

Article 16. Nonconforming Uses**Sec. 22-16-1. Continuation.**

(a) If, at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner or use or purpose may be continued as herein provided. In addition, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance if the landowner is the beneficiary of, relies on, or incurs extensive obligations or substantial expenses due to a significant governmental act pursuant to all provisions of Section 15.2-2307 of the Code of Virginia.

(b) If any change in title or possession, or renewal of a lease, of any such lot or structure occurs, the use existing may be continued.

(c) If any nonconforming use, structure or activity is discontinued for a period exceeding two (2) years, after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of the ordinance.

(d) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

(e) Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded, except as provided in subsection (c) above.

(f) Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses. They shall be allowed up to three (3) years after adoption of this ordinance in which to screen completely, on any side open to view from a public road.

Sec. 22-16-2. Permits.

(a) All nonconforming uses shall be identified and catalogued, and zoning permits and certificates of occupancy shall be issued by the zoning administrator within one year after the adoption of this ordinance.

(b) The construction or use of a nonconforming building for which a building permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, after the effective date of this ordinance.

Sec. 22-16-3. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared unsafe by any official charged with protecting the public safety upon order of such official.

Sec. 22-16-4. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change, shall become subject to the provisions of this article.

Sec. 22-16-5. Expansion or enlargement.

- (a) A nonconforming structure may be extended, expanded, or enlarged by a total of not more than 100% of its square footage as of its initial construction provided that all setback and yard requirements of the ordinance are met by the addition. The foregoing notwithstanding, in the case of any such extension, expansion or enlargement to a structure which does not conform to the requirements of this ordinance, the setbacks and/or rear and/or side yards provided for such addition shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of completion of the initial construction of the nonconforming structure, whichever date is later.
- (b) In addition to the foregoing, a nonconforming structure which was lawfully in existence prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be extended, expanded or enlarged to a reasonable extent, not to exceed 100% of its square footage as of its initial construction without regard to such requirements provided that the zoning administrator shall determine that,
- (1) such extension, expansion or enlargement would not cause the structure to be made more nonconforming;
 - (2) such extension, expansion or enlargement would be reasonable and would not be of substantial detriment to adjacent property, and the character of the zoning district would not be changed thereby;
 - (3) such extension, expansion or enlargement cannot reasonably be accommodated in a manner consistent with such requirements; and

(4) the failure to permit such extension, expansion or enlargement would be unreasonable under the circumstances.

(c) Structures which are accessory to a nonconforming primary structure shall comply with the regulations in effect at the time the primary structure was built.

(d) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

(Ord. 3-15-06; Ord. 6-16-10)

Sec. 22-16-6. Nonconforming unimproved lots.

Any unimproved lot of record at the time of the adoption of this ordinance which is less in frontage, area or width than the minimum required by this ordinance may be used only when the requirements of the relevant district regarding setbacks and side and rear yards are met. The foregoing notwithstanding, in the case of any unimproved lot of record at the time of the adoption of this ordinance such lot may be used provided that the setbacks and/or rear and/or side yards provided for construction or other development shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of recordation of the nonconforming lot, whichever date is later. In addition to the foregoing, a nonconforming unimproved lot which was lawfully of record prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be used to a reasonable extent, without regard to such requirements provided that,

(1) the failure to permit construction or other development for such use would be unreasonable under the circumstances;

(2) such construction or other development for such use would be reasonable and would not be of substantial detriment to adjacent property and the character of the zoning district would not be changed thereby ; and

(3) construction or other development for such use cannot reasonably be accommodated in a manner consistent with such requirements.

(Ord. 6-16-10)

Sec. 22-16-7. Prohibition against creation of lots below width and area requirements for district.

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established in each district by this ordinance, nor shall any division be made which creates a lot with width or area below the requirements in each district established by this ordinance.

Sec. 22-16-8. Repair and restoration after damage.

A. Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve months from the date of damage or partial destruction. Such restoration shall not exceed 200% of its size in square footage when destroyed. Any such expansion exceeding 100% of the original structure shall conform with the yard requirements of this ordinance.

B. RESERVED

C. Any mobile home which was lawfully in existence in the county on the effective date of this ordinance may be replaced by another mobile home, subject to the following:

- a. The replacement mobile home shall contain the same or greater floor area as the mobile home being replaced;
- b. The replacement mobile home shall comply with all building and construction codes in the Commonwealth of Virginia applicable to mobile homes;
- c. The replacement mobile home shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement mobile home shall be located substantially in the same location as the mobile home being replaced;
- d. The mobile home being replaced shall be removed from the parcel no later than 90 days after the replacement mobile home is placed on the parcel.
- e. There shall be no dual occupancy when such mobile homes are being replaced.
- f. The replacement mobile home shall be located on the parcel not more than 90 days after removal of the mobile home to be replaced.