

*****Original Amendment changes / additions are highlighted in yellow**

*****Amendment deletions are struck**

SECTION 21.26 NONCONFORMITIES

21.26.1 INTENT

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to ~~encourage their survival~~ **allow new nonconformities**. ~~Minimum front, side and rear setbacks, minimum lot width and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.~~

21.26.2 NONCONFORMING LOT

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet the minimum dimensional requirements of the District in which it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

21.26.3 NONCONFORMING USE OF LAND

Nonconforming uses of land may be continued, so long as they remain otherwise lawful, subject to the following provisions:

21.26.3.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

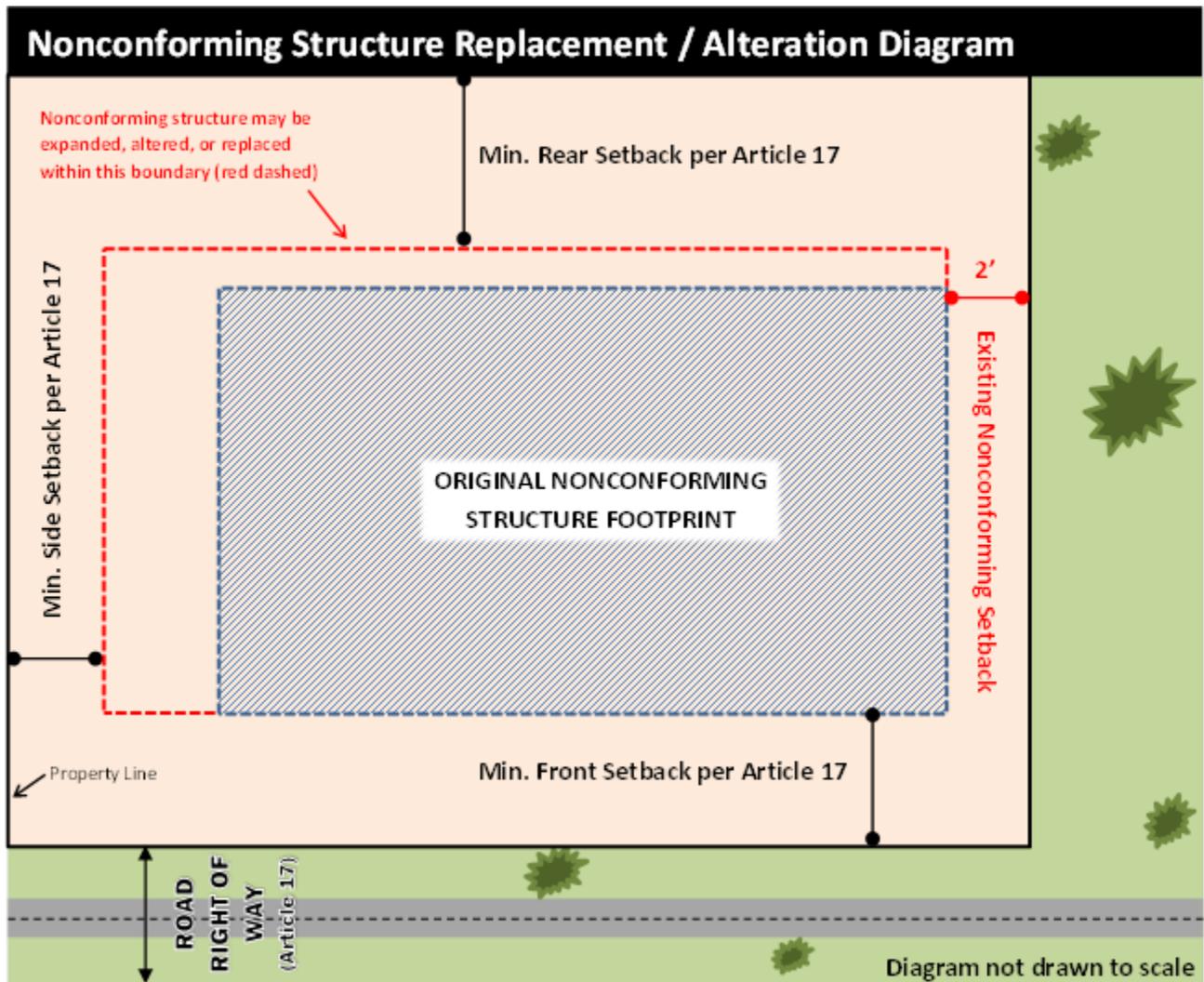
21.26.4 NONCONFORMING STRUCTURE

Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.4.1 No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

21.26.4.2 ~~Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its volume or floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance.~~ A nonconforming structure may be restored, rebuilt, repaired, or replaced provided it utilizes the footprint of the original structure. Enlargements or alterations to the original structure's footprint may be made pursuant to section 21.26.4.1.

21.26.4.3 Should such structure be moved for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.



21.26.5 NONCONFORMING USES OF STRUCTURES AND LAND

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

- 21.26.5.1 No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions.
- 21.26.5.2 Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
- 21.26.5.3 Any nonconforming use of a structure, land, or structure and land, may be changed to another nonconforming use provided that the other use is equally or more appropriate to the district than the existing nonconforming use.
- 21.26.5.4 Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed. A change in tenancy and ownership of nonconforming premises is permissible.
- 21.26.5.5 When a nonconforming use of structure, land, or structure and land in combination, is discontinued or ceases to exist for eighteen (18) consecutive months, the use, structure, or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- 21.26.5.6 Removal or destruction of the use and/or structure shall eliminate the nonconforming status.

21.26.6 REPAIR AND MAINTENANCE

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

21.26.7 SPECIAL LAND USE IS NOT A NONCONFORMING USE

Any use for which a special use permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.