

## CHAPTER TEN

### GENERAL PROVISIONS AND NONCONFORMING SITUATIONS

#### ARTICLE I, GENERAL PROVISIONS:

10-1.1 **Application of Regulations.** No building, structure, land, water, or open space shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered, and no new use or change shall be made of any building, structure, land, water, or open space unless in conformity with all the regulations specified in this Code. No utility may locate, operate, or expand without the approval of the Board.

10-1.2 **Minimum Requirements.** The regulations set forth in this Code shall, unless the specific context indicates otherwise, be considered minimum requirements and shall apply uniformly to each class or kind of building, structure, or use.

10-1.3 **Every Use Must Be On a Lot.** No building or structure shall be erected or use established unless it is on a lot of record, except as otherwise specifically provided.

10-1.4 **One Principal Building On a Lot.** In any residential zoning district, only one principal building and its accessory buildings may hereafter be erected on any one lot. In the A1 district, a maximum of two principal buildings on a lot shall be permitted.

10-1.5 **Reduction in Performance Standards Prohibited.** No lot shall be reduced, divided, or changed so that the size of lot, width of lot, street frontage, size of yards, or any other dimensional requirement of this Code is not maintained, unless such reduction or division is necessary to provide land which is acquired for a public purpose, or unless a variance is granted pursuant to applicable provisions of this Code.

10-1.6 **Setback Reduction.** The front yard building setback requirements of this Code may be reduced without requiring a variance in cases where one or more existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed building or dwelling, on the same side of the same block and zoning district, and fronting on the same street of such block, is less than the minimum required front yard building setback as shown on a survey provided by the applicant. In such cases, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the closest edge of the street right-of-way line, whichever is greater.

10-1.7 **Setbacks and Buffers, Government Line.** Where a lot or parcel of land is zoned Residential or Agricultural, the side and rear yard building setbacks and exterior buffers required by this Code shall not apply when such property line is adjacent to, and contiguous with, property owned by the United States Army Corps of Engineers, United States of America.

10-1.8 **Setbacks and Buffers, Adjacent Local Governments.** Applicants for re-zoning adjacent to property outside the Forsyth County Government jurisdiction such as the City of Cumming shall submit official, current zoning verification of adjacent property from that jurisdiction. Such zoning may be subject to further investigation on the part of Planning Staff. Setbacks and buffer requirements shall apply to the property per the adjacent property's zoning district equivalent in the Forsyth County UDC and its respective performance standards.

10-1.9 **Setbacks and Buffers, Lots Accessed from an Easement.** For all lots, in which an easement serves as the primary method of access, the property line(s) fronting along the right-of-way shall be considered the front setback for the purpose of setback and buffer requirements.

10-1.10 **Setback and Planting Requirements for from Georgia Highway 400:** ~~A setback and visual buffer from Georgia Highway 400 is required to protect the beauty of the corridor through the county.~~

(A) Limited Access (Fulton County to ~~500 Feet North of~~ SR 369 right-of-way):

(1) A minimum building setback of sixty (60) feet from the right-of-way of Georgia Highway 400 must be maintained with the first forty (40) feet being an undisturbed buffer that shall meet the requirements of the Forsyth County Buffer Standards.

(B) Controlled Access (SR 369 right-of-way to Dawson County):

~~(1) A minimum front yard building setback of sixty (60) feet from the right of way of Georgia Highway 400 must be maintained with the first forty (40) feet being an undisturbed buffer that shall meet the requirements of the Forsyth County Buffer Standards. The buffer must provide visual screening for a minimum of sixty (60) percent of the length of the frontage.~~

(1) A minimum sixty (60) foot front yard building setback shall be maintained along all property fronting the Georgia Highway 400 right-of-way.

