

## **ARTICLE VII. NONCONFORMITIES.**

### **Section 700. Purpose.**

The purpose of this chapter is to regulate and limit the development and continued existence of legal uses, structures, lots, and signs established either prior to the effective date of this Ordinance or the effective date of future amendments to this Ordinance that no longer conform to the requirements of this Ordinance. All such situations are collectively referred to as "nonconformities."

The zoning regulations established by this Ordinance are designed to guide the future use of land in the City of Auburn by encouraging appropriate groupings of compatible and related uses, and thus, to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established, and thus, the gradual elimination of such nonconformities is generally desirable. With limited exceptions, the regulations of this article permit such nonconformities to continue without specific limitation of time, but are intended to restrict further investments which would make them more permanent.

While nonconformities may continue, the provisions of this chapter are designed to curtail substantial investment in nonconformities to bring about their eventual improvement or elimination in order to preserve the integrity of this Ordinance and the character of the City. Any nonconforming use, structure, lot, or sign that lawfully existed as of the effective date of this Ordinance and that remains nonconforming, and any use, structure, lot, or sign that becomes nonconforming as a result of any subsequent rezoning or amendment to the text of this Ordinance, may be continued or maintained only in accordance with the terms of this chapter. This chapter also is intended to reduce vacancies, promote appropriate redevelopment and reuse of existing structures and lots, and set forth requirements.

This Article distinguishes nonconforming uses, nonconforming structures, nonconforming development sites, nonconforming lots of record, nonconforming manufactured home parks, and nonconforming signs. Different regulations are made applicable to each of these categories. The degree of restriction made applicable to each separate category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this Ordinance.

### **Section 701. Definitions.**

**701.01.** A legal nonconformity is any land use or physical design of development, structure, sign, or lot of record legally established prior to the effective date of this Ordinance or subsequent amendment to it, which would not be permitted by or is not in full compliance with the regulations of this Ordinance.

**701.02.** A nonconforming use is an activity using land, buildings, and/or structures for purposes which were legally established prior to the effective date of this Ordinance or subsequent amendment to it, and which would not be permitted to be established as a new use in a zone in which it is located by the regulations of this Ordinance. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

**701.03.** A nonconforming structure is any building or structure, other than a sign, legally established prior to the effective date of this Ordinance or subsequent amendment to it, which does not fully comply with the standards of this Ordinance.

**701.04.** A nonconforming development site is any development site, legally established prior to the effective date of this Ordinance or subsequent amendment to it and part of an approved site plan or subdivision plat at the time of its establishment, which does not fully comply with the standards of this Ordinance, including the minimum acceptable bufferyard requirements of Section 714. Noncompliance with the bufferyard requirements of Section 420 through Section 432 requires compliance with Section 714, but does not render a development site nonconforming.

**701.05.** A nonconforming lot of record is any validly recorded lot meeting the requirements of § 711.03 of the Zoning Ordinance, which at the time it was recorded fully, complied with all applicable laws and ordinances, but which does not fully comply with the lot requirements of this Ordinance concerning minimum area, minimum lot width, or minimum street frontage.

**701.06.** A nonconforming sign is any sign legally established prior to the effective date of this ordinance or subsequent amendment to it which does not fully comply with all requirements of Article VI of this Ordinance.

**Section 702. Determination of Nonconforming Status.**

**702.01.** The burden of establishing the nonconforming status of any structure or land use under the terms of this Article, in all cases, shall be upon the owner of such nonconformity and not upon the City of Auburn.

**702.02.** Changes of ownership, tenancy, or management of an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this chapter.

**702.03.** This chapter shall not apply, however, to any development standard or feature that is the subject of a variance or waiver granted by the Board of Zoning Adjustment, Historic Preservation Commission, Planning Commission, or City Council. Where a variance or waiver has been granted for a development standard that does not otherwise conform to the requirements of this Ordinance, that development standard shall be deemed conforming.

**Section 703. Termination of Nonconforming Status.**

**703.01.** In the event that any structure containing a nonconforming use, nonconforming structure, nonconforming development site, or nonconforming sign is damaged or destroyed by any means to the extent of more than 50 percent of its fair market value at the time of loss, as determined by the Lee County Tax Assessor or licensed appraiser, such structure shall not be rebuilt, restored, or reoccupied for any purpose unless the structure and its development site shall thereafter conform to all regulations of this Ordinance. When such a nonconforming structure or development site is damaged or destroyed to the extent of 50 percent or less of its fair market value at the time of loss, no repairs or rebuilding shall be permitted except in conformity with this Article and other applicable regulations of this Ordinance. Such restoration shall be undertaken only under a valid building permit for which a complete application is submitted within 18 months following said damage, which permit must be actively pursued to completion.

