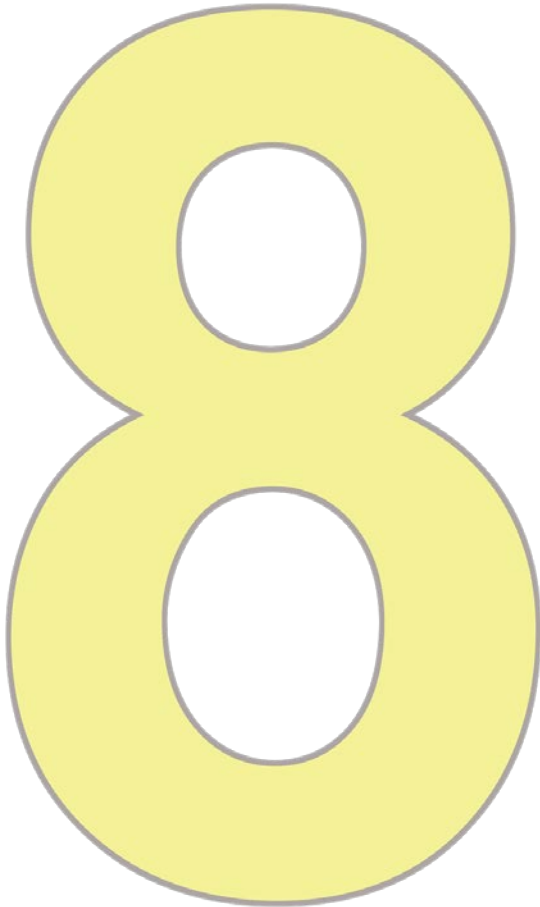


NONCONFORMITIES



Key Changes in Article 151.8:

- This article establishes separate (but similar) standards for nonconforming uses, structures, and lots instead of a single set of provisions applied to all nonconforming 'situations'
- The standards clarify that it is the landowner's responsibility to demonstrate that an existing nonconformity is legally established.
- There are new standards for nonconforming signs that clarify when existing nonconforming signs may remain and when they must be removed.
- There are new standards to address nonconforming sites (landscaping, parking, etc.), that allow small improvements to existing sites to go forward without requiring full compliance. The amount of compliance that must be reached during renovation or addition is commensurate with the amount of money being spent – the more expensive the renovation, the greater the degree of conformity with these standards that must be achieved.
- The current provisions amortizing all nonconforming uses by January 1, 1999 has not been carried forward.
- These standards remove the current provisions that allow a decision-making body considering development where a nonconformity exists to waive some or all of the standards without any criteria. This kind of waiver should be addressed through an administrative adjustment or variance.
- The standards clarify that changes necessary to comply with regulatory flood elevation are allowed as part of any changes to a nonconformity.
- These standards add guidance on how to address nonconformities subject to casualty damage (fire, flood, explosion, etc.).
- There are new provisions to address situations where governmental acquisition of land (for a right-of-way or other purpose) could render a lot nonconforming.

8.1	Nonconformities, Generally	8-1
8.1.1	Purpose and Intent	8-1
8.1.2	Determination of Nonconformity Status.....	8-1
8.1.3	Continuation, Minor Repairs, and Maintenance Allowed	8-1
8.1.4	Change of Tenancy Or Ownership.....	8-1
8.2	Nonconforming Uses.....	8-1
8.2.1	Declared Incompatible.....	8-1
8.2.2	Increasing Elevation	8-2
8.2.3	Extension or Expansion.....	8-2
8.2.4	Conversion to Another Nonconforming Use.....	8-3
8.2.5	Restoration Following Damage	8-3
8.2.6	Cessation.....	8-3
8.2.7	Replacement	8-4
8.3	Nonconforming Structures.....	8-4
8.3.1	Applicability.....	8-4
8.3.2	Continuation and Replacement.....	8-4
8.3.3	Alteration and Expansion	8-4
8.3.4	Cessation.....	8-5
8.4	Nonconforming Lots of Record	8-5
8.4.1	Applicability.....	8-5
8.4.2	Nonconforming Lot Width or area	8-5
8.4.3	Nonconformity Affects Required Setbacks.....	8-5
8.4.4	Expansion or Enlargement	8-5
8.4.5	Governmental Acquisition of Land	8-5
8.5	Nonconforming Signs.....	8-6
8.5.1	General.....	8-6
8.5.2	Prohibited Actions.....	8-6
8.5.3	Maintenance of Nonconforming Signage Allowed	8-6
8.5.4	Replacement of Nonconforming Signage	8-6
8.5.5	Discontinuance of Business Activity.....	8-7
8.5.6	Additional Sign Permit Application	8-7
8.6	Nonconforming Sites.....	8-7
8.6.1	Applicability.....	8-7
8.6.2	Determination of Cost and Assessed Value.....	8-7
8.6.3	Remodeling of Buildings or Structures	8-8
8.6.4	Additions and Expansions	8-8
8.6.5	Physically Constrained Properties - Comply to Maximum Extent Practicable	8-8

