



Legislation Details (With Text)

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**File created:** 7/29/2021      **In control:** City Council Legislative Session  
**On agenda:** 8/11/2021      **Final action:** 8/11/2021  
**Title:** Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 12 Entitled, "Nonconformities" to Restrict the Expansion of Legally Nonconforming Cemeteries

**Sponsors:**

**Indexes:** ,

**Code sections:**

**Attachments:** 1. Presentation reference, 2. Redline

Date	Ver.	Action By	Action	Result
8/11/2021	1	City Council Legislative Session	approved	Pass

Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 12 Entitled, "Nonconformities" to Restrict the Expansion of Legally Nonconforming Cemeteries

**Background Statement:**

On August 12, 2020 City Council approved an amendment which allowed legally nonconforming one family, two family and duplex residential uses to expand only within the area of the legally platted parcel occupied by the use as of August 12, 2020. It prevented commercial and all other legally nonconforming uses from expanding beyond the land area which was occupied by the nonconforming use as of August 12, 2020.

Due to the unique land use of a cemetery, this proposal would allow legally nonconforming cemeteries to expand to an area not greater than the area of the legally platted parcel occupied by the nonconforming use as of August 12, 2020 rather than continue to limit the expansion to the land area which is currently occupied by the use.

This amendment is accompanied by separate, related amendments to Chapters 3 (ZOA21-0219) and Chapter 2 (ZOA21-0218), "Uses Permitted" and "Definitions", respectively. This item is also in conjunction with a City Code Amendment (21-0221) which would align the language and requirements with the Zoning Ordinance.

**Recommendations:**

Staff Recommendation:  
Approval

Planning Commission Recommendation:  
Approval

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

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

## **Chapter 12 - NONCONFORMITIES**

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

- (1) Legally nonconforming uses, with the exception of legally nonconforming cemeteries, one family, two family, and duplex residential uses, shall comply with the following:
  - (a) The legally nonconforming use shall not be enlarged or extended to occupy an area greater than the structure or land area which was occupied by the nonconforming use as of August 12, 2020, unless such alteration, enlargement, or extension is required to comply with local, state, or federal law.
- (2) Legally nonconforming one family, two family, and duplex residential uses shall comply with the following:
  - (a) The legally nonconforming use shall not be enlarged or extended to occupy an area greater than the area of the legally plated parcel occupied by the nonconforming use as of August 12, 2020, unless such alteration, enlargement, or extension is required to comply with local, state, or federal law.
  - (b) The structure in which a legally nonconforming one family, two family, or duplex use occupies shall not be altered, enlarged, or extended in a way which violates the standards of the base district or any provision of the City Code, including but not limited to the Uniform Statewide Building Code. All permitted alterations, enlargements, and extensions shall further comply with the following setbacks:
    - (1) Front yard: The front yard setback shall be a minimum of fifteen (15) feet.
    - (2) Side yard: The side yard setback shall be a minimum of five (5) feet.
    - (3) Rear yard: The rear yard setback shall be a minimum of twenty (20) feet.
- (3) Legally nonconforming cemeteries shall comply with the following:
  - (a) The legally nonconforming use shall not be enlarged or extended to occupy an area greater than the area of the legally plated parcel occupied by the nonconforming use as of August 12, 2020, unless such alteration, enlargement, or extension is required to comply with local, state, or federal law.

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