DRAFT AMENDMENT

The purpose of this amendment is to amend the Land Development regulations to provide clarification on certain language contained in Article I. General Provisions, Division 4. Vested Rights, Non-Conforming Uses, Lots or Structures.

Sec. 86-31. - Non-conforming uses, lots or structures.

(a) If at the effective date of this chapter, 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 chapter, such manner of use or purpose may be continued as provided in this article; except that, advertising structures that become nonconforming because of a rezoning shall have 24 months within which to relocate in a permitted area.
(b) If any change in title or renewal of a lease of a nonconforming 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 years after the enactment of this chapter, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this chapter.
(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 years or more prior to June 18, 1969, may be continued.
(f) Per Code of Virginia, § 15.2-2307, if the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefore, or the owner of the building or structure has paid taxes to the locality for such building or structure for a period in excess of 15 years, the building or structure is deemed to be nonconforming.

Sec. 86-32. - Repair and maintenance of non-conforming buildings or structures.

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to such extent that the structure is kept in a usable condition. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with promoting public safety, upon order of such official.

Sec. 86-33. - Changes in zoning district boundaries resulting in non-conforming lots or uses.

Whenever the boundaries of a district are changed, any lawful uses of land or building which become nonconforming as a result of such change shall become subject to the provisions of this division. **(Division 4. Vested Rights, Non-Conforming Uses, Lots or Structures)**

TEXT LEGEND

Bolded Text = To Be Added Regular Text = To Remain ~~Strikethrough Text~~ = To Be Removed

Sec. 86-34. - Expansion or enlargement of non-conforming uses.

A lawful nonconforming structure to be extended or enlarged shall conform to the provisions of this chapter, except that a legal nonconforming structure may be extended or enlarged so long as the portion to be extended or enlarged does not encroach any further into any setback or yard regulations than the existing structure. 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 chapter.

Sec. 86-35. - Non-conforming residential lots.

Lawfully existing residential lots, including lots shown on a subdivision plan approved or recorded prior to the adoption of this chapter **(July 1, 1969)**, which have areas or yard dimensions less than the minimums required by this chapter, shall not be considered in violation of any of the following specific regulations:

(1) Area of lot;
(2) Setback;
(3) Side, front or rear yard dimensions; and
(4) Off-street parking.

For parcels recorded prior to July 1, 1969, the following regulations shall not apply to those parcels that have been determined to be legally non-conforming: area of lot; setbacks; side, front and rear yard dimensions; and off-street parking.

~~Editor's note —~~The effective dates of the chapter are July 1, 1969**,** ~~and~~ February 16, 2021, respectively. Lawfully existing residential lots are subject to those requirements based on the recordation date **and applicable regulations at the time of plat recordation**.

Sec. 86-36. - Restoration or replacement on non-conforming lots.

(a) If a lawfully nonconforming activity or structure is destroyed or damaged in any manner, **or dilapidated or run-down**, to the extent that the cost of restoration to its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this chapter. However, property owners so affected may take recourse to obtain rezoning.

(b) Where a conforming structure devoted to a nonconforming activity or a nonconforming structure is damaged less than 50 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 months and completed within 30 months from the date of partial destruction.

(c) **The cost of reconstruction or restoration based on the percentage of destruction in (a) and (b)~~,~~ shall be provided by a contractor licensed in the Commonwealth of Virginia.** The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

(d) If a nonconforming structure is a single-family dwelling ~~or an historical area~~, as defined in this chapter, it may be restored or replaced regardless of the percentage of destruction.

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