ARTICLE 151.8 NONCONFORMITIES²²⁶

8.1 NONCONFORMITIES, GENERALLY²²⁷

8.1.1 PURPOSE AND INTENT

There are existing structures, uses of land, and lots of record that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, and lots are collectively referred to as “nonconformities.” The purpose and intent of this article is to allow nonconformities to continue to exist, but to regulate and limit their continued existence and expansion so as to bring them into conformity to the extent that is reasonably practicable.

8.1.2 DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the landowner of the land on which the alleged nonconformity is located.

8.1.3 CONTINUATION, MINOR REPAIRS, AND MAINTENANCE ALLOWED²²⁸

A. Continuation

Nonconformities are allowed to continue in accordance with the requirements of this article.

B. Completion

Nonconforming projects incomplete as of *[insert the effective date of this Ordinance]* shall only be completed in accordance with this article and *Section <>, Transitional Provisions.*

C. Maintenance Allowed

Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.

D. Strengthening Allowed

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized County official.

8.1.4 CHANGE OF TENANCY OR OWNERSHIP

No change in tenancy or ownership of land shall limit the continuance of a lawfully established nonconformity.

8.2 NONCONFORMING USES²²⁹

The lawful nonconforming use of a structure, land, or water existing as of *[insert effective date of this Ordinance]* may only be continued in accordance with the following standards:

8.2.1 DECLARED INCOMPATIBLE

²²⁶ NOTE TO STAFF: This revised article does not carry forward the standards in Section 151.369, Amortization of Nonconforming Situations, which basically requires all nonconforming uses to be ceased or replaced with conforming uses by January 1, 1999.

²²⁷ This article carries forward and amends the provisions addressing nonconforming situations in Section 151.360 (Definitions) through 151.368 (Amortization of Nonconforming Situations) with several notable changes, including: the definitions in these sections are relocated to Article 151.10: Definitions and Measurement; the standards have been reorganized into nonconforming lots, uses, and structures; there are new sections on certain nonconforming uses like manufactured homes built before 1993; and there are provisions for nonconforming site features (like landscaping, parking, etc.).

²²⁸ This section is proposed to replace Section 151.361, Continuation of Nonconforming Situations and Completion of Nonconforming Projects, and Section 151.364, Repair, Maintenance, and Reconstruction, of the current ordinance. However, The current standards in Section 151.361(C) pertaining to lots with approvals of a temporary mobile home pending construction of a permanent single-family detached home are not carried forward because the failure to comply with the timeframe to construct the permanent dwelling has extinguished the right to have the temporary mobile home. In addition, the provisions pertaining to renovation in Section 151.364 are relocated to the section on nonconforming uses in these draft standards.

²²⁹ NOTE TO STAFF: this section removes the need for the standards in Section 151.365, Change in Use of a Property Where a Nonconforming Situation Exists, in the current ordinance. This current section basically permits a nonconforming use to be replaced with a conforming use. It allows the body considering the replacement request to allow the replacement use to waive or deviate from other applicable code requirements as part of the review process. This is inappropriate, and should be addressed through the administrative adjustment or variance procedures.

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance.

8.2.2 INCREASING ELEVATION

Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the FPO to a height above the regulatory flood elevation.