**703.02.** In the event that any nonconforming use, structure containing a nonconforming use, or nonconforming structure, is proposed to be physically expanded or modified through a change in character, operation, or scale to the extent of more than 50 percent of its fair market value, as determined by the Lee County Tax Assessor or licensed appraiser, such structure shall not be physically expanded or modified through a change in character, operation, or scale for any purpose unless the structure and its development site shall thereafter conform to all regulations of this Ordinance.

**703.03.** Any other provision of this Article to the contrary notwithstanding, no use or structure which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance. For purposes of this paragraph, “ceased” or “terminated” shall mean that regular use or occupation of a structure has not occurred for more than twelve (12) consecutive months.

**Section 704. Review Process.**

**704.01** Continuation of a nonconforming use and maintenance or minor repair of a structure containing a nonconforming use are permitted as defined in Section 705.

**704.02.** The reuse or redevelopment of a nonconforming structure or nonconforming site that houses a conforming use, and that meets the eligibility requirements of Section 706.03, shall use the permitted use in nonconforming structures process in Section 706.

**704.03.** Enlargement, expansion, alteration or major repair of a nonconforming structure or a conforming structure on a nonconforming site when such structure houses a nonconforming use, or when such structure houses a conforming use shall require administrative site plan review and approval in accordance with the procedures and standards set forth in Section 707 and Section 714 of this Ordinance and also the requirements of this section. Enlargements, expansions, alterations and major repairs are all of those actions that do not meet the provisions of Section 705 or Section 706.

**704.04.** Enlargement or expansion of a nonconforming use that is a conditional use shall require conditional use approval in accordance with the procedures and standards set forth in Section 708 of this Ordinance and also the requirements of this section.

**704.05. Site Plans**

Site plans may be required for activities falling under the provisions of Section 704.2. Site plans shall be required for activities falling under the provisions of Section 704.03 and Section 704.04

**Section 705. Continuation, Maintenance, and Minor Repair.**

**705.01.** The continuation of a nonconforming use and maintenance or minor repair of a structure containing a nonconforming use are permitted, provided that the continuation, maintenance, or minor repair does not extend or expand the nonconforming use or structure, except in accordance with Section 705. For the purposes of this section, "maintenance or minor repair" shall mean:

- A. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
- B. Maintenance of land areas to protect against health hazards and promote the safety of surrounding land uses; and
- C. Repairs that are required to remedy unsafe conditions that cause a threat to public safety as determined by the Codes Enforcement division (does not apply to damage or destruction governed by Section 703.01).
- C. Incidental alterations (see Section 203), including:
  - a. Internal reconfigurations of an existing building that do not meet the definition of an alteration (alterations must be approved through Section 707);
  - b. Limited modifications to an existing building façade, such as recladding or repainting
  - c. Addition or substitution of an awning or awnings;
  - d. Modifications or additions to approved landscaping;

**705.02.** In the event that a structure or premise occupied by a nonconforming use becomes and remains vacant for a period of twelve (12) months or more, or is used for a use that is permitted in the zoning district in which such structure or premises is located, the use of same shall thereafter conform to the use regulations of the district in which such structure or premise is located.

**Section 706. Permitted Uses in Nonconforming Structures.**

**706.01.** The reuse or redevelopment of a nonconforming structure or conforming structure on a nonconforming site shall not be required to acquire conditional use approval or undergo the typical DRT review procedure if the eligibility requirements of Section 706.03 below are met. Owners of such properties may be issued a zoning certificate after staff review of the proposed reuse or redevelopment. Reuse and redevelopment that does not qualify for consideration under this section may instead utilize the process in Section 707 for review and approval.

**706.02. Intent.**

The intent of this process is to encourage the utilization of existing nonconforming buildings and sites as opposed to their remaining vacant while at the same time reducing such nonconformities to the extent practical. The process allows owners to make improvements to an existing structure or site without having to go through a lengthy review process, produce a detailed site plan, reach compliance with all provisions of this Ordinance, or make roadway improvements.

