

**AN ORDINANCE
TO AMEND SECTION 4-5 OF THE CITY OF NORTH CHARLESTON CODE OF
ORDINANCES, APPENDIX A, ZONING REGULATIONS, TO REVISE THE STANDARDS
RELATING TO NONCONFORMING USES, BUILDINGS, STRUCTURES, CONDITIONS,
AND LOTS**

Whereas, the City of North Charleston is empowered to regulate to provide for the health, safety, and welfare of its citizens; and

Whereas, the City is statutorily authorized to pass zoning and land use regulations; and

Whereas, the recently-adopted PRIME North Charleston Comprehensive Plan's goal is to promote the stability and maintenance of established neighborhoods and

Whereas, the proposed amendment enables the preservation, rehabilitation and reuse of existing housing and structures; and

Whereas, pursuant to a duly advertised public meeting held on September 14, 2020, it has been recommended to the Mayor and Council by the Planning Commission that the zoning text should be amended to revise the standards pertaining to non-conforming uses, buildings, structures, conditions, and lots; and

Now, therefore, be it ordained and enacted by the Mayor and Council that certain provisions of the Zoning Ordinance, as amended, be further amended as follows in **EXHIBIT A** attached hereto and incorporated herein. Note new language/amendments are in **UNDERLINED BOLD** and changes are in [~~strikethrough~~].

THE WITHIN ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON ITS RATIFICATION BY CITY COUNCIL.

Ordained in City Council this 24th day of September, 2020 in the year of our Lord, and in the 244th year of Independence of the United States of America.


R. KEITH SUMMEY, MAYOR

APPROVED AS TO FORM:

ATTEST:


LEGAL COUNSEL


SANDY L. BROWN, MUNICIPAL CLERK

**NORTH CHARLESTON CITY COUNCIL
AGENDA ITEM**

Meeting of September 24, 2020

DATE: September 3, 2020

ITEM TITLE: Ordinance – Final Reading
Proposed Amendment to Section 4-5 of the City of North Charleston Code of Ordinances, Appendix A, Zoning Regulations, to Revise the Standards Relating to Nonconforming Uses, Buildings, Structures, Conditions, and Lots

SUBMITTED BY: Planning Department

CONTACT PERSON: Gwen Moultrie, Zoning Administrator, (843) 740-2572

SUMMARY EXPLANATION:

Throughout the City, there are uses, buildings, structures, conditions, and lots that either pre-date the City, the Zoning Regulations, the properties' annexation into the City, or specific prior changes to the Zoning Regulations. In some cases, the reuse of existing vacant housing units is prohibited due to incompatibility with Zoning Regulations. One of the objectives of the Prime North Charleston plan was to establish standards to encourage reuse of such existing units. The attached amendment would:

- (1) Separate nonconforming uses, buildings, structures, conditions, and lots into four separate subsections, so that the provisions for each type of nonconformity are clarified; and
- (2) Allow for the reestablishment of residential units – other than manufactured homes – provided documentation satisfactory to the zoning administrator has been provided to substantiate that the units were, or were likely to have been, lawfully constructed/established. (Such documentation might include, but is not limited to, previous permits, listing of an additional unit or units in the county tax system, a year of construction that pre-dates the City's incorporation or permit availability, previous establishment of separate utility accounts, business licenses.) Examples of these existing residential units, which currently, due to their nonconforming status, may not be approved for power service if the power has been disconnected for six months, are:
 - a. Townhouses or duplexes on properties zoned R-1, Single-Family Residential;
 - b. An existing lot measuring 8,500 square feet on which two single-family housing units exist; and
 - c. An accessory apartment within an apparently single-family house.

Under these changes, these units could be reoccupied regardless of the length of time since they were last inhabited. Such units could be rebuilt if permitted within six months of a fire or other casualty, but not reestablished if more than six months has passed. Note that units which were clearly created without appropriate permits or approvals would not be considered "legal conforming" under these provisions.

