

Zoning Ordinance Amendment

To amend Article E. - Nonconforming Buildings and Uses by renaming the Article and replacing the entire section with new and updated language to regulate nonconforming uses and buildings within the City, and Section 10-3-24. – Definitions.

ORDINANCE AMENDING AND RE-ENACTING
ARTICLE E, SECTIONS 10-3-20 thru 22
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Article E of the Zoning Ordinance is amended as shown:

Article E. – NONCONFORMING ~~BUILDINGS~~ STRUCTURES AND USES

~~Sec. 10-3-20. Continuance of nonconforming use of building.~~

~~Any structure or use of land existing at the time of the enactment or subsequent amendment of this chapter, but not in conformity with its regulations and provisions, may be continued.~~

~~(1) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of twenty four (24) consecutive months or more, the use of the same shall thereafter conform to the regulations of the district in which it is located, and other applicable provisions of this chapter.~~

~~(2) A nonconforming use shall not be extended, enlarged, reconstructed or structurally altered except in conformity with this chapter when required to do so by law or ordinance or when the enlargement does not compound the existing violation.~~

~~Sec. 10-3-21. Reserved.~~

~~Sec. 10-3-22. Enlargement or restoration of nonconforming buildings.~~

~~(a) No building which is nonconforming for reasons other than use, such as setbacks or other site conditions, shall be restored or changed to another nonconforming use after damaged beyond fifty (50) percent of the fair market value of the building prior to damage. It shall be the duty of the building official to establish market value.~~

~~(b) Nonconforming buildings for reasons other than use, which have been issued a building permit prior to annexation or amendments to this chapter, shall be permitted under the conditions of said permit, but thereafter held to the conditions herein. (c) An existing porch or carport with a roof that is nonconforming as to height or setback regulations but devoted to a conforming use may be enclosed, provided that such addition does not compound the existing nonconformity as to setback and height regulations. In the event that enclosing of the porch or carport creates a public safety problem, such enclosure shall not be allowed.~~

Section 10-3-20. Continuance of nonconformities.

- (a) Any lawful land, buildings, and structures and the uses thereof existing at the time of the enactment or subsequent amendment of this chapter which do not conform to the zoning prescribed for the district in which they are situated shall be considered nonconforming.
- (b) Nonconforming land, buildings, and structures and the uses thereof may be continued only so long as:
 - (1) The then-existing or a more restricted use continues;
 - (2) Such use is not discontinued for more than two (2) years; and,
 - (3) The buildings or structures are maintained in their then structural condition.
- (c) The burden of establishing nonconforming status shall be that of the owner of the property.

Section 10-3-21. Nonconforming uses.

- (a) Whenever a nonconforming use is enlarged or extended beyond the size, character, or intensity of the use as it existed at the time that it became nonconforming, the nonconforming status of such use shall terminate and become unlawful. Any subsequent use shall conform to the regulations applicable in the district in which it is located. When a use is regulated by this chapter in a quantifiable manner, including but not limited to regulations limiting the number of unrelated occupants permitted in a dwelling unit and limiting the density of dwelling units, any quantifiable increase shall constitute an enlargement or extension beyond the size, character, or intensity of the use.
- (b) If a nonconforming use is changed to a more restricted nonconforming use for a period of more than two years, the original nonconforming use shall be deemed abandoned and the use shall not thereafter be changed back to the original nonconforming use.
- (c) No building or structure associated with a nonconforming use shall be structurally altered, as provided in the Uniform Statewide Building Code unless:
 - (1) A zoning verification letter has been received documenting the existence and extent of the nonconforming use; and
 - (2) The structural alteration to the building or structure does not increase or extend the square footage dedicated to the nonconforming use. Any use of new square footage added to the building or structure must be a use otherwise permitted in the zoning district.
- (d) If a building or structure occupied by a nonconforming use is damaged or destroyed by a natural disaster or an act of God, then the building or structure may be restored and nonconforming use continued so long as the use is not discontinued for more than two years.

Section 10-3-22. Nonconforming structures.

- (a) The owner of any building or structure damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building or structure to eliminate or

reduce the nonconforming features to the extent possible, without the need to obtain a variance.

(1) If such building or structure is damaged greater than 50 percent of the present assessed value of the building or structure and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. Any work done under this subsection to repair, rebuild or replace such building or structure shall be in compliance with the provisions of the Uniform Statewide Building Code and the provisions of applicable local floodplain regulations.

(2) Unless such building or structure is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building or structure shall only be repaired, rebuilt or replaced in accordance with the provisions of the Zoning Ordinance, except if such building or structure is in an area under a federal disaster declaration and the building or structure has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, in which case the owner shall have an additional two years to repair, rebuild or replace such building or structure.

(b) An existing porch or carport with a roof that is nonconforming as to height or setback regulations but devoted to a conforming use may be enclosed, provided that such addition does not compound the existing nonconformity as to setback and height regulations. In the event that enclosing of the porch or carport creates a public safety problem, such enclosure shall not be allowed.

This ordinance shall be effective from the ____ day of _____, 2018. Adopted and approved this ____ day of _____, 2018.

The remainder of Article E is reaffirmed and reenacted in its entirety, except as hereby modified.

MAYOR

ATTESTE:

DEPUTY CITY CLERK

ORDINANCE AMENDING AND RE-ENACTING
SECTION 10-3-24
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

Section 10-3-24 Definitions be amended as shown:

~~*Nonconforming use: Any building or land lawfully occupied by a use at the time of passage of this section or amendment thereof which does not conform after the passage of this section or an amendment thereto with the regulations of the district in which it is situated.*~~

~~*Structure, nonconforming: An otherwise permitted building or structure that does not conform with the lot area, yard, height, lot coverage or other regulations of this chapter.*~~

Nonconforming use: Any lawful use existing at the time of the enactment or subsequent amendment of this chapter which does not conform to the current zoning regulations prescribed in the district in which it is situated.

Nonconforming structure: Any lawful structure existing at the time of the enactment or subsequent amendment of this chapter which does not conform to the current zoning regulations prescribed in the district in which it is situated.

The remainder of Section 10-3-24 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2018. Adopted and approved this ____ day of _____, 2018.

MAYOR

ATTESTE:

DEPUTY CITY CLERK