### **706.03 Eligibility Requirements**

To qualify for issuance of a zoning certificate under Section 706, the following conditions must exist:

1. The proposed use is permitted within the zoning district.
2. The redeveloped use will occupy an existing building(s) on the site, with no expansions or additions proposed.
3. The site will add no more than 1,000 square feet of additional impervious surface.
4. The proposed new use does not expand existing encroachments into required buffers.
5. The site will be in compliance with the provisions of Article VI, Signs.

### **706.04 Limitations**

Proposals which do not meet the eligibility requirements of Section 706.03 are required to undergo the normal DRT review process and/or the conditional use process in cases of expansion or major alteration.

Proposals for nonconforming sites or structures that have been vacant for less than twelve (12) months and do not involve, either proposed or required, any changes to the site or exterior of the structure (changes listed under Section 705 are exempted) shall be reviewed during the zoning certificate issuance process for compliance with the approved site plan or ordinance requirements in effect at the time it was established. If one (1) or more aspects of the site and/or structure fail to comply with the applicable plan approval or ordinance requirements, the deficiencies shall be corrected and the Planning Director must verify compliance prior to the issuance of a certificate of occupancy.

Proposals involving a change in use that, although may be permitted within the underlying zoning district, will increase the intensity of the use(s) originally approved, will be required to demonstrate compliance with the current Ordinance requirements applicable to the proposed change prior to the issuance of a zoning certificate and/or certificate of occupancy. Demonstrating compliance can be accomplished either through the site plan review or Section 706 process, whichever is applicable.

### **706.05. Plan Submittal Requirements**

Issuance of a zoning certificate under this section may require submission of the following information, upon request of staff:

1. Landscaping and/or fencing compliant with Section 714, Minimum Acceptable Bufferyards; and
2. Off-street parking/parking lot design (dimensional standards and standard specifications); and
3. Screening of dumpsters, storage, heating and air conditioning, and similar equipment; and
4. Building improvements (painting or other changes); and
5. Access roads and entrances or exit drives to ensure automotive and pedestrian safety and traffic flow; and

### **706.06. Conditions**

The Planning Director or his designee may impose any conditions on approval of the request, including appropriate time limits for meeting those conditions, as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.

### **706.07. Exceptions for Required Improvements**

The Director of Planning and/or the Public Works Director may waive, in part or in full, certain required improvements if meeting them is deemed impractical or unreasonable given the constraints on the existing site. Consideration may also be given to the extent of the required improvements in relation to the specific nature and scope of the reuse/redevelopment proposal.

### **Section 707. Administrative Review and Approval.**

Enlargement, expansion, alteration, or major repair of a nonconforming structure, use or site shall require administrative site plan review and approval in accordance with the procedures and standards set forth in this section.

**707.01.** Site plans as required in Section 704.05 shall be submitted for review by the Planning Director or his designee. Site plans must meet the requirements of Section 802.12 of this Ordinance. The Planning Director or his designee shall determine whether to approve the proposed enlargement, expansion, alteration, or major repair. The Planning Director or his designee shall not approve the proposed activity unless and until it is found, based on the submitted site plan, that the proposed enlargement, expansion, alteration, or major repair meets the standards of review set forth in Section 802.05, Review Procedures, of this Ordinance, as well as the following:

1. The nonconforming use allowed to continue remains compatible with adjacent land uses and the Future Land Use Plan;
2. That all access roads and entrance or exit drives to the nonconformity will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and control and access in the case of fire or other emergency;
3. That all off-street parking, loading, refuse collection, and other service areas will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and economic, noise, glare, odor, and other impacts on adjoining properties;
4. That all water, wastewater treatment, schools, fire and police protection, and other necessary public and private utilities and services will be adequate with respect to their location, availability, and compatibility with adjoining properties;
5. That all landscaping, screening, and fencing will be adequate, with respect to the effectiveness of their type, dimensions, and character, will be adequate with respect to minimizing the economic, noise, glare, odor, and other impacts of the nonconformity on adjoining properties and other properties in the neighborhood;
6. That the type, size, and intensity of the proposed use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it, and the hours of operation and numbers of people who are likely to utilize or be attached to the use, will be adequate with respect to minimizing the impact of the nonconformity upon adjoining properties, other properties in the neighborhood, and the purposes of the zoning district in which the property is located; and
7. Surface drainage will be adequate with respect to on-site and off-site erosion, siltation, pollution, flooding, or other detrimental effects of the nonconformity.

