

1. Notice Of Public Hearing: Proposed Text Amendment (Vesting Non-Conformities)

Documents:

[NOTICE OF PUBLIC HEARING 2024-R-05 VESTED RIGHTS - NON-CONFORMITIES.PDF](#)

2. Public Hearing Materials

Documents:

[2024_R-05 PROPOSED TEXT AMENDMENT \(VESTING NON-CONFORMITIES\).PDF](#)



Notice of Public Hearing

The City of Clemson City Council will hold a public hearing on the matter listed below. The session will begin at **5:30 p.m. on Monday, January 13, 2025** in the Council Chambers in City Hall, 1250 Tiger Boulevard, Clemson, SC 29631.

Hearing Topic:

2024-R-05 Proposed Text Amendment (Vesting Non-Conformities)

This proposed text amendment would expand the right to repair/reconstruct certain existing zoning non-conformities otherwise in compliance with City Code by 'vesting' the status of legal non-conformance if damaged/destroyed by forces beyond the owner's control. It should be noted that such structures/uses would continue to be subject to any applicable architectural review district standards, with the Board of Architectural Review having the ability to waive requirements that negatively impact the repair/restoration. Additionally, the proposed change would have no impact on building, fire, and health/safety codes, all of which will be applied. The Planning Commission approved the draft on September 9, 2024.

Copies of documents will be published through links on the City Website's Calendar of Events.

Comments may be submitted in advance or during the session. Public input is being sought on all matters associated with the proposal.

Contact the Planning and Development Department (864-653-2050) for more information.

Most existing structures or uses built prior to the adoption of current standards (legal non-conformities) must currently be brought into conformance with all existing rules if they are repaired/reconstructed following significant damage/destruction, regardless of the cause. In many cases such repair/reconstruction results in either significant changes to the structure/use, or even prohibiting restoration altogether. Among the exceptions to this are a few ‘culturally significant’ commercial structures identified by City Code, and residential structures situated in certain zoning districts that may be approved as Special Exceptions by the Board of Zoning Appeals, both of which, provided the damage or destruction results from forces beyond the control of the owner, may be allowed to be repaired/reconstructed to their previous condition.

This proposed text amendment is drafted to expand the right to repair/reconstruct by ‘vesting’ the status of legal non-conformance, provided the properties are otherwise in compliance with City Code, for all those damaged/destroyed by forces beyond the owner’s control. It should be noted that in spite of the vesting provision, structures/uses would continue to be subject to any applicable architectural review district standards, with the Board of Architectural Review having the ability to waive requirements that negatively impact the repair/restoration. Additionally, the proposed change would have no impact on building, fire, and health/safety codes, all of which will be applied. The Planning Commission approved the draft on September 9, 2024.

CODE OF ORDINANCES

CHAPTER 19 ZONING

ARTICLE VI. GENERAL AND SUPPLEMENTARY REGULATIONS

DIVISION 2. REGULATIONS GOVERNING LEGAL NONCONFORMITIES

Sec. 19-621. Nonconforming lots, uses, and/or structures.

E. Any legally nonconforming structure or use (hereafter “Nonconformance”) determined to be otherwise in compliance with the provisions of this Code that is *damaged, destroyed, or caused to be relocated by any means other than the voluntary, willful, and lawful action of the owner(s) (or their duly authorized agent, employee, or subordinate)*, may be repaired, rebuilt, or otherwise restored to the state, condition, and configuration in which it existed prior to being damaged or destroyed with no restriction placed on its continuation as a legal nonconformity. The following standards shall apply:

- 1) Any renovation, restoration, and/or construction activities associated with the repair or restoration of a Nonconformance permitted by this section shall meet all applicable adopted building, fire, and life-safety codes and regulations.
- 2) If said damage, destruction, or relocation of a Nonconformance results from an exercise of eminent domain by a duly authorized entity, it may be repaired/reconstructed or relocated, if possible, on another portion of the property on which it was situated prior to damage/destruction/relocation; or, if site conditions or other factors prohibit relocation on the same property, it may

2024-R-05 Proposed Text Amendment (Grandfathering Non-Conformities)

be relocated to an abutting lot under the same ownership, provided, however, said relocation does not result in the enlargement or increase of the legal nonconformance, nor does it create any safety hazard or direct negative impacts on an existing adjacent use.

- 4) A reconstructed and/or restored Nonconformance shall possess no more volume, lot coverage, or floor space than existed prior to damage/destruction.
- 5) A Nonconformance reconstructed or otherwise restored under the provisions of this section shall, to the extent possible, meet adopted open space requirements for such structures/uses. In no event, however, shall the total open space be less than existed prior to damage/destruction.
- 6) Any Nonconformance located in an Architectural Overlay District shall conform to current Architectural Overlay District standards. The Board of Architectural Review (BAR) may grant waivers (with or without conditions) from standards that prohibit or otherwise negatively impact reconstruction/restoration.
- 7) All activities associated with the repair, reconstruction/restoration, and relocation of a Nonconformance permitted by this section shall be completed within thirty-six (36) months after the date of damage, destruction, or relocation; the Zoning Administrator may grant an extension of up to twelve (12) months for demonstrated cause. Failure to complete such activities within the approved timeframe shall be considered to be, and shall be dealt with as, a violation of this Chapter.
- 8) The ability of an owner to relocate, reconstruct, restore, and continue use of a Nonconformance as permitted by this section shall be by right, and as such shall not be subject to the review and approval as a Special Exception, variance, or other form of relief granted by the Board of Zoning Appeals.

~~The proposed repair or reconstruction of any structure damaged as a result of any cause whatsoever, provided the cost of the repair/reconstruction of said structure is greater than fifty (50) percent of its fair market value immediately prior to damage, shall result in the loss of nonconformity rights and subject said structure to strict conformity to these standards. However, any duly permitted legally nonconforming residential structure located in the R-20, R-12, RM-1 and RM-2 Residential Districts deemed by the Zoning Administrator to have been in compliance with all applicable City standards and requirements (other than said legal nonconformity) prior to being damaged as a result of fire, or other cause beyond the control of the owner, may be granted a restoration of nonconformity rights, with or without conditions, as a Special Exception by the Board of Zoning Appeals.~~