

ZOA-2018-01
Adopted 10/23/18

Proposed amendments are shown with **bold underline** to denote text to be added, or **~~bold strikethrough~~** to denote text to be deleted. Text moved from one location to another is shown with **red** to show the new location and **~~bold red strikethrough~~** to show the original location. Where paragraphs are proposed to be added or deleted, all subsequent paragraphs will be renumbered accordingly; and all references throughout the Ordinance will be updated accordingly.

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1 **Article 16. Nonconformities**

2 **§16.1. Nonconforming Lots**

3 **§16.1.1. Lots in R districts**

4 In the R-20, R-10, R-8, R-6, and R-5 districts, where a lot has less width and **and/or** less area than
5 required in the subject district and was recorded under one ownership at the time of the
6 adoption of this ordinance (July 15, 1950), such lot may be occupied by any use permitted in
7 the respective districts.

8 **§16.2. Nonconforming Buildings and Structures**

9 **§16.2.1. Applicability**

10 The provisions of this section shall apply to all nonconforming buildings and structures except
11 as otherwise expressly stated in this zoning ordinance.

12 **§16.2.2. ~~Qualification of nonconforming dwellings~~**

13 **~~A. Existing nonconforming one-family and two-family dwellings and accessory buildings or~~**
14 **~~structures shall be permitted to be added to or expanded, provided that the addition or~~**
15 **~~expansion complies with all current provisions of this zoning ordinance. The provisions~~**
16 **~~of this section shall not preclude construction, within applicable height limits, of an~~**
17 **~~addition over an existing one-family or two-family dwelling encroaching on a required~~**
18 **~~setback or yard area provided there is no more of an encroachment into the required~~**
19 **~~setback or yard than that of the existing wall below it, and providing that new~~**
20 **~~construction may not take place over encroaching garages or porches.~~**

21 **~~B. Notwithstanding any provision to the contrary in this Ordinance, existing~~**
22 **~~nonconforming one- and two-family dwellings, and nonconforming accessory buildings~~**
23 **~~and structures located in the R-20, R-10, R-8, R-6, R-5, and R2-7, R10-T, R15-30T, and all~~**
24 **~~RA districts shall be permitted to make interior repairs and alterations, whether~~**

~~structural or non-structural, provided the repair or alteration is wholly contained within the existing exterior walls of the dwelling, building or structure.~~

- ~~C. Existing main and accessory buildings or structures shall be permitted to be rebuilt within the building footprint and height and stories as they existed prior to damage or destruction if structures are damaged or destroyed by fire, wind, earthquake or other force majeure, and if construction commences within two years from the date of such damage or destruction. However, if the nonconforming building or structure is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have an additional two (2) years within which to complete the repairs, rebuilding, or replacement. As used herein, "force majeure" shall mean any natural disaster or phenomena, including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire or other accidental fire (accidental fire shall not include arson committed under Va. Code Ann. §§18.2-77 or 18.2-80).~~

§16.2.2. Maintenance permitted

Nonconforming buildings or structures may be maintained, except as otherwise provided in ~~this section §16.2.~~

§16.2.3. Repairs, alterations

- A. Repairs and alterations may be made to a nonconforming building or structure; provided, that no structural alteration shall be made except those required by law or ordinance, or as provided ~~by §16.2.2, in §16.2.~~ Repairs and alterations to a nonconforming dwelling, building or structure not otherwise permitted under this Zoning Ordinance are prohibited, unless approved under a use permit or variance pursuant to sections §15.6.4 and §15.6.6.
- B. Notwithstanding any provision to the contrary in this Ordinance, existing nonconforming one- and two-family dwellings, and nonconforming accessory buildings and structures located in ~~the R-20, R-10, R-8, R-6, R-5, and R2-7, R and RA~~ districts shall be permitted to make interior repairs and alterations, whether structural or non-structural, provided the repair or alteration is wholly contained within the existing exterior walls of the dwelling, building or structure.

§16.2.4. Additions, enlargements, moving

~~This §16.2.5 applies to all buildings except one-family dwellings located in the R-5, R-6, R-8, R-10, and R-20, and R2-7 district and two-family dwellings located in the R2-7 district.~~

- A. A nonconforming building or structure shall not be added to or expanded in any manner unless such building or structure, including such additions and expansions, is made to conform to all the regulations of the district in which it is located.
- B. A building or structure which does not comply with the height or lot area regulations shall not be added to or expanded in any manner unless such addition or expansion conforms to all the regulations of the district in which it is located; provided, that the total aggregate floor area included in all such separate additions and expansions does not exceed 50 percent of the floor area contained in the existing building or structure, as of July 15, 1950.

