

1 **Ordinance to Amend and Re-Enact the Zoning Ordinance of the City Of Hampton, Virginia**
2 **by Amending Chapter 12 Entitled, “Nonconformities” to Restrict the Expansion of Legally**
3 **Nonconforming Uses**

4 **WHEREAS**, the public necessity, convenience, general welfare and good zoning practice so
5 require;

6 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Chapter 12 of the Zoning
7 Ordinance of the City of Hampton, Virginia, be amended and re-enacted as follows:

8
9 **Chapter 12 - NONCONFORMITIES**

10 **Sec. 12-1. - General.**

11 Nothing in this chapter shall be construed to impair any vested right; except that land,
12 buildings and structures and the uses thereof which do not conform to the zoning prescribed for
13 the district in which they are situated may be continued only so long as: (i) the then existing or a
14 more restrictive use continues; (ii) such use is not discontinued for more than two (2) years; and
15 (iii) the buildings or structures are maintained in their then structural condition. For purposes of
16 calculating the term of discontinuance of a nonconforming use or structure pursuant to this
17 section, two (2) years means twenty-four (24) consecutive months.

18 ~~Sec. 12-2. – Alteration, enlargement, erection of structures in conjunction with a nonconforming~~
19 ~~use.~~

20 ~~Except as set forth in chapter 9, article 1 of the zoning ordinance, it shall be lawful to alter,~~
21 ~~add to, or erect structures in conjunction with a nonconforming use provided the front, side, and~~
22 ~~rear yard setbacks are not thereby violated and the other provisions of this ordinance are met~~
23 ~~and such structure is structurally altered as provided in the Uniform Statewide Building Code.~~

24 ***Sec. 12-2. – Alteration, enlargement, and extension of nonconforming uses.***

25 *(1) Legally nonconforming uses, with the exception of legally nonconforming one family,*
26 *two family, and duplex residential uses, shall comply with the following:*

27 *(a) The legally nonconforming use shall not be enlarged or extended to occupy an*
28 *area greater than the structure or land area which was occupied by the*
29 *nonconforming use as of August 12, 2020, unless such alteration, enlargement,*
30 *or extension is required to comply with local, state, or federal law.*

31 *(2) Legally nonconforming one family, two family, and duplex residential uses shall*
32 *comply with the following:*

33 *(a) The legally nonconforming use shall not be enlarged or extended to occupy an*
34 *area greater than the area of the legally plated parcel occupied by the*
35 *nonconforming use as of August 12, 2020, unless such alteration, enlargement,*
36 *or extension is required to comply with local, state, or federal law.*

37 *(b) The structure in which a legally nonconforming one family, two family, or duplex*
38 *use occupies shall not be altered, enlarged, or extended in a way which violates*
39 *the standards of the base district or any provision of the City Code, including but*

40 *nott limited to the Uniform Statewide Building Code. All permitted alterations,*
41 *enlargements, and extensions shall further comply with the following setbacks:*
42

43 *(1) Front yard: The front yard setback shall be a minimum of fifteen (15) feet.*

44 *(2) Side yard: The side yard setback shall be a minimum of five (5) feet.*

45 *(3) Rear yard: The rear yard setback shall be a minimum of twenty (20) feet.*

46 **Sec. 12-3. – Alteration, enlargement, and extension of nonconforming structures.**

47 *No nonconforming structure may be altered, enlarged, or extended in any way which*
48 *increases its nonconformance or creates a new nonconformity, unless the alteration,*
49 *enlargement, or extension is required to comply with local, state, or federal law.*

50 **Sec. ~~12-3~~ 12-4. - Damage or destruction of nonconforming structures.**

51 The owner of any residential or commercial building damaged or destroyed by a natural
52 disaster or other act of God may repair, rebuild, or replace such building to eliminate or reduce
53 the nonconforming features to the extent possible, without the need of a variance as provided in
54 chapter 13 of this ordinance, if such building is damaged greater than fifty (50) percent and
55 cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming
56 condition, the owner shall have the right to do so. The owner shall comply with the floor area,
57 lot, yard, setbacks, or height requirements of this ordinance as nearly as possible. The owner
58 shall apply for a building permit and any work done to repair, rebuild or replace such building
59 shall be in compliance with the provisions of the Uniform Statewide Building Code and any work
60 done to repair, rebuild or replace such building shall be in compliance the floodplain regulations
61 adopted in article 4 of chapter 9 of this ordinance as a condition of participation in the National
62 Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two (2)
63 years of the date of the natural disaster or other act of God, such building shall only be repaired,
64 rebuilt or replaced in accordance with the provisions of the zoning ordinance. However, if the
65 nonconforming building is in an area under a federal disaster declaration and the building has
66 been damaged or destroyed as a direct result of conditions that gave rise to the declaration,
67 then the owner shall have an additional two (2) years to repair, rebuild or replace such building.
68 For the purposes of this section, "act of God" shall include any natural disaster or phenomena
69 including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave,
70 earthquake or fire caused by lightning or wildfire. For the purposes of this section, owners of
71 property damaged by an accidental fire have the same rights to rebuild such property as if it
72 were damaged by an act of God. Nothing herein shall be construed to enable the property
73 owner to commit an arson under section 18.2-77 or 18.2-80 of the Code of Virginia and obtain
74 vested rights under this chapter.

75 **Sec. ~~12-4~~ 12-5. - Replacement of on-site sewage systems.**

76 Notwithstanding any provision of the city zoning ordinance or the city code to the
77 contrary, an owner of real property shall be permitted to replace an existing on-site sewage
78 system for any existing building in the same general location on the property even if a new on-
79 site sewage system would not otherwise be permitted in that location, unless access to a public
80 sanitary sewer is available to the property. If access to a sanitary sewer system is available,
81 then the connection to such system shall be required. Any new on-site system shall be installed
82 in compliance with applicable regulations of the department of health in effect at the time of
83 installation.

84 **Sec. ~~12-5~~ 12-6. - Nonconforming manufactured home.**

85 Nothing in this chapter shall be construed to prevent the land owner or home owner from
86 removing a valid nonconforming manufactured home from a mobile or manufactured home park
87 and replacing that home with another comparable manufactured home that meets the current
88 HUD manufactured housing code. In such mobile or manufactured home park, a single-section
89 home may replace a single-section home and a multi-section home may replace a multi-section
90 home. The owner of a valid nonconforming mobile or manufactured home not located in a
91 mobile or manufactured home park may replace that home with a newer manufactured home,
92 either single- or multi-section, that meets the current HUD manufactured housing code. Any
93 such replacement home shall retain the valid nonconforming status of the prior home.