

MAR 21 1988

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, ARTICLE V, NONCONFORMITIES, SECTION 20-401. PERMITTED CHANGES OF NONCONFORMING USES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-401(a)(10).

Chapter 20.

ZONING

Article V. NONCONFORMITIES.

Section 20-401. Permitted changes of nonconforming uses.

(a) A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this article, and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval under this chapter) otherwise required by law.

- (1) A nonconforming use may change to a conforming use.
- (2) A nonconforming use may change to a more restricted nonconforming use, as set forth in section 20-401(b) of this chapter.
- (3) A nonconforming use may be repaired, provided such repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming.

- (4) A nonconforming use damaged by casualty may be restored in accordance with the provisions of section 20-402 of this chapter. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.
- (5) Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses may be permitted, subject to the following standards:
  - (i) Such changes shall not increase the land area occupied by any aspect of the nonconforming use, and shall not increase the gross floor area of any nonconforming structure; and,
  - (ii) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located, or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict; and
  - (iii) All signs associated with the nonconforming use shall be brought into full compliance with the current zoning ordinance requirements for the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process.
- (6) Except for signs, nonconforming uses other than buildings (such as, but not limited to, underground storage tanks, private sewage disposal systems, and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.
- (7) A nonconforming use may expand in accordance with the provisions of section 20-403 of this chapter.
- (8) A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity, provided that current parking requirements shall be adhered to upon such extension.
- (9) No structure used as a part of a nonconforming use shall be moved to any other lot unless such lot is properly zoned to permit the use, nor shall such a structure be moved within the lot on which it exists, unless a relocation is specifically provided for in section 20-399 et seq. of this chapter.

- (10) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.

(b) A nonconforming use may change as a matter of right to a more restricted nonconforming use, upon issuance by the zoning administrator of an approval for such a change. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with section 20-405 of this chapter, shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use. If the zoning administrator determines the proposed use is not "more restricted" than the existing nonconforming use, the application for a change to a more restricted nonconforming use shall be denied. An appeal from such a determination shall be to the board of zoning appeals as provided by section 20-432 of this chapter.

(c) In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

- (1) Whether the proposed use will change the size and scope of the existing use, and the magnitude of such change; and,
- (2) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, noise, and similar impacts; and,
- (3) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and,
- (4) How the quantum effect of the factors evaluated in preceding subsections (c)(1), (c)(2) and (c)(3) relate to the purpose, policies and objectives of this chapter.

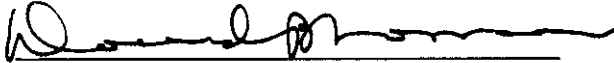
(d) Upon the issuance of an approval to change to a more restricted nonconforming use, site plan approval, as set forth in this chapter, shall be required. (Ord. No. 31A-88, Section 20-107, 4-8-85; Ord. No. 31A-89, 9-9-85)



Jack D. Edwards, Chairman  
Board of Supervisors

SUPERVISOR                      VOTE

ATTEST:



David B. Norman  
Clerk to the Board

NORMENT	AYE
TAYLOR	AYE
MAHONE	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,  
this 21st day of March, 1988.

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