STAFF RECOMMENDATION:

Staff recommends approval after Planning Commission consideration and a Public Hearing.

BOARD, COMMISSION, COMMITTEE RECOMMENDATIONS:

COUNCIL COMMITTEE RECOMMENDATION:

On September 17, 2020, the Public Safety Committee voted to recommend approval. (9-0-0)

COUNCIL ACTION:

Mayor Summey stated that without objection, this item will be referred to the Public Safety Committee on September 17, 2020 for further review and a recommendation.

Exhibits
 Resolution Ordinance Contract Minutes Plan/Map Transfer of Funds Other

EXHIBIT A

Section 4-5. - Nonconforming uses, buildings, structures, conditions, and lots:

Nonconforming uses, buildings, structures, conditions, and lots are declared by this ordinance to be incompatible with permitted uses or requirements in the districts in which they are located. However, to avoid undue hardship, the lawful use of any such use, building or structure at the time of the enactment, amendment, or revision of this ordinance may be continued even though such structure does not conform with the provisions of this ordinance, subject to the below:

(a) Nonconforming uses shall not be:

- (1) Changed to another nonconforming use which would not otherwise be permitted in the same zoning district in which the existing nonconforming use is located.
- (2) Enlarged.
- (3) Reestablished or replaced after discontinuance of the use or physical removal or relocation of the use from its original location for a period of six (6) months, except that, when a nonconforming use of any building or land has (1) been found to be a public nuisance through judicial or quasijudicial proceeding or (2) been terminated by way of a business license revocation, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance.

(b) Nonconforming buildings or structures shall not be:

- (1) Enlarged.
- (2) Reestablished, reoccupied, or replaced after the physical removal or relocation of the building from its original location for a period of six (6) months, except that:
 - A. Nonconforming manufactured homes, once removed, shall be replaced within thirty (30) days of removal or forfeit nonconforming status, and if replaced shall not infringe on established setbacks, and shall meet in full the requirements of section 6-1 of this ordinance. Manufactured homes damaged or destroyed by fire, acts of nature or other cause shall be replaced within sixty (60) days of the time of casualty or the non-conforming status shall be forfeited.
 - B. Other than manufactured homes, existing residential units may be reestablished, regardless of the amount of time since last used, provided that the existing units were, or were likely to have been, lawfully constructed/established. If more than six months have passed since the physical removal of the residential units from the original location, only conforming buildings or structures may be permitted.

(c) Nonconforming conditions such as setback encroachments, lack of required parking, and insufficient lot areas, may not be:

(1) Enlarged.

(2) Repaired, rebuilt, or altered after any damage in such a way as to increase the nonconformity of side, rear or front yard setbacks or other applicable requirements or to reduce the amount of off-street parking below the amount provided prior to such damage.

This section shall not be applicable to any condition of the property which is nonconforming to a zoning requirement for which an amortization period was imposed.

(d) Existing nonconforming lots of record. Where a lot does not conform to the dimensional requirements of this ordinance, such lot may nonetheless be used as a building site. The zoning administrator is authorized to issue an administrative variance to permit building on the property provided that none of the applicable setback or buffer requirements for the proposed construction are reduced by more than fifty (50) per cent below the minimums specified elsewhere within the city's ordinances. If building upon the nonconforming lot of record as proposed would require a reduction of greater than fifty (50) per cent from any of the applicable setback requirements, then the matter shall be referred for consideration to the board of zoning appeal under its normal procedures.

(Ord. No. 1985-17, § 3-28-85; Ord. No. 1990-36, 7-12-90; Ord. No. 1996-20, 5-9-96; Ord. No. 1996-38, 7-25-96; Ord. No. 1998-90, 11-12-98; Ord. No. 2003-013, 2-27-03; Ord. No. 2006-28, § 1, 5-25-06; Ord. No. 2010-25, 4-22-2010)