

AN ORDINANCE TO AMEND THE  
CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED,

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**BY AMENDING: CHAPTER 22, ZONING, Article VI, NONCONFORMING USES**

BE IT ORDAINED by the Board of Supervisors of Dinwiddie County:

(1) *That Chapter 22 of the Code of the County of Dinwiddie, 1985, as amended, is amended by inserting the following language shown underlined and deleting the following language marked as strikethrough:*

ARTICLE VI. - NONCONFORMING USES

Sec. 22-246. - Continuation generally.

- (a) If, at the time of enactment of the ordinance from which this chapter derives [August 5, 1964], and any subsequent ordinance amendments of this chapter, any legal activity which 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 herein provided, as long as the existing or more restricted use continues, except that advertising structures that become nonconforming because of a rezoning have 24 months within which to relocate in a permitted area.
- (b) If any change in title of possession or renewal of a lease of any such 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 the ordinance from which this chapter derives [August 5, 1964], or after any subsequent ordinance amendments 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 without a cessation for two or more years prior to the effective date of the ordinance from which this chapter derives [September 1, 1964] are excluded.

Sec. 22-247. - Permits and certificates generally.

- (a) All nonconforming uses shall obtain a zoning permit and /or a certificate of occupancy within 60 days after the adoption of the ordinance from which this chapter derives [August 5, 1964]: or after any subsequent ordinance amendments of this chapter. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.
- (b) The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of the ordinance from which this chapter derives [August 5, 1964], or after any subsequent ordinance amendments of this chapter, may proceed; provided, that such building is completed within one year, or such use of land established within 30 days after the effective date of such ordinance [September 1, 1964]: or ordinance amendments.

Sec. 22-248. - Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the structure; provided, that the cubic content of the structure as it existed at the time of passage or amendment of the ordinance from which this chapter derives shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 22-249. - Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

Sec. 22-250. - Extension or enlargement.

- (a) A nonconforming structure to be extended or enlarged shall conform with the provisions of this chapter.
- (b) 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 the ordinance from which this chapter derives [August 5, 1964].

Sec. 22-251. - Restoration or replacement.

- (a) If a nonconforming activity is destroyed or damaged in any manner, 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.
- (b) If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter.
- (c) Where a conforming structure devoted to a nonconforming activity is damaged less than 50 percent of the cost of reconstructing the entire structure, or when a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored; provided, that any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.
- (d) 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.
- (e) Notwithstanding any other provision of this section, the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God shall be permitted to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in section 22-41 herein. If such building is damaged greater than 50 percent 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, subject to the following conditions.

- (1) The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (Code of Virginia, § 36-98 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.
- (2) Unless such building is repaired or rebuilt within two years of the date of the natural disaster or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of chapter 22 herein.
- (3) If the nonconforming building 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, the owner shall have four years to repair, rebuild, or replace the building, after which time such building shall only be repaired, rebuilt or replaced in accordance with the provisions of chapter 22 herein.

For purposes of this section, "act of God" shall include 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. For purposes of this section, owners of property damaged by accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or § 18.2-80 of the Code of Virginia, and obtain vested rights under this section.

- (f) An owner of real property shall be permitted to replace an existing on-site sewage system as prescribed in § 15.2-2307 of the Code of Virginia.

Sec. 22-252. - Nonconforming lots.

Any lot of record at the time of the adoption of the ordinance from which this chapter derives [August 5, 1964] which is less in area or width than the minimum required by this chapter may be used when the requirements of the board of zoning appeals regarding setbacks, side and rear yards are met.

*(2) That this ordinance shall become effective immediately upon adoption.*