- (2) A minimum twenty-five (25) foot wide landscape strip shall be maintained along all property fronting the Georgia Highway 400 right-of-way.
- a. The landscape strip shall contain one (1) overstory tree and ten (10) shrubs per thirty-five (35) linear feet of strip length.
  - b. Trees shall be a minimum two (2) inch caliper at time of planting. Shrubs shall be a minimum of two (2) feet high at time of planting.
  - c. Trees and shrubs need not be evenly spaced but may be grouped as long as adequate space is provided for future growth and the spacing between trees does not exceed seventy (70) feet as measured parallel to the Georgia Highway 400 right-of-way.
  - d. The landscape strip shall be designed with at least thirty (30) percent coverage in mulched planting beds. Planting beds may include the required trees and shrubs as well as additional landscape plantings in any combination.
  - e. The remaining ground area within the landscape strip shall be planted with appropriate ground cover species or grass.

10-1.11 **Height Limitations.** No building or structure shall hereafter be erected, constructed, reconstructed, or altered, except as otherwise specifically provided by this Code, to exceed the maximum height for the zoning district in which said building or structure is located; provided, however, that the Board of Commissioners may permit buildings and structures to exceed height limitations upon approval of a conditional use as specified in this Code.

The height limitations established herein shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, and utility poles.

10-1.12 **Use Prohibited When Not Specified.** Except as otherwise provided, any use not specifically permitted in a zoning district as provided by this Code shall be prohibited in that district.

10-1.13 **Outside Construction.** Outside construction shall be limited to the hours of 7:00 AM to 7:00 PM Monday to Friday; 8:00 AM to 6:00 PM Saturday; and there will be no outside construction on Sunday.

10-1.14 **Commercial Maintenance Requirements.** Developments in commercially zoned districts shall comply with the following site maintenance requirements once Certificate of Occupancy has been released; regardless of tenant or absence of tenant Owner shall be responsible for ensuring that:

- (A) Cleanliness of the entire site shall be maintained by removing any trash, rubbish, or other debris deposited on the site.
- (B) Landscaping shall be maintained and dead or damage plants shall be replaced
- (C) Damaged elements of building (such as but not limited to broken windows) and site (such as but not limited to curb stops, parking stripes, dumpster screening) shall be repaired or replaced if damaged, dilapidated or in disrepair.
- (D) Should any single occupant premise become vacant for more than 60 days, and the owner fails to maintain the property in accordance with the conditions above and upon notification from the County for such failure, the owner shall be subject to citation by the appropriate County Code Enforcement Officer and shall be subject to the maximum fine permitted for ordinance violations for each violation of any provision of this ordinance.

## **ARTICLE II, NONCONFORMING SITUATIONS:**

10-2.1 **Nonconforming Lots.** A lot of record that does not conform to the minimum lot size or minimum lot width for the zoning district in which it is located may be used as a building site, provided that the access, height, and setback requirements of the zoning district in which the lot of record is located are complied with or a variance is obtained and provided further, that the lot meets all the current standards and requirements of the Forsyth County Health Department.

10-2.2 **Nonconforming Structures.** A nonconforming structure may continue to be occupied and used, except that the nonconforming structure shall not be:

- (A) Repaired, rebuilt, or altered after damage exceeding 50% of its replacement cost at the time of destruction;
- (B) Enlarged or altered in a way which increases its nonconformity.

10-2.3 **Nonconforming Uses.** To avoid undue hardship, the lawful but nonconforming use of any structure or land at the time of the enactment of this Ordinance or any amendment thereto may be continued even

though such use does not conform with the provisions of this Ordinance, except that the nonconforming use shall not be:

- (A) Changed to another nonconforming use;
- (B) Re-established after discontinuance for 60 days or more;
- (C) Repaired, rebuilt or altered after damage exceeding 50% of its replacement cost at the time of destruction;
- (D) Enlarged or altered in a way which increases its nonconformity.

Nothing herein shall be deemed to prevent the strengthening or restoring to a safe condition any structure or part thereof declared to be unsafe by an official charged with protecting the public safety or health, upon order of such official.

10-2.4 **Buildings Under Construction.** Nothing in this article shall be construed to require a change in the plans, construction, or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of this Code.