



BERKELEY COUNTY
 PLANNING AND ZONING DEPARTMENT
 P.O. Box 6122
 1003 Highway 52
 Moncks Corner, SC 29461

Acknowledgement of Grandfathered Condition

A legal non-conformity is defined as a use of land, lot, or structure that was legally established according to the applicable zoning requirements of the time, but which does not meet current zoning requirements, typically referred to as “grandfathered”. There are four (4) types of non-conformities:

<p>Nonconforming Uses: A use that does not conform to the underlying Zoning district use standards</p>	<p>Nonconforming Building: A building that does not conform to the typical dimensional standards of the underlying Zoning district</p>	<p>Lot Nonconformity: A lot that does not meet typical minimum lot size, frontage, access, or other requirements of the underlying Zoning district or Subdivision Ordinance</p>	<p>Site Nonconformity: A site that does not meet typical parking, landscaping, bufferyard, lighting, or similar site development standards of the underlying Zoning district</p>
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ARTICLE 19. - GENERAL PROVISIONS

19.1. - Conformity with regulations required.

No building, structure, or land shall hereafter be used, and no building, structure or part thereof shall be erected, reconstructed, converted, enlarged, moved, or structurally altered unless in conformity with the regulations set forth by this ordinance.

19.2. - Encroachment or alteration.

No structure or parcel or use that initially meets the requirements of this ordinance shall be used or altered in such a way as to cause a violation of any of the standards contained in this ordinance.

19.3. - Compliance to ordinance for increases on improvement of existing uses.

All requirements shall apply to an existing conforming use increasing in building area by at least 50 percent.

19.4. - Amortization schedule of compliance for outdoor storage; screening of all outdoor storage uses.

All legal nonconforming outdoor storage uses (as a primary or accessory use), which existed at the adoption of the zoning ordinance and will remain nonconforming or shall become nonconforming upon the adoption of this ordinance, shall be made to conform to the following minimum provisions for screening of outdoor storage 12 months from the adoption date of this ordinance:

- A. Open storage shall be enclosed by a continuous visual screen provided and maintained as well as buffering requirements found in article 17. The continuous screen shall be wood, brick, or masonry, or chain link with opaque slats and not less than eight feet in height and shall not exceed 12 feet in height.
- B. Materials stored. Materials stored in the open shall not be permanently stacked higher than the required screen.

Per §19.5. - Grandfather Clause:

- A. Nonconforming use. The lawful use of the land or buildings existing prior to April 26, 1999, or any zoning amendments adopted since April 26, 1999, may be continued, although the use and/or structure does not conform to the provisions of this chapter. Nonconforming structures may be enlarged, added to, extended or altered structurally up to 25 percent of the original size of the structure as it existed on the effective date of these regulations. However, nonconforming uses



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and accessory uses relating to a nonconforming use cannot be added to any parcel(s) containing a nonconforming use except as expressly permitted.

- B. No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a **continuous period of six months**, whether or not the equipment or fixtures are removed, cannot be used again except in conformity with the regulations of the district in which the building or land is located.
- C. The burden of proving "continuous use" is upon the applicant/property owner. The casual, intermittent, temporary or illegal use of land or buildings will not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on a part of a lot or tract will not be construed to establish a nonconforming use on the entire lot or tract. Acceptable documentation for proving continuous use consists of, but is not limited to, the following:
- (1) Proper documentation from an appropriate power/utility company, including monthly consumption and payments;
 - (2) Income tax return which references the specific use and location of the business/use;
 - (3) Business documents, bill of sales, invoices, contracts, proposals, advertisements, promotional materials, and the like which reference the business/use location;
 - (4) Legal affidavits from adjacent property owners, patrons, employees, and the like having knowledge of the continuous operations of the business/use; and
 - (5) Applicable federal, state, and/or county licenses and registrations.
- D. Unexpired subdivision plats which have received preliminary plat approval, sites which have received site plan approval or zoning approvals which have been issued in accordance with existing county zoning ordinances will be considered an existing lawful use for a period of one year from the date of the approval. (Ord. No. 11-05-05, 5-23-2011)

19.6. - Nonconforming lots of record. Where a lot of record recorded prior to April 26, 1999, has less area or depth than herein required in the district in which it is located, the lot may nevertheless be used for any use permitted within the district in which it is located, provided that yard requirements are reduced no more than the percentage of the nonconformity.