8.2.3 EXTENSION OR EXPANSION²³⁰

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

A. Single-Family Detached Dwellings

Except for manufactured homes, any structure being used solely as a nonconforming single-family detached dwelling may be enlarged or replaced with a similar structure, provided the enlarged or replacement single-family detached dwelling does not:

1. Create new nonconformities; or
2. Increase existing nonconforming dimensional requirements or nonconforming site features such as parking, landscaping, or other site features.

B. Manufactured or Mobile Homes

An existing nonconforming manufactured or mobile home may be replaced with another nonconforming manufactured or mobile home provided the replacement mobile or manufactured home:

1. Is sixteen feet wide or wider;
2. Is in compliance with the County's minimum wind loading standards (and is therefore constructed after [redacted], 1993);
3. Is in place within 60 days of the removal of the prior nonconforming mobile or manufactured home;
4. Is connected to the public sewer system, or has all the necessary permits from the Albemarle Regional Health Services pertaining to wastewater treatment; and
5. Is surrounded by underpinning comprised of an all-weather base material.

C. All Other Uses

1. Generally²³¹

The volume, intensity, or frequency of nonconforming use may be increased, and the equipment or processes used at a location may be changed if these changes amount only to changes in the degree of activity rather than changes in the kind of activity.

2. Extension within a Building

- a. A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use.
- b. A nonconforming use may not be extended to additional buildings, new buildings, or to land outside the original building.

3. Extension of an Open-Air Use

- a. Except for extractive industry use types, an open-air nonconforming use (one without a building or structure) may not be expanded or extended to cover more land than it occupied at the time it became nonconforming.
- b. An extractive industry use that has removed 10% or more of the material being extracted prior to the date it became nonconforming may continue extracting material to the boundary identified in the original approval.

4. Renovation

A nonconforming use may be renovated only in accordance with the following standards:

- a. The proposed renovation is limited to a maximum cost equal to or less than 25 percent of the appraised value of the structure (including foundations) as listed on the current records maintained by the Camden County Tax Assessor's office.

²³⁰ NOTE TO STAFF: This section does not carry forward the standards in Section 151.363(G) pertaining to satellite parking because of the proposed changes to the renovation/restoration provisions.

²³¹ NOTE TO STAFF: This standard is carried forward from Section 151.363(D) of the current standards. We suggest it not be included as it allows nonconforming uses to increase their intensity. Additional discussion is needed.

ARTICLE 151.8. NONCONFORMITIES^{225F}

8.2. Nonconforming Uses^{228F}

8.2.7. Replacement

- b. The need for the renovation or restoration is not the result of damage to the structure intentionally caused by a person with ownership interest in the structure, as determined by the Building Inspector.
- c. The renovation does not create a new nonconformity or worsen an existing nonconformity with respect to dimensional requirements or development standards in Section 151.5: Development Standards.
- d. In no instance shall renovation activities allowed under this section take place more than once after *[insert the effective date of this Ordinance]*.

8.2.4 CONVERSION TO ANOTHER NONCONFORMING USE

- A. No nonconforming use shall be converted to another nonconforming use unless the proposed nonconforming use is determined by the UDO Administrator to be of equal or less intensity or density. In determining whether a proposed nonconforming use is of equal or less intensity or density, the UDO Administrator shall consider:
 1. Anticipated traffic of each use;
 2. Parking requirements of each use;
 3. Anticipated number of persons on the premises of each use at a time of peak demand;
 4. The number of dwelling units; and
 5. Off-site impacts of each use, such as noise, glare, dust, vibration, or smoke.
- B. A converted nonconforming use shall occupy the same (or smaller) portion of the lot occupied by the original nonconforming use unless an alternate placement will reduce the amount of nonconformity.