**707.02. Other Considerations**

In determining whether the proposed extension, alteration, or major repair will substantially injure the use and enjoyment of other properties, the Planning Director or his designee shall also consider and balance:

1. The possible detriment or benefit to the owner of the nonconformity resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request;
2. The possible detriment or benefit to the owners of nearby properties resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request; and
3. The possible detriment or benefit to the general public resulting from denying the approval, from approving the request but requiring that the nonconformity be brought wholly or partially into compliance, or from approving the request.

**707.03. Conditions**

The Planning Director or his designee may impose any conditions on approval of the request, including appropriate time limits for meeting those conditions, as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.

#### **707.04. Limits on Expansion**

If the Planning Director or his designee permits a nonconforming structure or use to expand, then the following shall apply:

1. The area of such expansion shall not exceed 25 percent of the area of the existing nonconforming use or structure, unless otherwise allowable in this Section;
2. Telecommunications towers may be expanded by more than 25 percent to permit the co-location of a second or subsequent user or communications sending or receiving device so that the need for an additional tower is eliminated. Only the City Council may permit the expansion of a non-conforming telecommunications tower in districts in which it is not a permitted use.

#### **707.05 Limits on Requirements**

In acting upon applications submitted under Section 707, the Planning Director or his designee shall not order the discontinuation or termination of nonconformity. If an application is denied, then the continuation, maintenance, and minor repair of the nonconformity shall still be allowed in accordance with the terms of this Article.

#### **Section 708. Enlargement or Expansion of Conditional Uses.**

Enlargement or expansion of a nonconforming use that is a conditional use shall require conditional use approval in accordance with the procedures and standards set forth in this section.

#### **708.01. Process for Approval**

The process for conditional use approval shall be in two parts:

1. Approval of the conditional use shall be in accordance with the requirements of Section 803 of this Ordinance, requiring Planning Commission review and City Council approval.
2. Approval of the enlargement, expansion, alteration, or major repair of a nonconforming structure, use or site shall require administrative site plan review and approval in accordance with the procedures and standards set forth Section 707

#### **Section 709. Exceptions for Residential Setbacks**

Certain additions to existing, nonconforming single-, two-, three-, or multi-family or townhouse dwellings may extend into a required front, side, or rear yard setback when the existing dwelling is already legally nonconforming with respect to that setback. The nonconforming portion shall be at least 60 percent of the total width of the respective wall of the structure prior to the addition. Additions may extend up to the height limit of the zoning district and extend into the required front, side and/or rear yard setback as follows:

1. Front and rear yard setbacks: The addition may extend five feet into the required front or rear yard setback or to the extent of the setback line formed by the nonconforming portion, whichever is less.
2. Side yard setbacks: The addition may extend into the required side yard setback up to the setback line formed by the nonconforming wall, except in no case shall the addition be closer than 5 feet from the side property line. Furthermore, the size of the addition shall be limited to an additional wall surface area within the required side setback area of no more than 200 square feet.

#### **Section 710. Exceptions for Historic Resources**

In an effort to promote and encourage the preservation and adaptive reuse of locally designated resources, the Planning Director or his designee may grant certain waivers to the zoning code provided that it will result in the preservation of a locally designated property, after review and approval by the Historic Preservation Commission. The Planning Director, or his designee, may authorize certain waivers to the requirements of the underlying zoning district, to the extent indicated herein.

