

## ***CHAPTER ELEVEN – HARDSHIP RELIEF***

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The purpose of this chapter is to provide mechanisms for obtaining relief from the provisions of this Code, where hardship would otherwise occur. This chapter addresses hardship that would be caused if nonconforming development were required to immediately come into compliance with this Code.

### **11-1 Nonconforming Lots, Structures, and Uses**

- a. Within the zoning districts established by this LDC there may exist lots, structures, or uses of land which were lawfully established before this LDC was adopted but which do not comply with the requirements set forth in this LDC.
- b. It is the intent of Section 11-1 to allow these nonconformities to continue until they are removed or discontinued. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding structures or uses prohibited elsewhere in the same district.
- c. Nonconforming uses are declared to be incompatible with permitted uses in the district where the nonconforming use is located.
- d. A legal nonconforming lot of record in any district may be used for development, provided all required setbacks can be met
- e. Nothing in Section 11-1 shall be construed to prevent the ordinary and routine maintenance and repair of nonconforming structures or structures which contain nonconforming uses provided that:
  - i. Repairs do not exceed twenty (20) percent of the current fair market value of the nonconforming portion of the structure during any period of twelve (12) consecutive months; and
- f. A structure damaged or destroyed by any means to an extent of more than fifty (50) percent of its fair market value at time of destruction shall be reconstructed only in conformity with the provisions of this LDC.
- g. Fair market value, where required, shall be determined by reference to current statutory provisions pertaining to the valuation of real property for ad valorem tax purposes.
- h. A structure that is damaged to an extent less than fifty (50) percent of the fair market value may be restored and occupied as before the damage, provided the following standards are met:
  - i. Restoration shall be commenced within six (6) calendar months from the date damages were incurred.

## Coffee County Land Development Code

- ii. If reconstruction is not commenced within six (6) months, the reconstruction and use of the land or structure shall thereafter conform to the provisions of this LDC.
- i. A structure that is damaged to an extent greater than fifty (50) percent of the fair market value may be restored and occupied as before the damage, if all three of the following conditions are met:
  - i. The existing use or structure is destroyed by accident or act of God; and
  - ii. Neighboring land owners within a 300 feet radius support the rebuilding to prior state; and
  - iii. Such rebuilding does not pose a serious health or safety threat to the public.
- j. A nonconforming structure or a structure containing a nonconforming use that is declared by the Zoning Administrator to be physically unsafe or unlawful due to lack of repairs and maintenance shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

### **11-2 Continuation of existing Nonconforming Lots, Structures, and Uses**

- a. A lawful use of a building or land existing on DATE OF ADOPTION may be continued although such use does not conform to the provisions of this Code, and such use may be extended throughout the building. If such a use is discontinued for a continuous period of not less than six months (180 days), every future use of such building or land shall be in conformance with the provisions of this Code.
- b. For the purpose of this chapter, a use shall be deemed discontinued if all activities related to such use have ceased for a continuous period of not less than six months (180 days). The determination that a used has ceased shall be made by the Zoning Administrator, who shall consider, among other things, the consumption of utility services at the property, the existence and maintenance of any required business licenses, and advertising to the public of any activities on the property.
- c. Such nonconforming uses of land, buildings and structures shall not be enlarged, expanded, moved or otherwise altered in any manner except in conformance with this Code.
- d. Variances lawfully authorized and granted prior to the effective date of this Code shall continue to be utilized provided the terms and conditions of that authorization are followed.
- e. Reversions and changes.
  - i. Any nonconforming use, structure, building or nonconforming lot of record that is changed to a conforming state shall not be permitted to revert back to a nonconforming situation.
  - ii. Any nonconforming use shall not be changed to another nonconforming use.