8.2.5 RESTORATION FOLLOWING DAMAGE²³²

- A. **Single-Family Detached Dwellings**
 1. Except for manufactured or mobile homes, a structure being used solely as a nonconforming single-family detached dwelling that is damaged by fire, explosion, flood, or other calamity may be restored or reconstructed in accordance with the standards in *Section 8.2.3.A, Single-Family Detached Dwellings*.
 2. Nonconforming manufactured or mobile homes damaged by fire, explosion, flood, or other calamity may be restored or reconstructed only in accordance with the standards in *Section 8.2.3.B, Manufactured or Mobile Homes*.
- B. **All Other Uses**

If a nonconforming use other than a single-family detached dwelling is damaged by fire, explosion, flood, or other calamity to an extent more than 51 percent of its current assessed value, it shall not be restored, except in compliance with the provisions of this Ordinance.

8.2.6 CESSATION²³³

1. **Generally**
 - a. If a nonconforming use of land ceases operation for a continuous period of more than 180 days, any subsequent use of the land shall only be as a use permitted in the district in accordance with *Table <>, Principal Use Table*.
 - b. The landowner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than 180 days, to maintain its nonconforming status.
 - c. A determination by the County that a nonconforming use has ceased may be based on, but not limited to, any of the following:
 1. Removal of inventory, equipment, or machinery;
 2. Termination in or a substantial reduction in utility services;
 3. Absence or reduction in activity at the site compared with the former level of use;
 4. Failure to maintain minimal hours of operation;
 5. Voluntary demolition;
 6. Unoccupied buildings in which the use was formerly conducted;
 7. Removal of on-site signage or copy from that signage;
 8. Failure to apply or re-apply for the necessary permits; or
 9. Failure to appeal from the denial of necessary permits.
2. **Damage, Destruction, or Demolition**

If a lawfully-established nonconforming use of land ceases because of fire, explosion, flood, or other calamity, it may be restored in accordance with *Section <>, Restoration Following Damage*, provided a

²³² This is a new section, and clarifies that most nonconforming uses may not be restored after casualty damage.

²³³ This section replaces the standards in Section 151.366, Discontinuance of Nonconforming Situations.

building permit is obtained within 180 days of the date of damage and provided the building permit does not expire.

8.2.7 REPLACEMENT

A nonconforming use shall only be replaced with a use that conforms to the requirements of this Ordinance.

8.3 NONCONFORMING STRUCTURES²³⁴

8.3.1 APPLICABILITY

Nonconforming principal and accessory structures shall be subject to the standards in this section.

8.3.2 CONTINUATION AND REPLACEMENT

A. Continuation

A nonconforming structure may be continued in accordance with **Section <>, Continuation, Minor Repairs, and Maintenance Allowed.**

B. Replacement

1. Residential Development

- a. Nonconforming single-family detached dwellings and nonconforming manufactured or mobile homes may be reconstructed in accordance with the standards in **Section 8.2.3, Extension or Expansion.**
- b. Nonconforming residential structures, other than single-family detached dwellings and manufactured or mobile homes, subject to damage by fire, explosion, flood, or other calamity may be reconstructed in the same location and with the same footprint as existed prior to damage. In no instance shall replacement of a nonconforming residential structure increase the nonconformity.
- c. Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

2. Nonresidential Development

a. After Damage in Excess of 50 Percent of Assessed Value

In the event of damage by fire, explosion, flood, calamity, or other causes to an extent exceeding 50 percent of its assessed value prior to such damage, of a nonconforming nonresidential structure shall be permitted only in compliance with the applicable requirements of this Ordinance.

b. After Damage Less Than 50 Percent of Assessed Value

In the event of damage by fire, explosion, flood, calamity, or other causes to an extent less than 50 percent of its assessed value prior to such damage, reconstruction of a nonconforming nonresidential structure shall be allowed, provided it is constructed:

1. In accordance with an approved site plan or building permit, as applicable;
2. In the same location and up to the same dimensions as originally existed; or
3. In compliance with the current dimensional requirements.

C. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless the relocation reduces or removes the nonconformity.

8.3.3 ALTERATION AND EXPANSION

A. Alteration

No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

B. Enlargement

²³⁴ This is largely a new section. These issues are addressed in indirect ways by the current standards through their use of the term "nonconforming situations." The proposed approach in these standards helps make it clear that there are cases where conforming uses may be located within nonconforming structures.