1. Any building that is individually locally designated or is classified as a contributing building within a local historic district, as identified in the contributing resources report, shall be permitted to be repaired, restored, structurally altered, or reconstructed, notwithstanding any conflicts with provisions of the underlying zoning district requirements pertaining to minimum lot size, setbacks, minimum lot width, FAR, open space, off-street parking or loading requirements. In cases where the configuration of a locally designated property, or a contributing property within a locally designated historic district precludes reasonable and appropriate use of the property within the underlying zoning district a waiver of up to twenty percent (20%) from the underlying requirements for setbacks, FAR, and open space may be authorized by the Planning Director or his designee.
2. Any contributing historic resource or building will not be limited to the valuation clause for nonconformities.
3. In cases where the size or configuration of a locally designated property, or a contributing property within a locally designated historic district is such that compliance with off-street parking requirements would destroy the historic character of the property, the Planning Director or his designee may authorize a reduction of up to one hundred percent (100%) of the number of parking spaces that would ordinarily be required for a new structure of equivalent use and floor area. Such a reduction will be granted only when it can be demonstrated that:
  - a. Granting the modification will further the preservation of the historic and architectural character of the historic resource, or of the historic district in which the proposal is located.
  - b. Granting the modification would promote the preservation of the historic resource or historic district while reducing nonconformities.
  - c. Granting the modification would help minimize or mitigate any potential adverse effect of a specific proposal whose implementation promotes the preservation of the historic resource or historic district.
  - d. Special circumstances exist such as adjacencies or shared parking that will practically alleviate concerns for off-street parking.

The Planning Director, or his designee, shall make specific findings that establish how the criteria have been met. Additionally, staff may impose any conditions, restrictions, or limitations deemed appropriate in order to ensure compliance with the criteria set forth above.

**Section 711. Nonconforming Lots of Record.**

**711.01.** Subject to the provisions of this Section, a nonconforming lot of record may be used for any principal use permitted or conditional, provided approval from City Council, in the zone in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the nonconforming lot shall be of a size and design to meet the minimum requirements of the Lee County Health Department regulations for such wells and septic systems.

**711.02.** Performance residential developments shall be prohibited on development sites smaller than the minimum sizes established in Section 502.02. If permitted in the applicable zoning district, single family dwelling units may be constructed on nonconforming lots of record at least 4,000 square feet in size and 50 feet in width. Adjoining lots, which are combined to form one (1) parcel shall be considered to meet this standard.

**711.03.** Minimum lot sizes for nonresidential uses are established in Table 4-3. To qualify as a nonconforming lot of record under this section, lots must have been platted prior to or in the year 1984 or be smaller than the following sizes:

Rural District (R)	40,000 s.f.
Industrial District (I)	10,000 s.f.
Other Districts <sup>1</sup>	7,500 s.f.

In addition to the requirements of the previous sentence, a nonconforming lot must be have fully complied with all applicable laws and ordinances at the time it was recorded, but currently does not fully comply with the lot requirements of this Ordinance concerning minimum area, minimum lot width, or minimum street frontage. Where a lot meets the required minimum size for the district but not for a particular use category as specified in Table 4-3 (i.e., road service use

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<sup>1</sup>However, no minimum lot size is required in the Urban Core (UC) District.

requires 30,000 s.f.) it shall not be considered a nonconforming lot of record. The lot shall instead be used for another development type for which it is eligible, based on its size.

Property which qualifies as a nonconforming lot of record under this Section shall be eligible for any land use category having a minimum size requirement of 40,000 s.f. in the Rural (R) district, 10,000 square feet in the Industrial (I) district, and 7,500 s.f. in all others, as established in Table 4-3.

**711.04.** No nonresidential use(s) shall be permitted on nonconforming lots of record less than 6,000 square feet in size and 60 feet in width unless the Board of Zoning Adjustment grants a variance. Variances granted under this section shall not be use specific but rather granted for the required lot size and width for a particular use.

## **Section 712. Nonconforming Uses**

In the event that a structure or premise occupied by a nonconforming use becomes and remains vacant for a one (1) year period or more, or is used for a use that is permitted in the zoning district in which such structure or premises is located, the use of same shall thereafter conform to the use regulations of the district in which such structure or premise is located.

### **712.01. Change of Use**

Any nonconforming use may be changed to a conforming use by securing all approvals and permits that this Ordinance requires for the intended or resulting use. No nonconforming use may be changed to another nonconforming use.

## **Section 713. Manufactured Home Parks**

**713.01.** Existing manufactured home parks, which are nonconforming by use, shall not be redesigned, expanded in area, or modified to accommodate additional manufactured homes.

**713.02.** Manufactured home parks which are properly zoned and which are nonconforming by design only may be expanded in area and/or modified so as to reduce or eliminate those aspects of design, which render it nonconforming. The Planning Commission may authorize additional manufactured home sites in such parks upon submission of a site plan, consistent with the standards of Section 802, showing a redesign of the park, which substantiates the following:

- A.** The overall density of the park will not exceed seven (7) units per acre.
- B.** A 20-foot wide residential buffer shall be provided along all development site boundaries (See Section 426.03, Residential Buffer Landscaping Requirements).
- C.** No new manufactured home will be placed within 20 feet of any property line.
- D.** Where possible, all development standards of Section 502.02(G) have been met, or the degree of nonconformity reduced. In no case shall the degree of nonconformity of any design aspect be increased.

