

City of Arcadia



Unified Land Development Code

Article 3

General Requirements and Nonconformities

Prepared by the
Central Florida Regional Planning Council

ARTICLE 3.

GENERAL REQUIREMENTS AND NONCONFORMITIES

Section 3.01.00. Use of Land and Buildings

Section 3.02.00. Lot Size

Section 3.03.00. Lots of Record

Section 3.04.00. Nonconformities

Section 3.04.01. Nonconforming Uses and Structures

Section 3.04.02. Extension of Nonconforming Use

Section 3.04.03. Change of Nonconforming Use

Section 3.04.04. Unlawful Use Not Authorized

Section 3.04.05. Applicability of Article to Nonconformities Created by Change in Regulations

Section 3.04.06. Nonconforming Lots of Record

Section 3.04.07. Use of Nonconforming Lot for Single-Family Dwelling

Section 3.05.00. Moving of Buildings

Section 3.06.00. Temporary Construction Trailers

Section 3.07.00. Temporary Mobile Homes or Manufactured Homes or Recreational Vehicles for Use During Construction or Disaster Relief

Section 3.08.00. Continued Use of Existing Single Family Home During Construction of a Replacement Single Family Home

Section 3.09.00. Model Homes and Temporary Sales Offices

Section 3.10.00. Storage of Building Materials or Construction Equipment in Residential Districts

Section 3.11.00. Storage of Flammable Liquids

Section 3.12.00. Parking of Trucks and Commercial Vehicles

Section 3.13.00. Recreational Vehicle Use for Living or Sleeping Purposes

Section 3.14.00. Use of Tent as Dwelling

Section 3.15.00. Minimum Space and Use Requirements to Prevent Overcrowding

ARTICLE 3.

GENERAL REQUIREMENTS AND NONCONFORMITIES

Section 3.01.00. Use of Land and Buildings.

No building or land shall be used or occupied and no building or part thereof shall be erected, constructed, moved or altered except in conformity with the regulations specified in the Unified Land Development Code and the zoning district in which it is located.

Section 3.02.00. Lot Size.

For the purpose of building, no lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area or other requirements of this Code are not maintained. This shall not apply when a portion of a lot is acquired for public use. Where the front, rear or side of a lot is not reduced by a voluntary dedication or eminent domain action, the setback requirements of this Code shall apply.

Section 3.03.00. Lots of Record.

- A. A lot of record is a lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat, either prior to the effective date of this Code or after the effective date of this Code.
- B. If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of this Code and such lots individually are less than the lot width requirements for the district in which they are located, such groups of lots shall be combined and considered a single lot or shall be grouped into several lots of minimum permitted size and the resulting lot or lots shall be subject to the dimensional requirements of this Code.

Section 3.04.00. Nonconformities.

Nonconformities are land uses, structures, lots and other elements of development that do not conform to the provisions of this Unified Land Development Code but were created in accordance with those land development regulations (if any) in effect at the time of their establishment. Subject to the provisions listed below, nonconformities may continue to exist if otherwise lawful and in existence on the date of adoption of this Code. The casual, intermittent, temporary or illegal use of land or structures prior to the effective date of this Code shall not qualify such use or structure for the privileges outlined in this Section. Any additions, extensions or alterations to nonconforming buildings, structures, and lots, shall comply with all applicable Code provisions.

Section 3.04.01. Nonconforming Uses and Structures.

Nonconforming uses and structures shall not be:

- A. Enlarged, increased or expanded to occupy a greater land or floor area than that allowed at the effective date of this Code, or amendment to this Code, whichever date created the nonconformity.
- B. Enlarged or intensified through the erection of any additional structure or use that is not permitted under the provisions of this Code.

- C. Re-established if 50% or more of the assessed value of the structure, as established by the Desoto County Property Appraiser, is destroyed.
- D. Re-established if the use is discontinued for one hundred eighty (180) consecutive days, unless granted Special Approval by the City, consistent with Section 3.04.03 B.

