

Town of Lake Santeetlah – Conforming and Non-Conforming Structures (January 2026)

(Disclaimer: This document is for educational purposes/guidance only: please refer to the actual ordinance as you complete your application.)

ORDINANCE LANGUAGE	WHAT IT MEANS & SCENARIOS
<p><u>Section 1200. Continuation of nonconforming situations.</u> <i>Subject to Section 1702, nonconforming situations that were otherwise lawful on the effective date of the Ordinance or any amendments to this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.</i></p>	<p>This section applies to houses or structures built before the adoption of the current ordinance in December 2021. Houses and structure that don't meet the setback and height restrictions are "grandfathered," a term that is no longer used, and are considered to be in compliance (conforming) with the zoning.</p> <p><u>SCENARIO</u> A house sits within the current side setbacks (10 feet to the neighbor's property line) but is located closer to the road than the current required front setback of 15 feet; it is located 5 feet from the center of the road (right-of-way). Also, there is a small outbuilding that is 7 feet from the center of the road. All of these existing structures are "grandfathered", and considered to be in compliance with the zoning.</p> <p>If the owner wants to enlarge the outbuilding (or the house footprint), a variance will be required. However, for a variance, hardship must be shown along with other criteria. A variance is an exception to the zoning requirements and not the general rule.</p>

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<p><u>Section 1201. Extension or enlargement of nonconforming situations.</u></p> <p>(1) <i>Except as specifically provided in this Article, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. For example, adding to the number of junk parts to a preexisting, nonconforming junkyard would be an unlawful increase of a nonconforming use of land.</i></p> <p>(2) <i>A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. A nonconforming use may not be extended to additional buildings or to land outside the original building.</i></p>	<p>(1) And (2) (<i>see next page</i>): A nonconforming structure that is “grandfathered” (if built prior to the adoption of the Ordinance), may not be made more nonconforming; however, it can be improved if the existing footprint is used.</p> <p><u>SCENARIO</u></p> <p>A corner of an existing house’s roofline/gutters on the porch is 7 feet from the neighbor’s property line; in other words, it encroaches 3 feet within the required 10-foot setback. If the homeowner wishes to enclose the porch without changing the roofline or the footprint of the porch, the work may be allowed. However, the house and its porch cannot be extended further into the setback, for example, with a “bump out” to the existing footprint.</p>
<p><u>Section 1201. Extension or enlargement of nonconforming situations.</u></p> <p>(3) <i>Physical alteration of structures or the placement of new structures on open land are unlawful if they result in the following:</i></p> <p>a) <i>An increase in the total amount of space devoted to a nonconforming use;</i></p> <p>b) <i>Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations or density requirements; or</i></p> <p>c) <i>The enclosure of the previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least seventy-five percent (75%) of the perimeter of the area is marked by a permanently constructed wall or fence.</i></p>	<p>Physical alteration or placement of new structures on “open land” refers to land that is not occupied by a structure (such as a house, garage, or outbuilding).</p> <p><u>SCENARIOS</u></p> <p>a) If the house is nonconforming, the homeowner can only alter the house on the existing footprint. The homeowner can’t put a small addition on the house that is not within the current zoning setbacks.</p> <p>b) If the house is nonconforming, the homeowner can’t add a story to the house that would be above the height limit of 35” or extends the building past the current footprint</p> <p>c) A wall or fence may be erected with a zero-lot line, If the property is enclosed with a wall or fence on a nonconforming property, that's permissible. However, no additional walls or fences may be built.</p>