ARTICLE 151.8. NONCONFORMITIES^{225F}

8.4. Nonconforming Lots of Record^{234F}

8.4.5. Governmental Acquisition of Land

Any enlargement of a nonconforming structure shall be configured so as to not increase the degree of nonconformity.

8.3.4 CESSATION

A nonconforming structure may be re-occupied by a conforming use following discontinuance of a prior use.

8.4 NONCONFORMING LOTS OF RECORD²³⁵

8.4.1 APPLICABILITY

Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

8.4.2 NONCONFORMING LOT WIDTH OR AREA

A. Lots with Contiguous Frontage in One Ownership

When two or more adjoining lots with contiguous frontage are under common ownership and one or more of the lots are nonconforming in terms of width or area, such lots shall be combined to create one or more lots, each of which conforms to the applicable dimensional requirements of the district prior to the commencement of development.

B. Single Lot of Record in a Residential District

When a lot in a residential zoning district has an area or width which does not conform to the dimensional requirements of the district where it is located, but was lawfully established on or before January 1, 1998, then a single-family detached dwelling may be built on the lot, subject to compliance with setback standards, to the maximum extent practicable. No other form of residential use may be established.

C. Single Lot of Record in a Nonresidential District

When a lot in a nonresidential district has an area or width which does not conform to the dimensional requirements of the district where it is located, but was lawfully established on or before January 1, 1998, then development on the lot may be permitted, subject to compliance with all required dimensional and development standards, to the maximum extent practicable, and all other applicable development and design standards.

8.4.3 NONCONFORMITY AFFECTS REQUIRED SETBACKS

A. In cases where the size or shape of a nonconforming lot inhibits the ability of a use to comply with required setbacks, an applicant may apply to reduce the setback requirements the minimum amount necessary in accordance with the standards and requirements in [Section <>, Administrative Adjustment](#).

B. The maximum deviation percentages in [Section <>, Administrative Adjustment](#), pertaining to required setbacks shall not apply, but the deviation from required setbacks shall be the minimum necessary, in the opinion of the UDO Administrator.

C. In no instance shall financial hardship serve as a justification of the need to exceed the maximum deviation percentage of an administrative adjustment.

8.4.4 EXPANSION OR ENLARGEMENT

The boundaries, shape, or size of a nonconforming lot may be modified through a lot line adjustment, boundary adjustment, recombination, or consolidation, provided it reduces the extent of the nonconformity.

8.4.5 GOVERNMENTAL ACQUISITION OF LAND

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area, width, or depth standards of the district shall be deemed conforming upon receipt of a zoning compliance permit (see [Section <>, Zoning Compliance Permit](#)), and compliance with the following:

²³⁵ This section is proposed to replace the standards in Section 151.362, Nonconforming Lots. The current standards apply the nonconforming lot standards only to vacant lots. Lots with development are addressed by the standards in Section 151.365, Changes in Use of Property where a Nonconforming Use Exists (even if the use on the lot is conforming). The current standards allow a lot to that does not meet required width standards to be developed as if it conformed, but not if the lot area is insufficient for the use type. In cases where the lot results in an inability to meet setback requirements, the current standards allow the decision maker to reduce or waive the setback requirements on a case-by-case basis. These proposed standards seek to allow lawfully established nonconforming lots to be developed even if they do not comply with dimensional requirements (even lot area) without need for individual case-based decision making. These standards do require nonconforming lots under common ownership to be consolidated prior to development.

ARTICLE 151.8. NONCONFORMITIES^{225F}

8.5. Nonconforming Signs^{235F}

8.5.4. Replacement of Nonconforming Signage

A. Complies with Use Table

The development proposed complies with **Table <>, Principal Use Table**;

B. Complies with Dimensional Standards

The development proposed complies with the dimensional standards of this Ordinance, prior to the acquisition;

C. Complies with Off-Street Parking Standards

The development proposed is designed to comply with the off-street parking and landscaping standards of this Ordinance; and

D. Complies with Other Applicable Standards

The development proposed complies with all other standards and requirements of this Ordinance.

