

ARTICLE 4
GENERAL PROVISIONS

400. NONCONFORMITIES.

It is the intent of this Ordinance to permit nonconformities to continue. Nonconformities are declared by this Ordinance to be incompatible with permitted uses in the districts involved. Any change of nonconforming uses, structures, or characteristics of use, including removal and replacement of manufactured homes, shall occur only after application for and approval of a Special Exception.

400.1. Change To Another Nonconforming Use. A nonconforming use, structure or characteristic of use shall not be changed to any other nonconforming use, structure or characteristic of use unless the Board of Appeals finds that the new use, structure or characteristic of use is more in character with the uses permitted in the district in which case the Board of Appeals may permit such change as a Special Exception. In permitting the change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose of this Ordinance.

400.2. Extension Or Enlargement. A nonconforming use, structure, or characteristic of use shall not be extended, enlarged, or intensified except in conformity with this Ordinance, provided however, that any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance. No nonconforming use shall be extended to occupy any land outside such building.

400.3. Reestablishment. A nonconforming use or characteristic of use shall not be reestablished after vacancy, abandonment, or discontinuance for any period of twelve (12) consecutive months, except where Section 400.4. applies.

400.4. Reconstruction After Damage. A nonconforming structure shall not be rebuilt, altered or repaired if it is damaged more than fifty (50) percent of replacement cost. Any reconstruction shall begin within six (6) months from the time of damage and shall be completed within twelve (12) months after the issuance of a building permit. The provisions of this subsection shall not apply to any owner occupied dwelling.

400.5. Repair Or Maintenance Of Nonconforming Structures. Ordinary repairs to fixtures, wiring, or plumbing, or repair or replacement of nonbearing walls may be done on any building devoted in whole or in part to any nonconformities provided the cubic content of the building shall be the same as existed at the time of passage or amendment of this Ordinance.

401. PRIOR BUILDING PERMITS.

Nothing herein contained shall require any change in the plans, construction, or designated use of a structure for which a building permit has been heretofore legally issued and the construction of which shall have actually begun within ninety (90) days of the date of such permit and which entire structures shall be completed, according to such plans as are filed, within one (1) year after the effective date of this Ordinance.

402. LOTS IN MULTIPLE DISTRICTS.

Where a district boundary line as appearing on the Official Zoning Map divides a lot in single ownership at the time of adoption of this Ordinance or subsequent amendment into two (2) or more different zoning districts, the district least restrictive in the opinion of the owner shall be deemed to apply to the whole thereof, provided however, that in no case shall a zoning district boundary line dividing said lot be extended into any zoning district in excess of fifty (50) feet beyond the district boundary line dividing said lot.

403. ACCESSIBILITY FOR EMERGENCY SERVICES.

Access for emergency services shall be provided to all structures hereafter erected.

404. ANNEXATION.

Any annexed area shall be classified in interim zoning districts as approved by the Planning Commission with such interim zoning district classifications effective upon the final date of the annexation. Immediately after the effective date of such annexation, the Zoning Administrator shall initiate zoning amendment proceedings as specified in Article 8 for the purpose of confirming the interim zoning classifications for such annexed areas, and the public hearing therefore shall be scheduled to be held not more than sixty (60) days after the effective date of annexation.

405. WATER AND AIR POLLUTION.

All uses must satisfactorily comply with the requirements of the South Carolina Department of Health and Environmental Control and the Lexington County Board of Health regarding the protection of waterways from pollution by waste materials and the protection of the atmosphere from pollution by dust, smoke, or other waste materials.

406. PARKING, STORAGE OR USE OF MAJOR RECREATIONAL EQUIPMENT.

No major recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use, for a period of more than thirty (30) days.

407. PARKING AND STORAGE OF CERTAIN VEHICLES.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property, other than in completely enclosed buildings. Such automotive vehicles or trailers improperly stored prior to the adoption of this Ordinance shall be removed within one (1) year of the effective date of this Ordinance.

408. HOME OCCUPATIONS.

Occupations, professions, or trades customarily carried on by occupants of dwelling units as secondary uses which are clearly incidental to use of dwelling units for residential purposes are allowed as accessory uses in districts where dwelling units are permitted as permitted uses, subject to the following provisions:

408.1. No person other than members of the family residing on the premises shall be engaged in such occupation.

408.2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

408.3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign.

408.4. The home occupation shall be conducted only within the principal structure.

408.5. There shall be no retail sales in connection with such home occupation except for goods produced as part of the home occupation.

408.6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visible, audible or functional interference with any wired or wireless communications including, but not limited to radio, television, telephone and internet, or causes any interference in the delivery of electrical power.

