

**ARTICLE 15  
NONCONFORMING CONDITIONS**

**DIVISION ONE - GENERAL REQUIREMENTS**

**15-1 Continuation**

- A. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of this Ordinance or previous zoning ordinances and which remains nonconforming, and any use, structure or lot which has become nonconforming as a result of the adoption of this chapter or any subsequent reclassification of zoning districts or other amendment to this Ordinance may be continued or maintained only in accordance with the terms of this Article.
- B. If any change in title or possession, or renewal of a lease of any such lot or structure occurs, the nonconforming use may be continued.
- C. Temporary nonconforming uses that have been operated seasonally for a period of two or more consecutive years prior to the effective date of this ordinance or pertinent amendment hereto may be continued on the same temporary seasonal basis.

**15-2 Prior Permits**

- A. The construction or use of a nonconforming building or land area for which a valid permit was issued legally prior to the adoption of this ordinance, or pertinent amendment hereto may proceed, provided such building is completed or such use of land established within one (1) year of the issuance of such permit.

**15-3 Illegal Uses**

- A. The casual intermittent, illegal use of land, buildings, or structure shall not be construed to establish the existence of a nonconforming use for the purposes of this Article.

**15-4 - 15-5 Reserved**

**DIVISION TWO - NONCONFORMING USES**

**15-6 Discontinuation of Nonconforming Uses**

- A. If a nonconforming use of land or a nonconforming use of a building or structure is changed to a conforming use, then the nonconforming use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform with the use regulations of the zoning district in which the property is located.
- B. If a nonconforming use of land or a nonconforming use of a building or structure is discontinued for a period of two years, including any period of abandonment before the effective date of this chapter or previous zoning ordinances, whether or not equipment or fixtures intended for such use are removed, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform with the use regulations of the zoning district in which the property is located.

- C. If a nonconforming use of land or a nonconforming use of a building or structure is not maintained in its then structural condition then that use shall not be renewed or reestablished, except as provided for in §15-9 and §15-13, and any subsequent use of the lot or structure shall conform with the use regulations of the zoning district in which the property is located.

**15-7 Expansion of Nonconforming Uses**

- A. A nonconforming use may be expanded throughout any part of a structure which existed prior to the adoption of this ordinance or pertinent amendment hereto which caused the use to be nonconforming.

**15-8 Repair and/or Maintenance of Structure Devoted to a Nonconforming Use**

- A. On any structure which is devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs and maintenance.

**15-9 Restoration/replacement of Structure Devoted to Nonconforming Use**

- A. If a nonconforming structure devoted in whole or part to a nonconforming use is destroyed or damaged by fire, flood, windstorm, or similar abnormal and identifiable event, the nonconforming use may be continued once the structure is reconstructed in accordance with Section 15-13 of this Article. Such nonconforming use may be reinstated within one (1) year from the date of destruction or damage. If such nonconforming use is not reinstated within one year from the date of destruction or damage, any subsequent use shall conform to the use regulations of the district in which the property is located.
- B. If a conforming structure devoted in whole or part to a nonconforming use is destroyed or damaged by fire, flood, windstorm, or similar abnormal and identifiable event, the nonconforming use may be continued once the structure is reconstructed in accordance with the regulations of the zoning district in which the property is located. Such nonconforming use may be reinstated within one (1) year from the date of destruction or damage. If such nonconforming use is not reinstated within one year from the date of destruction or damage, any subsequent use shall conform to the use regulations of the district in which the property is located.
- C. The restoration/replacement of a nonconforming use shall be limited to the extent such use existed prior to the identifiable event.

**15-10 Reserved**

**DIVISION THREE - NONCONFORMING STRUCTURES**

**15-11 Expansion of Nonconforming Structure**

- A. If a structure lacks the required setback for a particular yard, the structure may be enlarged or expanded, provided that any portion of the expansion which encroaches into a required setback does not encroach beyond the existing setback for that corresponding yard. Any increase in the height of a building or structure or portion thereof which is nonconforming with regard to yard requirement, shall not be deemed to be an increase in the extent of the nonconforming feature of the building or structure.

#### **15-12 Repair and Maintenance of Nonconforming Structures**

- A. On any nonconforming structure work may be done on ordinary repairs and maintenance.

#### **15-13 Restoration and Replacement of Nonconforming Structures**

- A. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event does not exceed fifty percent (50%) of the assessed value, as estimated by a licensed contractor or insurance adjuster, then the structure may be reconstructed to its original nonconforming condition, provided that building and zoning permits are secured, reconstruction is started within six (6) months from the date of the damage, and such reconstruction is completed within twelve (12) months from the date of destruction or damage.
- B. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, and the cost of restoring the structure to its condition immediately prior to the event exceeds fifty percent (50%) of the assessed value, as estimated by a licensed contractor or insurance adjuster, then the structure may be reconstructed to its original nonconforming condition upon the issuance of a zoning permit authorized by resolution of the governing body, provided that a building permit is secured, and reconstruction is started within six (6) months from the date of the damage, and such reconstruction is completed within one (1) year from the date of destruction or damage.
- C. Notwithstanding Section 15-13(a) and 15-13(b) of this Article, if a nonconforming single family detached dwelling is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, such structure may be reconstructed to its original nonconforming condition provided that building and zoning permits are secured, and reconstruction is started within one (1) year after the aforesaid destruction or damage.
- D. The reconstruction/replacement of a nonconforming structure under the provisions of this Article shall conform to the following:
  - 1. Article 21, Flood Plain District (Overlay)
  - 2. Article 22, Chesapeake Bay Preservation Area Overlay District

#### **15-14 Demolition of Nonconforming Structure**

- A. If any nonconforming structure is totally demolished, including removal of the foundation, by the owner of such structure, any subsequent structure must meet all of the requirements of the zoning district in which such property is located.
- B. If any nonconforming structure is demolished, exclusive of the foundation, by the owner of such structure, then the structure may be reconstructed on the existing foundation to its original nonconforming condition, provided that building and zoning permits are secured, reconstruction is started within six (6) months from the date of the demolition, and such reconstruction is completed within twelve (12) months from the date of destruction or demolition.

## **15-15 Restoration or Replacement of Historical Structures**

- A. Historical structures may be restored or replaced to substantially their original size and height without being required to conform to any requirements of this ordinance provided that such structures are registered by the State of Virginia or Federal Government as a historical structure.