In addition:

- E. Repairs, maintenance and alterations and improvements of a structure housing a nonconforming use may be carried out in anyone year in an amount not to exceed twenty-five percent (25%) of the assessed value of the structure for that year.
- F. Nothing in this Article shall prevent compliance with applicable laws or ordinances relative to the safety and sanitation of a building occupied by a nonconforming use.

Section 3.04.02. Extension of Nonconforming Use.

The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the effective date of this Land Development Code. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building or any additional building on the same lot not used for such nonconforming use at the effective date of this Land Development Code. The nonconforming use of land shall not be extended to any additional land not so used at the effective date of this Land Development Code.

Section 3.04.03. Change of Nonconforming Use.

Any change of a nonconforming use shall be to a conforming use, except as provided as follows:

- A. There may be change of tenancy, ownership or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use except as may be permitted by this Section.
- B. A nonconforming use may be replaced by a new or different nonconforming use if the City grants Special Approval for such use. The new or different nonconforming use shall be no more detrimental to the surrounding neighborhood than the old use, and approval shall be in accord with the spirit and purpose of this Code.
- C. A nonconforming use of a building, structure, or land, once changed to a conforming use, shall not be permitted to revert to a nonconforming use.

Section 3.04.04. Unlawful Use Not Authorized.

Nothing in this Article shall be interpreted as authorization for or approval of the continuation of the use of a structure or premises in violation of any ordinance in effect at the effective date of this Code.

Section 3.04.05. Applicability of Article to Nonconformities Created by Change in Regulations.

These provisions shall apply to buildings, structures, land, premises or uses which hereafter become nonconforming due to a change or reclassification of a district or become nonconforming due to a change in district regulations. Where a period of time is specified in this Article for the removal or discontinuance of nonconforming buildings, structures or uses, such period shall be computed from the effective date of registered mail notification of the owner of the property of such reclassification or change.

Section 3.04.06. Nonconforming Lots of Record.

Lots not meeting the standards established in the Code for minimum width, depth and area, but recorded in the public records of Desoto County prior to the date of adoption of this Code or amendment thereto, may be used for building purposes with the following provisions:

- A. Contiguous lots that are of single ownership, and do not separately meet width, depth and area requirements of the applicable zoning district, shall be considered a single lot for development purposes.
- B. Nonconforming lots of record shall not be reduced in size, width or depth without a variance authorized by the Board of Adjustment.
- C. All development that is allowed on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code.

Section 3.04.07. Use of Nonconforming Lot for Single-Family Dwelling.

The requirements of this Code as to minimum lot area or width shall not be construed to prevent the use for a single-family dwelling, in any district in which such use is permitted, of any lot or parcel of land if such lot or parcel of land was held in separate ownership at the effective date of this Code, and the owner did not at that date, nor did the present owner at any time, own any contiguous property abutting on the same street.

Section 3.05.00. Moving of Buildings.

No structure shall be moved from one development site to another unless such structure shall, at the new location, comply with all applicable provisions of this Code.

Section 3.06.00. Temporary Construction Trailers.

Temporary buildings used solely in conjunction with construction work may be permitted in any zoning district but shall be removed immediately upon completion of construction. The temporary structure shall not be installed prior to issuance of a building permit.

- A. The City Administrator, or his or her designee, may authorize the use of a temporary structure at a construction site upon approval of a development plan and compliance with all applicable laws, rules and regulations of the State of Florida and the adopted codes of the City of Arcadia.

- B. Such structure shall only be used as a construction coordination office, for the storage of tools and supplies used for the construction and development approved for the site, or a use directly related thereto.
- C. The applicant shall designate the exact location of the temporary structure on the development plan, and shall place it only in the approved location.
- D. If a manufactured home is to be used, the wheels and axles shall not be removed.

