

CHAPTER 25. ZONING

DIVISION J. ADMINISTRATION AND ENFORCEMENT

Article LXVI. Nonconforming uses, buildings and lots

- § 25-661. Vested rights not impaired.
- § 25-662. Nonconforming uses.
- § 25-663. Nonconforming buildings and structures.
- § 25-664. Nonconforming lots.

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§ 25-661. Vested rights not impaired.

All permits, legally existing at the time of the enactment of this chapter may be continued, within the terms of their issuance even though such use, building or structure as covered by the permit may not conform with the provisions of this chapter for the district in which it is located. Augusta County Code 1969, § 25-5(d) (2).

Nothing in this chapter shall be construed to impair any vested right except as provided in this article.

State law reference--Virginia Code § 15.2-2307.

§ 25-662. Nonconforming uses.

A. Nonconforming uses which do not conform to the zoning regulations prescribed for the district in which they are situated may be continued only so long as:

1. Such use is not discontinued for more than two years. Once a nonconforming use is discontinued for more than two years, the nonconforming use may not be resumed.

2. Such use is not changed to a conforming use. Once a nonconforming use is changed to a conforming use, the nonconforming use may not be resumed.

B. A nonconforming use may be extended throughout the existing building or structure provided that no structural alterations, other than those required by law or permitted by Special Use Permit, are made therein.

C. A nonconforming use may be substituted for another if the substituted use is authorized by a Special Use Permit granted by the board of zoning appeals.

D. In the case of agricultural animals existing as a nonconforming use, the category of animal may be substituted for another category of agricultural animal without a Special Use Permit. However, in no case shall swine or poultry be used as a substitution for another category of animal.

State law reference--Virginia Code § 15.2-2307.

§ 25-663. Nonconforming buildings and structures.

A. Whenever nonconforming buildings or structures are enlarged, extended, reconstructed or structurally altered, such buildings or structures and the use thereof shall conform to the zoning regulations prescribed for the district in which they are situated unless otherwise provided herein.

B. No nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming building or structure or the use thereof.

C. Such repairs and maintenance work as required to keep a nonconforming building or structure in sound condition may be made to a nonconforming building or structure.

D. A nonconforming building or structure may be enlarged, extended, reconstructed or structurally altered in one of the following circumstances:

1. Such enlargement, extension, reconstruction, alteration or replacement is required by law or order; or

2. Such enlargement, extension, reconstruction, alteration or replacement is authorized by Special Use Permit granted by the board of zoning appeals. (Ord. 1/24/96)

E. A nonconforming single-family dwelling may be enlarged, extended, reconstructed or altered without a Special Use Permit if:

1. The enlarged, extended, reconstructed, or altered dwelling is no closer to the front lot line than the closer of: (a) the minimum setback line or (b) the existing setback line; and

2. No side or rear setback requirements are violated.

F. Porches, decks and stoops

1. Nonconforming covered porches, decks and stoops may be enclosed, enlarged, extended, reconstructed or altered without a Special Use Permit if:

a. The enclosed, enlarged, extended, reconstructed, or altered porch, deck or stoop is no closer to the front lot line than the closer of the minimum setback line or the existing setback line; and

b. No side or rear setback requirements are violated.

2. Nonconforming uncovered porches, decks and stoops may be enlarged, extended, reconstructed or altered without a Special Use Permit if the porch, deck or stoop remains uncovered and:

a. The enlarged, extended, reconstructed, or altered uncovered porch, deck or stoop is no closer to the front lot line than the closer of the minimum setback line or the existing setback line; and

b. No side or rear setback requirements are violated.

G. A nonconforming manufactured home located in a manufactured home park zoned or not zoned Manufactured Home Park District may be replaced by another manufactured home without a Special Use Permit if:

1. The new manufactured home is no closer to the public or private street than the existing home, however, this requirement does not apply to internal streets within the park; and

2. The required distance between manufactured homes is not violated to any greater extent than it was prior to the substitution; and

3. The perimeter setback is not violated to any greater extent than it was prior to the substitution; or

4. Such enlargement, extension, reconstruction, alteration or replacement is required by law or order.

H. A nonconforming manufactured home located on a parcel in any other district, may be replaced by another manufactured home without a Special Use Permit if:

1. The enlarged, extended, reconstructed, or altered dwelling is no closer to the front lot line than the closer of the minimum setback line or the existing setback line; and

2. No side or rear setback requirements are violated.

I. Any nonconforming building or structure damaged or destroyed by fire, flood, explosion, wind, earthquake, war, riot or other calamity may be restored or reconstructed without enlargement or extension and used as before such calamity provided:

1. Restoration or reconstruction is completed and the same use resumed within two (2) years from the date of the calamity, and

2. If such building or structure in a Flood Plain Overlay District is damaged greater than fifty percent (50%), any work done to repair, rebuild or replace the

building or structure shall be in compliance with the provisions of chapter 25 division H, article XLVII, "Floodplain Overlay District".

State law reference--Virginia Code § 15.2-2307.

J. Nonconforming parking facilities containing spaces less than the required width may be re-striped to the conforming size, resulting in a substitution of the nonconformity from size of spaces to number of spaces, if requested by the owner of the property. The owner must submit a parking plan to the Zoning Administrator for approval. After the plan is approved the spaces may be increased in width resulting in a reduced number of spaces, but once changed to a conforming size the parking spaces may not be returned to a nonconforming width.

§ 25-664. Nonconforming lots.

A. A nonconforming lot is one of the following:

1. A lot lawfully existing at the time of a change in zoning district or change in district regulations, which is or may hereafter become nonconforming with respect to the applicable district regulations by virtue of said change.

2. A lot lawfully existing at the time of a condemnation or other acquisition by an entity with condemning authority, which becomes nonconforming with respect to the applicable district regulations by virtue of said condemnation or other acquisition.

B. The boundaries of a nonconforming lot shall not be changed so that the resulting lot is anything less than:

1. A conforming lot when a conforming lot is possible; or

2. A nonconforming lot, when a conforming lot is not possible, the nonconformity has not been substantially increased, and will not be of substantial detriment to adjacent property and will not change the character of the district the lot is in. (Ord. 3/26/14)

One nonconformity may not be substituted for another nonconformity, for example: lot area for lot width.

C. Any new development or use on a nonconforming lot shall comply with all setback and yard requirements applicable in the zoning district in which such lot is located; except that where the nonconforming lot does not have the minimum lot width at the setback line, minimum side yards adjacent to a street shall be not less than twenty feet (20') and all other side yards shall be not less than ten feet (10').

Sections 25-665 through 25-670 reserved.

[Revised 2/10/10, eff. 3/1/10]