19.7. - Expansions of use within existing building. The nonconforming use of a building may hereafter extend throughout those parts of a building which were primarily arranged or designed for the use prior to April 26, 1999, or at the time any zoning amendments affecting the use were adopted.

19.8. - Nonconforming buildings. Any nonconforming building or portion thereof may be replaced if razed by fire, natural causes, or other natural disasters, provided, the replacement does not increase the degree of nonconformity in any respect and a zoning approval is issued within six months of the date of the damage. Construction must be completed and the use of the structure resumed within one year from the date of the damage. Any nonconforming building or portion thereof which is not razed by fire, natural causes, or other natural disasters will be required to conform to all applicable development standards upon reconstruction.



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GENERAL INFORMATION:

OWNER'S NAME(s):

MAILING ADDRESS:

HOME PHONE:

MOBILE PHONE:

EMAIL:

TMS#:

What is the nature of the nonconformity (please check all that apply):
 Nonconforming Building Nonconforming Site Nonconforming Lot Nonconforming Use

Please describe the nonconformity of the subject property below:

On what date was the nonconformity established (xx-xx-xxxx)?

If the use is nonconforming, did operations cease for a period of six or longer months? Yes No
If yes, please explain:

REQUIRED PLANNING & ZONING DOCUMENTS:	SUBMITTED		RECEIVED (FOR OFFICE USE)		
Proper documentation from an appropriate power/utility company, including monthly consumption and payments;	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Income tax return which references the specific use and location of the business/use;	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Business documents, bill of sales, invoices, contracts, proposals, advertisements, promotional materials, and the like which reference the business/use location;	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Legal affidavits from adjacent property owners, patrons, employees, and the like having knowledge of the continuous operations of the business/use; and	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Applicable federal, state, and/or county licenses and registrations.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A



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PLEASE INDICATE THE PREFERRED METHOD OF CONTACT:

EMAIL HOME PHONE MOBILE PHONE MAILING ADDRESS

By signing below, (1) I hereby certify that the tract(s) or parcel(s) of land to which this request pertains is not restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity for which approval is sought, as provided in the South Carolina Code of Laws, Section 6-29-114; (2) if I am the lessee of this property, I have obtained permission from the property owner(s) to operate my intended use on the premises; (3) hereby release, hold harmless, and indemnify forever Berkeley County, its employees, and agents, both individually and jointly, from any and all liability or responsibility for any foreseen or unforeseen damage, including, but not limited to, death, bodily injury, personal injury, and property damage, arising from the home occupation located at the above-referenced property by adjoining landowners, visitors and/or any user of the home, including, but not limited to, the public at large; (4) I have read and understand the limitations/restrictions applicable to grandfathered uses, sites, buildings, and lots, AND (5) the information provided in this form is correct, I am the tenant, owner, and/or authorized agent for the identified premises, and I agree to comply with all provisions of this form.

Printed Name of Applicant _____

Date _____

Signature of Applicant _____

Date _____

******* APPROVAL *******

Approval becomes void upon a violation of any provision contained herein or termination of the applicant's residency. The permission hereby granted is not transferable to any other resident, address, or other occupation.

ZONING ADMINISTRATOR (OR DESIGNEE): _____

DATE: _____

As part of this approval, were any other reasonable development and performance standards imposed by the Zoning Administrator as a means of ensuring land use compatibility?

Yes (Described Below/Attached as Needed) / No