Section 3.07.00 Temporary Mobile or Manufactured Home or Recreational Vehicle for Use During Construction or Disaster Relief.

The use of a mobile or manufactured home or recreational vehicle as a temporary residence during construction of a permanent residence or in the case of a disaster situation such as fire, flood or hurricane, may be authorized under the following conditions:

- A. The lot or building site is large enough to accommodate the temporary residence and the construction of the permanent residence.
- B. The temporary unit shall be located in the side or rear yard, at least ten feet (10') from any other existing or planned structure, and meet the zoning setbacks for a principal building.
- C. The applicant has received approval of a building permit for construction of a single family residence on the property;
- D. The temporary residence shall be connected to a public sewer system or, upon approval of the City Administrator, or his or her designee, have received a septic tank permit from the Desoto County Health Department;
- E. Recreational Vehicles (RV) used as temporary residences, under the provisions of this Section, shall properly dispose of all waste from gray and black water holding tanks at an approved RV dump station or dump point off site.
- F. If a manufactured home is to be used, the wheels and axles shall not be removed.
- G. The temporary residence shall be removed from the building site within 30 days of the Certificate of Occupancy for the permanent residence, or at the end of a one-year period commencing at the date of its installation, whichever comes first; and
- H. With the exception of providing for disaster relief, at the City's discretion, this administrative approval may not be renewed or granted a second time for the same building site.

Section 3.08.00. Continued Use of Existing Single Family Home During Construction of a Replacement Single Family Home.

The City Administrator, or his or her designee, may authorize the continued use of an existing single family home during the construction of a new replacement single family home with the following conditions:

- A. The lot or building site is large enough to accommodate the existing single family home and the construction of the replacement home while meeting all development standards for the zoning district as provided in Article 5.
- B. The property owner must provide a notarized letter explaining the reason why the existing home should remain during construction and the owner's intent to move into the new construction and have the existing house demolished within 30 days after the final Certificate of Occupancy on the new construction is issued;
- C. Demolition of the existing single family structure must occur within 30 days after issuance of the Certificate of Occupancy.

Section 3.09.00. Model Homes and Temporary Sales Offices.

Model homes and temporary sales offices may be permitted within residential subdivisions subsequent to preliminary subdivision plat approval consistent with the following:

- A. Each subdivision shall be allowed at least one (1) model home.
- B. The total number of model homes permitted within a subdivision shall not exceed ten percent (10%) of the total number of lots within the subdivision.
- C. The developer shall obtain site plan approval and a building permit from the City prior to starting construction of any model homes.
- D. All model homes shall meet all lot area and building setback requirements for the zoning district in which the subdivision is being platted. Failure of a model home to comply with the required setbacks shall result in a refusal to issue a certificate of occupancy for that home.
- E. Fire hydrants and a stabilized road base shall be constructed and approved for use prior to the issuance of any building permits for model homes. The developer shall be responsible for maintaining the stabilized road base in a manner that allows for the safe passage of fire/rescue equipment. Should the road surface be found in an unsafe condition, the City Administrator, or his or her designee, shall issue a "Stop Work" order on all model homes under construction until such time the roadway is brought back to a safe condition.
- F. Should the fire hydrants and a stabilized road base not be in place, model homes may be constructed according to standards established in the latest edition of NFPA (National Fire Protection Association) Publication 1141, *Standard for Fire Protection Infrastructure for Land Development in Suburban and Rural Areas*, and as may be amended.
- G. To receive/seek final subdivision approval, a scaled drawing of the subdivision showing the locations of all model homes, shall be submitted to the City Administrator, or his or her designee.
- H. No model home shall be occupied for residential purposes until the final subdivision plat has been approved by the City and recorded with the Clerk of the Courts.
- I. Model homes may be used as temporary sales offices for the subdivision in which they are located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.