408.7. No outdoor storage shall be allowed in connection with any home occupation.

408.8. Operation of home occupations shall be limited to the hours between 8:00am and 8:00pm.

409. DAYCARE FACILITIES.

Daycare facilities where permitted are subject to the following provisions:

409.1. General Requirements. The applicant shall apply to the South Carolina Department of Social Services (DSS) for a license to operate the facility and receive a letter from the regulatory agency (DSS) that the facility in question is suitable to accommodate the maximum number of persons to be accommodated.

409.2. Fencing. A fenced play area shall be provided which meets the requirements of the South Carolina Department of Social Services (DSS).

409.3. Loading And Unloading. An area adequate for loading and unloading of persons to be accommodated shall be provided and such area shall not be located within any public right-of-way.

409.4. Facilities, operation and maintenance shall meet the requirements of the appropriate health department and any other regulatory agencies.

410. GARAGE SALES, YARD SALES AND RUMMAGE SALES.

Garage sales are permitted in all Residential Districts provided that the following conditions are met:

410.1. The maximum period for each sale is two (2) days. The maximum number of sales allowed per year is three (3) per family.

410.2. No new or used merchandise is purchased or brought in for the sale.

410.3. All merchandise is that of the immediate family or families conducting the sale.

410.4. A limit of three (3) signs advertising the sale is permitted and all signs must be removed by 7:00pm on the last day of the sale.

410.5. The hours of the sale will be between 8:00am and 6:00pm. No Sunday sales are allowed.

410.6. No public address system is used.

410.7. No alcoholic beverages of any type are served or given on or near the premises.

410.8. If upon inspection by the Zoning Administrator or a member of the Town Council, he/she finds that in his/her opinion this Ordinance is being violated, a citation will be issued or the right to continue with the sale will be terminated at once.

411. REQUIRED SEPARATION BETWEEN COMMERCIAL AND/OR INDUSTRIAL AND RESIDENTIAL LOTS.

When the rear or side lot line of a lot zoned and used for general commercial or light manufacturing purposes adjoins the rear or side lot line of a lot zoned for residential purposes, the general commercial or light manufacturing development shall comply with the following requirements:

- (1) The required setback line for buildings on the general commercial or light manufacturing lot shall be fifteen (15) feet from the property line of the residential lot.
- (2) A vision screening buffer shall be provided along the rear or side lot line used and zoned for general commercial or light manufacturing purposes. This buffer shall consist of a vegetative, opaque screen at least four (4) feet deep and six (6) feet tall or a fence at least six (6) feet tall or any combination of the above offering equal protection. Where natural planting is to be used as screening, the planting strip shall be composed of an arrangement of shrubs and trees. The shrubs may be evergreen or deciduous and shall be arranged in one (1) row at a minimum and planted at an initial height of at least three (3) feet. The shrubs shall be of such variety that an average height of at least six (6) feet could be expected as normal growth within no later than two (2) years from the time of planting. Trees which may be either evergreen or deciduous, shall augment the arrangement of shrubs so that there will be created a screening effect of capacity to materially screen the uses within the subject property from the view of the adjacent properties.

The Zoning Administrator shall decide whether a wall or fence or vegetative screen is appropriate in each instance.

- (3) In cases of unusual topographic circumstances or size of tract involved, or where there exist screening devices comparable of the general screening requirements, and in which the installation and maintenance of walls, fences, or natural planting serve no useful purpose, the Zoning Administrator is hereby empowered to waive the requirements for screening, provided however, that the spirit and intent of this Ordinance, and provisions pertaining to screening are adhered to. In no case shall the provisions of this section be construed to negate the necessity for establishing screening for uses which are adjacent to vacant properties.

412. SPECIAL EXCEPTIONS.

Existing uses which by the terms of this Ordinance would be permissible only as Special Exceptions are hereby declared nonconforming uses. These existing uses are also hereby declared transferable through application for and approval of a Special Exception, subject to the provisions of Section 400.

Any use for which a Special Exception is required and granted, in whole or in part, shall remain a nonconforming use subject to the provisions of Section 400.

413. PROHIBITED USES.

Any use which is not expressly permitted in a district shall be prohibited.

414. MOBILE HOMES.

Mobile homes require current Lexington County permits and/or decals. Any mobile home without a current Lexington County permit and/or decal shall not be parked or stored in any area within the Town of Gilbert for more than thirty (30) days.

