less vehicles. See chart below.



FHWA Class 5, two-axle single unit trucks



FHWA Class 6-7, Single unit trucks with more than two axles



FHWA Class 8: 3-4 axle, 1-trailer vehicles

3. Vehicles used for commercial, industrial, or construction purposes are prohibited from parking in the front yards within Residential Zones unless on a driveway, nor within street/highway right-of-way in such districts, when not actively involved in commerce. Parking within the side and rear yards is allowed, but not within the setbacks.
4. No commercial vehicles used for transporting or hauling explosives, gasoline, or liquid petroleum products shall be permitted to park in any residential zone district.

### § 9:6 ACCESSORY STRUCTURES

An accessory structure is any structure over 120 square feet that supports an approved accessory use defined in Article 4.

### **9:6.1 General Standards**

1. Except for accessory structures used in connection with agricultural uses or accessory dwelling units allowed by Section 11:6 or 11:7, accessory structures shall not exceed twenty (20) feet in height..
2. Accessory Dwelling Units and Commercial Accessory Structures are limited to height restrictions required in Article 7.
3. Accessory structures shall be at least ten (10) feet from the principal structure and at least ten (10) feet from another accessory structure. Placement may be subject to Fire Marshal approval.
4. No accessory structure shall occupy any part of a bufferyard.
5. No accessory structure shall occupy any part of a required setback.
6. Square footage limitations apply to the entire property and can be divided between multiple accessory structures.
7. Square footage limitations apply only to covered square footage separate from the primary use or structure.
8. Structures 120 SF or larger require a building and zoning permit. Structures under this size must still adhere to the provisions of this section.

### **9:6.2 Accessory Structures and Dwelling Units in the Residential Zoning District.**

Accessory structures provide opportunities for small scale aesthetic and shade structures; functional, protected, enclosed ancillary storage and activity space; among other benefits. As subordinate facilities to a principal structure; however, appropriate regulation is required in order to ensure compatibility of land uses, protect privacy of neighbors, ensure minimum open space and area requirements, and protect the health, safety and welfare of the neighborhood and community.

1. One dwelling unit is allowed per lot, except as allowed by Section 11:6 or 11:7. However, second floor garage apartments are considered an approved accessory structure and use.
2. Buildings accessory to single family dwellings include non-commercial garages, barns, storerooms, open shelters, woodsheds, laundry rooms, play houses, green houses, hobby shops, guesthouses or pool houses built in conjunction to the primary dwelling (not meant for permanent occupancy) and animal or fowl shelters. This section does not include structures used to store wells, pumps, utilities or associated accessory equipment.

3. Accessory structures shall be allowed in side and rear yards and shall meet all setback requirements stated in Article 7. Detached garages in conjunction with the primary dwelling may be located in front yards but are subject to setback requirements. All other accessory structures shall be allowed in side and rear yards.
4. For larger-lot Residential designated property (over two (2) acres), accessory structures in front yards shall be allowed but are subject to 75 foot setbacks.
5. Accessory structures shall be limited in size to either 25% of the total ground floor area of the principal structure or 800 SF of total floor area, whichever is greater.
6. Where an accessory building is erected in the side yard adjacent to a street on a corner lot, it shall not be located closer to the street than the required front yard setback distance.
7. Shipping containers cannot be used as accessory structures in the Residential Zoning District.
8. There is a limit to three (3) accessory structures per Residential lot.

#### **9:6.3 Accessory Structures in Commercial, Industrial and Community Commercial Districts.**

1. There is no limit on accessory structures for approved accessory uses defined in Article 4.
2. Accessory structures shall meet all setbacks as noted in Article 7.

#### **9:6.4 Accessory Structures in Resource Conservation and Rural Preservation**

Accessory structures provide opportunities for small scale aesthetic and shade structures; functional, protected, enclosed ancillary storage and activity space; among other benefits. As subordinate facilities to a principal structure; however, appropriate regulation is required in order to ensure compatibility of land uses, protect privacy of neighbors, ensure minimum open space and area requirements, and protect the health, safety and welfare of the neighborhood and community.

1. Total square footage of accessory units is limited to 1.0 - 1.9 acres, 1000 SF; 2.0 - 2.9 acres, 1250 SF; 3.0 – 4.9 acres, 1500 SF; 5.0 or more acres, 2000 SF plus 250 SF per additional acre over five.

2. Buildings accessory to single family dwellings include non-commercial garages, barns, storerooms, open shelters, woodsheds, laundry rooms, play houses, greenhouses, hobby shops, guesthouses or pool houses built in conjunction to the primary dwelling (not meant for permanent occupancy) and animal or fowl shelters. This section does not include structures used to store wells, pumps, utilities or associated accessory equipment.
3. There is no limit on the number of accessory structures, only limits on square footage.
4. Accessory structures can be placed in side and rear yards but must adhere to the setback requirements. Front yard accessory units are only allowed if they meet a 75 foot setback.

#### **9:6.5 Hunt Camp and Rural Accessory Seasonal Dwelling Units**

Hunt Camp and Rural Accessory Seasonal dwelling units (mobile homes and cabins) are allowed on land owned by hunt club organizations or large land owners without subdivision for the purpose of seasonal hunting and recreational use, provided:

1. Clustering is acceptable, but 25 feet between structures must be maintained.
2. Building setback is 150' from any public roadway or property line.
3. One Hunt Camp and Rural Accessory Seasonal Dwelling Unit is allowed for every 100 acres of land.
4. Zoning and Building Permits must be attained prior to construction.