- 68 C. A building or structure lacking sufficient automobile parking space in connection
69 therewith as required in §14.3 may be altered or expanded, provided additional
70 automobile parking space is supplied to meet, for the entire building, requirements of
71 §14.3.
- 72 D. No nonconforming building or structure shall be moved in whole or in part to any other
73 location on the lot unless every portion of such building or structure is made to conform
74 to all the regulations of the district in which it is located.
- 75 E. **The provisions of §16.2.4.A, §16.2.4.B, §16.2.4.C, and §16.2.4.D do not apply to existing**
76 **nonconforming one-family dwellings located in the R-5, R-6, R-8, R-10, and R-20, and R2-**
77 **7 district. The provision of §16.2.4.A does not apply to existing nonconforming two-**
78 **family dwellings located in the R2-7 district.**
 - 79 1. The provisions of this section shall not preclude construction, within applicable
80 height limits, of an addition over an existing one-family **or two-family** dwelling
81 encroaching on a required setback or yard area provided there is no more of an
82 encroachment into the required setback or yard than that of the existing wall
83 below it, and providing that new construction may not take place over encroaching
84 garages or porches.

85 **§16.2.5. Restoration of damaged building**

- 86 A. A nonconforming residential or commercial building or structure which is damaged or
87 destroyed by fire, flood, wind, earthquake or other calamity or force majeure or the public
88 enemy may be repaired, rebuilt, or replaced to eliminate the nonconforming features or
89 reduce the nonconformity to the extent possible, without the need to obtain a variance
90 from the Board of Zoning Appeals as provided in §15.6.4 or use permit from the **County**
91 **Board Board of Zoning Appeals** as provided in ~~§15.4~~ **§15.6.6**, and the occupancy or use of
92 such building, structure or part thereof, which existed at the time of such damage or
93 destruction, may be continued or resumed, or as provided by this section.
- 94 B. ~~If such building~~ a nonconforming residential or commercial building or structure is
95 damaged or destroyed by **force majeure** to the extent of more than fifty (50) percent of
96 the building's value and cannot be repaired, rebuilt or replaced except to restore it to the
97 original nonconforming condition, the owner may restore it to the original nonconforming
98 condition.
- 99 C. ~~Unless such building~~ a nonconforming building or structure is repaired rebuilt or replaced
100 within two years of the date of the natural disaster or other force majeure, such building
101 shall only be repaired rebuilt or replaced in accordance with the provisions of this
102 ordinance. However, if the nonconforming building or structure is in an area under a
103 federal disaster declaration and the building has been damaged or destroyed as a direct
104 result of conditions that gave rise to the declaration, then the owner shall have an
105 additional two (2) years within which to complete the repairs, rebuilding, or replacement.
- 106 D. ~~Existing main and accessory buildings or nonconforming one and two-family dwellings~~
107 ~~and their accessory~~ structures shall be permitted to be rebuilt within the building
108 footprint and height and stories as they existed prior to damage or destruction if
109 structures are damaged or destroyed by fire, wind, earthquake or other force majeure.
110 ~~and if construction commences within two years from the date of such damage or~~
111 ~~destruction. However, if the nonconforming building or structure is in an area under a~~

112 ~~federal disaster declaration and the building has been damaged or destroyed as a direct~~
113 ~~result of conditions that gave rise to the declaration, then the owner shall have an~~
114 ~~additional two (2) years within which to complete the repairs, rebuilding, or~~
115 ~~replacement. As used herein, “force majeure” shall mean any natural disaster or~~
116 ~~phenomena, including a hurricane, tornado, storm, flood, high water, wind-driven~~
117 ~~water, tidal wave, earthquake or fire caused by lightning or wildfire or other accidental~~
118 ~~fire (accidental fire shall not include arson committed under Va. Code Ann. §§18.2-77 or~~
119 ~~18.2-80).~~

120 E. As used herein, “force majeure” shall mean any natural disaster or phenomena, including
121 a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake
122 or fire caused by lightning or wildfire or other accidental fire (accidental fire shall not
123 include arson committed under Va. Code Ann. §§18.2-77 or 18.2-80), or incidents of
124 terrorism or war.
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