

154.246 NONCONFORMING USES, LOTS OR BUILDINGS.

(A) *Uses.* Lawful nonconforming uses may be continued but not be enlarged or extended.

(B) *Lots of record.* At the time of enactment of this chapter, or any amendment thereto, if there is an unimproved legal lot or parcel of record which does not meet the minimum lot area requirement within a district, then said lot or parcel of record may still be used as a building lot, provided the use proposed is a permitted use under this chapter, and provided further that the requirements for minimum yards/setbacks and maximum height are met. Further, variances may be available in certain circumstances from the Board of Zoning Appeals in accordance with this subchapter.

(C) *Structures.* Where a lawful nonconforming structure exists at the time of enactment of this chapter or the 2009 Comprehensive Amendments, that could not be built in the district in which it is located under the terms of this chapter by reason of restrictions on area, lot coverage, height, yard dimensions or other requirements, such structure may continue to be used so long as it remains otherwise lawful, subject to the following provisions.

(1) Should a lawful nonconforming structure be moved for any reason for any distance it shall thereafter conform to the regulations for the zoning district in which it is located.

(2) (a) Should a nonconforming structure, portion of the nonconforming structure, or nonconforming portion of a structure be damaged or destroyed by any means other than a natural disaster or other act of God, the structure or portion thereof may be re-constructed or restored provided its degree of nonconformity is not increased beyond that which existed just prior to such damage, except to comply with the Virginia Uniform Statewide Building Code and in accordance with ..154.141(A)(3).

(b) Should a nonconforming residential or commercial structure be damaged or destroyed by a natural disaster or other act of God, the structure may be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in .. 154.225 *et seq.* herein.

(c) If such structure is damaged greater than 50% 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, provided that a building permit is obtained and all work is done in compliance with the provisions of the Uniform Statewide Building Code and flood plain regulations as set forth in .. 154.162, and provided that such repair, reconstruction, or replacement be accomplished within two years of the date of the natural disaster or other act of God.

(d) However, if the nonconforming structure is located in an area under a federal disaster declaration and the structure was damaged or destroyed as a direct result of the conditions that gave rise to the declaration, then the owner may have an additional two years to repair, rebuild, or replace the structure as otherwise provided in this section.

(e) For the 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.

(f) Owners of a structure damaged by an accidental fire, not including arson committed by the property owner, shall have the same rights to repair, rebuild, or replace such structure as if it were damaged by an act of God.

(D) *Manufactured/mobile homes.*

(1) A lawful nonconforming manufactured home may be removed from a mobile or manufactured home park and replaced with another comparable manufactured home that meets the current HUD manufactured housing code. In such manufactured or mobile

home park, a single-section home may be replaced with a single-section home and a multi-section home may be replaced with a multi-section home.

(2) A lawful nonconforming mobile or manufactured home not located in a mobile or manufactured home park may be replaced with a single-section or a multi-section manufactured home that meets the current HUD manufactured housing code.

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