

LAND MANAGEMENT ORDINANCE

Advisory Committee Meeting July 26, 2022

FORWARD

ELON



CHAPTER REVIEW

CHAPTER 6 – NONCONFORMITIES

Summary of key provisions and outcomes

Chapter 6 provides the rules for how all types of nonconformities are allowed to continue, and the kinds of conditions or changes that trigger a requirement that the nonconformity be ended or reduced

CHAPTER REVIEW

CHAPTER 6 – NONCONFORMITIES

Summary of key provisions and outcomes

Nonconformities are described as existing structures, uses of land, lots of record, or development sites that were legally established, but a subsequent amendment to the ordinance made them no longer conforming.

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General Rules

- The burden is on the property owner to establish that the nonconformity legally exists (in other words, to provide proof the nonconformity was established when it was legally allowed under the applicable ordinance at the time)
- Nonconformities in general are allowed to continue. Minor repairs, maintenance, and actions to keep the nonconformity in a safe condition are allowed and encouraged.

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Nonconforming Lots

- When two or more adjoining lots are nonconforming and under the same ownership, those lots must be combined first and can then be subdivided to form conforming lots.
- A single nonconforming residential lot may be built on, subject to applicable setbacks or if setbacks can't be met, an administrative adjustment or variance may be requested.

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Nonconforming Lots

- A single non-residential lot that is nonconforming may be built upon as long as all setbacks, dimensional, development, design and use standards are met.
- Boundaries, shape, size of nonconforming lots may be modified as long as it reduces the extent of the nonconformity.
- Conforming lots made nonconforming by governmental acquisition of portions of the lot will be deemed conforming if use and dimensional requirements are met.

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Nonconforming Signs

- A legally constructed sign that is no longer conforming due to a subsequent change in sign regulations is considered nonconforming, and can be maintained as well as sign copy changed, as long as it is not enlarged, altered or relocated.
- Signs that are damaged, and the cost to repair/rebuild is less than 50% of its replacement cost, may be repaired/rebuilt if the use it serves remains in operation.

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Nonconforming Signs

- If a business with a nonconforming sign discontinues, and is re-established before 90 days, the nonconforming sign can remain. If not re-established within 90 days, the sign must be removed and replaced with a conforming sign, or modified to be conforming.

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Nonconforming Situations

- Nonconforming site features are identified as nonconforming off-street parking, landscaping, screening, walls or fences, and exterior lighting.
- Any expansion of buildings or structures will require improvements to nonconforming site features depending on the value of the structure expansion compared to the overall assessed value of the structure. **To be discussed with Committee.**

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Nonconforming Structures

- A nonconforming structure may be replaced, if the nonconformity is not extended, or enlarged, or the use is not altered in any way that increases the degree of nonconformity.
- Nonconforming mobile homes may only be replaced with mobile homes meeting current standards for such homes in the LMO.
- A nonconforming structure may not be relocated to another portion of the parcel it is on unless the relocation eliminates or reduces the nonconformity.

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Nonconforming Structures

- Nonconforming structures may not be altered in a way that increases the nonconformity, but can be altered to decrease the nonconformity.
- The elevation of a nonconforming structure in a regulated floodplain is allowed to ensure that the habitable area of the structure is above the flood elevation.
- If a nonconforming structure other than a mobile home is damaged to the extent of 60%+ of its replacement cost, it must be rebuilt as a conforming structure.

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Nonconforming Uses

- A nonconforming use may not be expanded in a way that increases the degree of nonconformity, except for replacement mobile homes which meet certain requirements.
- Changes to uses of greater intensity (measured by number of vehicular trips generated, hours of operation, etc.) require full compliance with the ordinance.
- If a nonconforming use ceases operation for 180 consecutive days, it may not be reestablished.

CHAPTER UPDATE

CHAPTER 5 - PROCEDURES

Recent Changes

- Significant revisions to the application review table, adding the Planning Director as the entity making recommendations on several processes.
- Added processes for conservation subdivisions.
- Revisions to the fee-in-lieu section, including making the Town Council the decision-making authority for all payments.
- Excluded temporary signage/banners from requiring a sign permit, but interested in the PD's input.

CHAPTER UPDATE

CHAPTER 5 - PROCEDURES

Still to Come

- Discussion and decision on approval processes for major subdivisions and major non-residential projects.
- Traffic Impact Analysis section.
- Input from Carrie regarding suggested changes to the conditional zoning process.

CHAPTER REVIEW

CHAPTER 5 - PROCEDURES

Points for Discussion

- If a building permit is required for expansion of the building or structure where a nonconforming situation exists, the expansion shall require correction of existing on-site nonconforming off-street parking, landscaping, screening, wall or fencing, and exterior lighting in accordance with this section.
- Drive-through uses in the Village MU District.

NEXT STEPS

- Next meeting: mid-late August, tbd in the next few days.
- Definitions chapter, TIA language