



GUIDE TO NONCONFORMITIES



What Are Legally Nonconforming Lots, Structures, and Uses?

Legally nonconforming lots, structures, and uses are those which were **legally established** according to applicable zoning laws at the time that the structure, lot, or use began, but which **do not meet current zoning regulations**. Often, these situations are referred to as “grandfathered” lots, structures, or uses.



State Code Section § 15.2-2307 allows localities to permit nonconforming lots, structures, and uses to continue, provided they are not enlarged, extended, reconstructed, or structurally altered unless such changes comply with current zoning regulations. State Code provides for special considerations where a locality has issued permits and/or all local taxes have been paid for the previous fifteen years.

Examples of more-restrictive regulations:

- Increase minimum lot area
- Increase minimum lot frontage
- Decrease maximum height
- Increase minimum setbacks
- Change of district uses

How Do Lots, Structures, or Uses Become Nonconforming?

When a locality amends its zoning ordinance and the new zoning regulations are **more restrictive**, some existing lots, structures, or uses may not be in conformance with the new regulations.

Lots

Some communities require a variance to develop a vacant nonconforming lot. Others may allow development without a variance if setback or other requirements are met.

Reconstruction, alteration, or expansion of an existing building on a nonconforming lot should not increase the nonconformity.

Example of a nonconforming lot:

If a lot was legally divided and recorded at 2 acres, but due to zoning amendments, the minimum lot size is increased to 3 acres, the lot becomes a nonconforming lot. The lot is allowed to be used and built on if other regulations are met.

Structures

State Code requires that if a nonconforming structure is damaged or destroyed by fire, natural disaster or other act of God, such structure may be repaired, rebuilt or replaced in a manner which would eliminate or reduce nonconforming features without the need for a variance.

If the damage is greater than 50 percent, a structure may be repaired, rebuilt or replaced even if the reconstruction is to its original nonconforming condition without the need for a variance. Any reconstruction must be in compliance with building and floodplain regulations.

See page 2 for an example of a nonconforming structure.

Uses

State Code requires for a locality to permit the continuation of a nonconforming use if the use is not discontinued for longer than two years and structures are maintained. When a nonconforming use is discontinued for more than two years, its nonconforming status is lost and the use can not then be resumed.

Example of a nonconforming use:

If a store is located in a district that once allowed commercial uses, but due to zoning amendments, commercial uses are no longer permitted, the store will become a nonconforming use. The store is allowed to remain operable, so long as the store is not closed for business for longer than a two year period.

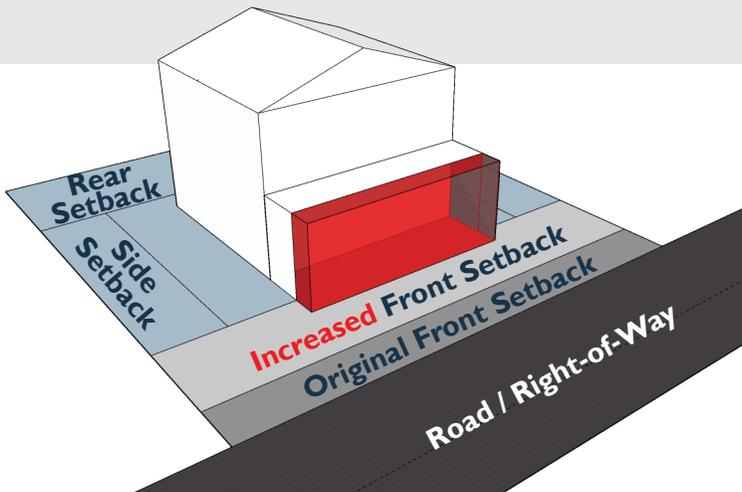


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How Does a Structure Become Nonconforming?

In this example, a citizen owns property in a residential district. When the home was built, it complied with the existing setbacks. When the zoning ordinance was amended, some setback regulations became **more restrictive**. The **front setback was increased** an additional fifteen feet, resulting in a more restrictive setback.

As a result, the house no longer meets the setback and becomes a nonconforming structure.



Original Front Setback:

30' Minimum

Side Setback:

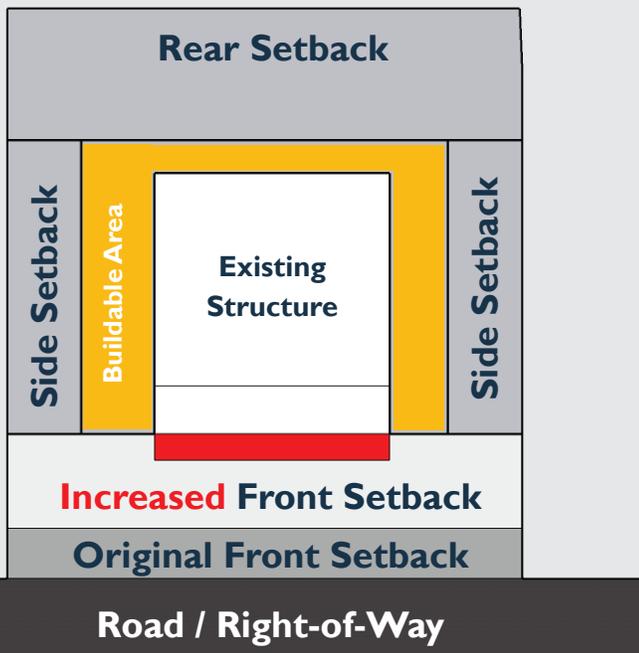
15' Minimum

Rear Setback:

15' Minimum

Increased Front Setback:

45' Minimum



How Do I Expand My Nonconforming Structure?

Where there is interest in expanding a nonconforming structure, a lot may be enlarged to provide more space. Otherwise, additions would need to fit outside of the remaining setback boundaries.

In this diagram, the portion of the structure shown in red extends into the increased front setback. Areas where an expansion is permitted are identified in yellow.

Note:

This is a generalized example. Specific requirements vary from community to community. Requirements may include square footage caps on expansions or the need for a variance.