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<p><u>Section 1201. Extension or enlargement of nonconforming situations.</u></p> <p><i>(4) Minor repairs or routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than ten percent (10%) of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure per subsection (6)) may be done only pursuant to authorization of the Board of Adjustment, upon request of the owner. The Board of Adjustment may grant such authorization if it finds that the work will not result in a violation of any other subsections of this section or make the property more incompatible with the surrounding neighborhood.</i></p> <p><i>Notwithstanding, any improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions are permitted, upon written proof of the existence of such conditions.</i></p>	<p>This clause regarding repairs or maintenance of your property falls under the heading 1201, which specifically refers to the “extension or enlargement” of nonconforming situations. It does not refer to situations where you are keeping your house size the same. This means this clause does not apply, for example, to interior renovations.</p> <p><u>SCENARIO</u> You have a house worth \$500,000. You have decided to redo your kitchen and your downstairs bathroom. The work estimate for the renovations is \$65,000, which is over 10% of your current house value. Because you are not extending or enlarging your house, this clause does not apply to your renovation, and you do not need to make a zoning application.</p> <p>However, if you plan on “bumping out” your house or changing the footprint in order to make the kitchen larger, you will need to make an application to ensure that you are not encroaching on any setbacks.</p>
<p><u>Section 1201. Extension or enlargement of nonconforming situations.</u></p> <p><i>(5) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:</i></p> <p><i>a. The total amount of space devoted to a nonconforming use may not be increased, except that a larger single-family residential structure may be constructed in place of a smaller one and a larger manufactured home intended for residential use may replace a smaller one.</i></p> <p><i>b. The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations or density requirements.</i></p>	<p>Should a nonconforming structure be destroyed or partially destroyed by fire, weather, etc., the structure may be rebuilt using the same footprint. It does not have to meet the conforming requirement. However, it cannot be more nonconforming, e.g. feature more encroachment into the setback or height without a zoning application and variance.</p> <p><u>SCENARIO</u> A small house has burned down. The owner would like to rebuild the house with two additional stories and expand the footprint. The project will need to be submitted for zoning review and approval but may be denied if it increases the nonconformity. However, if the homeowner wanted to use the same footprint (current nonconforming setbacks and height), they would still apply for zoning approval.</p>

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<p><u>Section 1202. Change in kind of nonconforming use.</u></p> <p>(1) <i>A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.</i></p> <p>(2) <i>A nonconforming use may be changed to another nonconforming use only if authorized by the Zoning Board of Adjustment. The Board may grant such authorization if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the permit is applied for. If a nonconforming use is changed to any use other than a conforming use without authorization pursuant to this subsection, that change shall constitute a discontinuance of the nonconforming use, with consequences as stated in Section 1203.</i></p>	<p>If a nonconforming use is changed to conforming, it may not go back to nonconforming. This includes nonconforming houses that are rebuilt to current zoning setbacks and height (for example, moved further away the road).</p> <p><u>SCENARIO</u></p> <p>Your home is nonconforming because it sits 6 feet from your neighbor's property line (i.e. it encroaches 4 feet into the setback). The house is destroyed by weather, and you want to rebuild. You rebuild the new home as a conforming structure that does not encroach into the setback. Later though, you want to add an extension to the home into the previous area where it sat 4 feet into the setback. For this, you may be denied.</p>
<p><u>Section 1203. Abandonment and discontinuance of nonconforming situations.</u></p> <p><i>When a nonconforming use is discontinued for a period as provided in N.C.G.S. §160D-108(d) or discontinued for any period of time without a present intention to reinstate the nonconforming use, the use of property is conclusively considered abandoned and shall thereafter be used only for conforming purposes, except as provided in subsection (b).</i></p> <p><i>If a nonconforming use is abandoned as stated in this section, that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located unless the Board of Adjustment specifically authorizes the property to be used without correcting the nonconforming situation. The Board shall authorize such use if it finds that the nonconforming situation cannot be corrected without undue hardship or expense and the nonconforming</i></p>	<p>NC state law supersedes our local zoning ordinance, and our zoning ordinance refers to this state law because we want to make sure homeowners are aware of this state ordinance. NC law states that should a nonconforming home be destroyed or partially destroyed, and no rebuilding activity (i.e. issuance of a building permit and work) takes place for 24 consecutive months the property may be considered abandoned. As a result, the house could not be rebuilt on the previous nonconforming footprint. Any house built on the property would have to be built to the current zoning requirements unless a variance was granted.</p> <p><u>SCENARIO</u></p> <p>You have a garage on your property that is non-conforming; the garage sits 7 feet from the street front setback. The roof caves in and the garage is essentially not usable. You do no work for 24</p>

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<p><i>situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.</i></p> <p><i>For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming manufactured home park shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for one hundred eighty (180) days terminates the right to replace it.</i></p>	<p>months. This may be treated as an abandonment of your prior use. Or, you do seek a zoning certificate to rebuild the garage in the same place, but you don't do any work for over 24 months. Then the permit may lapse. In essence, if nothing is done for 24 months then the lapse may be treated as an abandonment.</p>

FYI

- Non-conforming structures at the time of the ordinance adoption are considered “grandfathered,” i.e. conforming.
- Per consensus from professionals, non-conformance does not affect property sales, taxes, or insurance.