- J. Signs used for model homes and temporary sales offices shall conform to any applicable requirements set forth in Article 8 of this Code. All signs shall be reviewed for placement, design, and duration by the City Administrator, or his or her designee. The sign area shall not exceed thirty-two (32) square feet.

Section 3.10.00. Storage of Building Materials or Construction Equipment in Residential Districts.

No land which is zoned residential shall be used for the storage of building materials or construction equipment except when incidental to construction operations for which a building permit is in effect.

Section 3.11.00. Storage of Flammable Liquids.

The storage of flammable liquids in aboveground storage tanks, having a capacity in excess of 300 gallons, is hereby declared to be unlawful and is prohibited, except within the M-1, Light Industrial district and the M-2, Heavy Industrial district, and except those installations approved under the safety code of the state fire marshal's office.

Section 3.12.00. Parking of Trucks and Commercial Vehicles.

A. Parking Restrictions.

1. In residentially zoned areas, trucks and commercial vehicles with a rated capacity over 1½ tons shall not be parked on private or public lands. Public lands include street rights-of-way.
2. Trucks and commercial vehicles over 1½ tons in rated capacity may be parked in designated truck and commercial vehicle parking areas located in C-1, M -1, and M-2 zoning districts.
3. The City Council may designate truck and commercial vehicle parking areas within the city.
4. Parking of trucks and commercial vehicles over 1½ tons is prohibited in areas of the City not specifically posted "Truck and Commercial Vehicle Parking Permitted."

B. Penalty; Enforcement.

1. The penalty for violation of any provision of this section shall be in accordance with Municipal Code Section 1-12.
2. In addition to the penalty provided for in Municipal Code Section 1-12, violators of any provision of this Section will on the first offense be issued a written warning.
3. For the second offense located on the same property, the violator will be issued a notice to appear in the County court.
4. For the third offense located on the same property, in addition to the penalty provided for in Municipal Code Section 1-12, the vehicle in violation will be towed at the owner's expense. At the direction of the City, a licensed wrecker company will be called to tow the vehicle in violation to the wrecker company storage lot. The owner of the vehicle in violation must pay all tow fees.
5. The enforcing official may invoke any or all provisions of this Section as needed to achieve compliance.

6. Any law enforcement officer in this state duly sworn to enforce the laws of the state may enforce this section.

Section 3.13.00. Recreational Vehicle Use for Living or Sleeping Purposes.

Unless otherwise provided in this Article, it shall be unlawful for any person, whether owner, relative, friend or otherwise, to use any recreational vehicle for living, habitation or sleeping purposes, including but not limited to making any temporary or permanent electrical, plumbing, water or other utility hookup, while such vehicle is located and situated on property in the city.

Section 3.14.00. Use of Tent as Dwelling.

No tents shall be erected, used or maintained for living quarters except for camping or recreational activities.

Section 3.15.00. Minimum Space and Use Requirements to Prevent Overcrowding.

No person shall occupy, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein, which does not comply with the following requirements:

- A. Every dwelling unit shall contain a minimum living space of at least one hundred fifty (150) square feet for the first occupant, one hundred (100) square feet for each of the next two (2) occupants, and seventy-five (75) square feet for each occupant thereafter.
- B. In every dwelling unit with two (2) or more habitable spaces, every room occupied for sleeping purposes by one (1) occupant shall have a minimum living space of at least eighty (80) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum living space of fifty (50) square feet per occupant. All habitable spaces shall not be less than seven (7) feet in any horizontal dimension. Kitchens and areas not considered habitable space shall not be used for sleeping purposes.
- C. At least one-half of the living space of every habitable room shall have a ceiling height of at least seven (7) feet. Any portion of a room having a ceiling height of less than five (5) feet shall not be considered in computing the total living space of such room.
- D. No dwelling or dwelling unit containing two (2) or more sleeping rooms shall be so arranged that access to a bathroom, shower room, or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room or outside the structure, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room, bathroom, shower room, or water closet compartment.