Mobile homes are permitted only in R-2, R-3, and AG Districts and in R-1 District after application for and approval of a Special Exception. Gross density of no more than three (3) mobile homes per acre in R-3 District which becomes a mobile home park and must meet requirements of Section 417. No more than one (1) mobile home per lot in R-1 and AG Districts and no more than two (2) per lot in R-2 District shall be permitted. All mobile homes must be tied down, fully skirted, and no older than five (5) years when moved into the Town of Gilbert. All mobile homes shall have permanent and well maintained masonry or timber steps.

Churches, private schools, and recreational facilities located in mobile homes shall be considered as mobile homes and not as churches, schools, or recreational facilities.

415. FENCES.

Fences may be erected in front yards of any zoning district to a height not to exceed forty-eight (48) inches. See Section 604 for additional restrictions. In side and rear yards, fences may be built not closer than three (3) inches to a property line and no taller than eight (8) feet. Any taller fencing shall be granted only as a Variance by the Board of Appeals. Fencing surrounding utility sites and structures shall be exempt from the provisions of the Zoning Ordinance.

416. CONFORMING PROPERTIES.

416.1. Structural Damage. Repair of structural damages inflicted upon conforming properties shall be begun within six (6) months of time of damage and shall be completed within two (2) years.

416.2. Maintenance And Repair. All structures shall be properly maintained and repaired as needed to protect all districts from depreciating effects and all citizens from possible harm.

417. MOBILE HOME PARK.

A mobile home park is three (3) or more mobile homes, exclusive of the land owner occupied mobile home, that is operated as a single entity and located within the vicinity of one another. The mobile home park may be located on a single parcel or multiple parcels of land. A mobile home park must meet all Lexington County and DHEC requirements and regulations and is subject to all provisions of this Ordinance. safety of the occupants of the mobile home park and of the general public.

A mobile home park owner shall maintain a current register of all mobile homes and occupants. This register shall include the make and model of each mobile home, the owner's name, the dates of arrival and departure, the location, and the names and addresses of all occupants residing in the park. This register shall be available to any authorized person inspecting the park.

418. RELOCATABLE CLASSROOM.

A relocatable classroom is allowed in Institutional Districts only and requires current Lexington County permits. It shall be tied down, fully skirted and have permanent and well maintained masonry or timber steps. A relocatable classroom is allowed at any one location for a period of three (3) years only with a maximum of two (2) classrooms per site. The public school system is exempt from this section of the ordinance on relocatable classrooms. A mobile home is not considered a relocatable classroom.

419. LAND DEVELOPMENT REGULATIONS.

All Lexington County Land Development Regulations shall apply to any and all land development within the Town of Gilbert. All proposed plats must be reviewed and approved by the Planning Commission for the Town of Gilbert before presentation to the Lexington County Planning Commission for approval.

420. PORTABLE STORAGE UNITS.

Portable storage units are allowed as a temporary use for a maximum of thirty (90) days per calendar year. Unit sizes cannot exceed twenty (20) feet in length. The units are only allowed as a temporary permitted use in the rear or side yards of the property and must meet setback requirements. If the rear or side yards are not accessible, approval from the Zoning Administrator shall be required to be placed in the front yard. A unit may not block ingress or egress to a principle structure. The use of a unit is limited to one per dwelling or business. Stacking is not allowed.

421. RAISING AND KEEPING HENS – ZONING DISTRICTS R1 AND R2 ONLY.

No person shall keep hens within Zoning Districts R1 and R2 without first obtaining a Certificate of Zoning Compliance from the Zoning Administrator. Hens are to be kept securely penned in a clean and sanitary manner and in conformance with all county and state regulations.

The raising and keeping of hens shall be in compliance with the following, in addition to any zoning and/or building regulations that may be applicable to the construction of coops and runs:

- 1) No roosters shall be allowed.
- 2) No more than six (6) hens shall be kept or maintained on a single property.
- 3) Hens must be confined in a coop not less than eighteen (18) inches in height and a minimum of two (2) square feet of floor area per hen over four (4) months of age, and connected to a run, which shall be fully enclosed, of not less than ten (10) square feet per hen over four (4) months of age.
- 4) The run must be well drained so there is no accumulation of excrement and shall be cleaned regularly with all excrement disposed of in a manner so as not to cause an odor or attract flies.
- 5) Coops and runs shall not be in the front yard and must be screened from the side or rear lot line by shrubbery or a privacy fence if it comes within twenty-five (25) feet of the property line and/or fifty (50) feet of the nearest residence other than that of the owner; and
- 6) No person shall slaughter hens on their property where it is visible to their neighbors or the public and immediately all waste shall be completely disposed of/

Approved September 14, 2015