A redesign proposal that does not include the addition of new manufactured home spaces shall not be subject to conditions A and B above. Any redesign proposal shall be subject to review and approval by the City Engineer.

**713.03.** The replacement of an existing manufactured home shall be allowed, provided that such replacement does not increase any degree of existing nonconformity (e.g. setbacks).



#### **Section 714. Minimum Acceptable Bufferyard.**

Subsequent to the discontinuance of a nonconforming use, a development site, which is nonconforming by physical design, may be utilized for any activity or use which is otherwise permitted by this Ordinance. However, as a condition of approval of any enlargement, reconfiguration or any type of new development on the site, certain improvements must be made pursuant to this Section. When nonconformity is a result of noncompliance with the bufferyard required by Article IV of this Ordinance and the subject property is physically unable, because of its limited land area, to meet normal bufferyard requirements, the following requirements shall be met:

- A.** In no case shall bufferyard requirements less than those provided in Figure 7-1 be applied to the site.
- B.** Where an anchor tenant (40,000 square feet of gross floor area or larger) of a shopping center has been replaced, full compliance with the bufferyard requirements of Article IV shall result. When such alterations shall result in a nonconformity with the provisions of this Ordinance (i.e., required parking), or an increase in an already nonconforming aspect of the Ordinance, the site shall conform to subsection A, above.
- C.** If in the judgment of the Planning Director and City Engineer, subsection B cannot be met, then upon evaluation of the size and other relevant characteristics of a site, bufferyard width and planting requirements may be prorated as appropriate, in consultation with the Planning Commission.

#### **Section 715. Nonconforming Signs.**

A nonconforming sign is any sign within the jurisdiction of the Zoning Ordinance of the City of Auburn on the effective date of this Article or any sign existing within any area annexed into such jurisdiction after the effective date of this Article which is prohibited by, or does not conform to the requirements of Article VI of this Ordinance.

Nonconforming signs shall be maintained in good condition. However, such signs shall:




- A.** not be structurally altered to accommodate another nonconforming sign or sign face;
- B.** not be structurally altered in order to prolong the life of the sign, except to meet safety requirements as specified by the Chief Building Official or City Engineer;
- C.** not be altered so as to increase the degree of nonconformity of the sign (including additional or replacement sign faces);
- D.** not be enlarged in any manner;
- E.** not be allowed to remain if a change of use occurs as defined by this ordinance, or if the premises promoted by the sign comes under new ownership or tenancy and such sign is proposed to be remodeled, repainted, have the face replaced or otherwise changed for the purpose of displaying the new name or other new identification of the premises; or
- F.** not be re-established after damage or destruction if the estimated cost of reconstruction or repair exceeds 50 percent of the appraised replacement cost. This cost shall be exclusive of any expected or estimated revenue generated by the sign.
- G.** be removed if the sign or sign structure identifying a previous use or activity that has not occupied the site for a period greater than sixty (60) days, does not maintain a current business license or pertains to a time, event or purpose which no longer applies. The owner of the sign or owner of the property shall have 60 days to remove the sign.

**Section 716. Appeal Process.**

Any person aggrieved or affected by the provisions of Article VII of this Ordinance may appeal to the Board of Zoning Adjustment for relief in accordance with the provisions of Section 908 of this Ordinance.

**Figure 7-1  
Minimum Acceptable Bufferyards for Nonconforming Uses**

<b>Buffer Width</b> (See Tables 4-5 through 4-7 to determined required buffer widths)	<b>Canopy Trees</b>	<b>Under-Story Trees</b>	<b>Shrubs</b>	<b>Minimum Width</b>	<b>Minimum Required Plants per 100'</b>	<b>Structure Required</b>
5 or 10 ft.	2 tree inches		6	planter	* * ○ ○ ○ ○ ○ ○ ○ ○	
15 ft.	6 tree inches		10	6'	* * * * * ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○	
20 ft.	7 tree inches		20	8'	* * * * * ○	Type One

	-	canopy tree
	-	understory tree
	-	shrubs