8.5 NONCONFORMING SIGNS²³⁶

8.5.1 GENERAL

A sign that was legally in existence on January 1, 1998 and was constructed in accordance with the applicable laws and ordinances in effect on the date of construction, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of the Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

8.5.2 PROHIBITED ACTIONS

The following actions associated with a nonconforming sign shall be prohibited:

A. Enlargement or Alteration

Structural alteration, enlargement, or extension of a nonconforming sign or sign structure, however, nothing shall limit the ability to replace the support structure of a billboard, including shifting from wooden poles to a steel monopole structure;

B. Type of Lighting

Changes to the type of sign lighting; and

C. Relocation

Relocation of a nonconforming sign upon the premises.

8.5.3 MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained as long as the use it advertises remains in operation, subject to the following standards:

A. Maintenance Actions

Normal maintenance of a nonconforming sign shall be allowed, and shall be limited to the following:

1. Nonstructural repairs, such as repainting or electrical repairs;
2. Incidental alterations which do not increase the degree or extent of the nonconformity; and
3. Changing of copy, as provided in this section.

B. Change of Sign Copy

Nonconforming signs may change copy in the form of replacement panels or replacement lettering.

8.5.4 REPLACEMENT OF NONCONFORMING SIGNAGE

A. Removal

Any nonconforming sign that is removed for any reason shall only be replaced with a sign that complies with the provisions of this Ordinance.

B. Damage

1. If damage to a nonconforming sign from any cause is less than 50 percent of either the original or replacement value, whichever is less, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed.

²³⁶ NOTE TO STAFF: This is a new section proposed for the County's consideration. Additional discussion is needed regarding the need for nonconforming billboard standards. The County may not wish to include those kinds of provisions. Article 151.4, Uses, makes off-site signage (billboards) prohibited except where authorized via federal law.

ARTICLE 151.8. NONCONFORMITIES^{225F}

8.6. Nonconforming Sites^{236F}

8.6.3. Remodeling of Buildings or Structures

2. If damage from any cause to a nonconforming sign equals or exceeds 50 percent of either the original or replacement value, the nonconforming sign may only be replaced with a sign that complies with the provisions of this Ordinance.

C. Renovation

Nonconforming signage shall be removed or replaced with conforming signage if any of the following occur:

1. If additions or expansions of buildings exceed 3,000 square feet of gross floor area (GFA) or the total of additions or expansions of buildings, parking areas, or open uses of land occur that individually or collectively exceed 5,000 square feet; or
2. If structural or nonstructural alterations, excluding routine maintenance and repair of the facade of the principal building, exceeds 50 percent of the facade's area, to be calculated from the area of the facade or wall used in calculating the maximum allowable sign area.

8.5.5 DISCONTINUANCE OF BUSINESS ACTIVITY

A. Discontinued for Less than 180 Days

If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of less than 180 days, then the nonconforming sign may remain.

B. Discontinued for 180 Days or More

If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of 180 days or more, then the nonconforming sign must be removed or replaced by a sign conforming to the standards of this Ordinance within 60 days of notice by the UDO Administrator.

8.5.6 ADDITIONAL SIGN PERMIT APPLICATION

On-premise nonconforming signage shall be removed or replaced with conforming signage if an application for a sign permit to add new or additional signage to the premises is approved.

8.6 NONCONFORMING SITES²³⁷

8.6.1 APPLICABILITY

- A. For purposes of this section, the term "nonconforming site features" includes the following:
 1. Nonconforming off-street parking;
 2. Nonconforming landscaping;
 3. Nonconforming perimeter buffers;
 4. Nonconforming screening walls or fences; and
 5. Nonconforming lighting.
- B. If an application is filed for a building permit (including mechanical, electrical, HVAC, or other typical permit) for the remodeling or expansion of a structure and the development site contains one or more nonconforming site features identified in Subsection A. above, and the value of the proposed improvements totals at least 25 percent of the assessed value of the existing structure, the applicant shall be required to address the nonconforming site feature as provided in this section.
- C. County staff may develop administrative guidelines to assist in the implementation of this section, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into compliance with the requirements of this Ordinance because of particular site constraints or impacts on adjacent sites.

8.6.2 DETERMINATION OF COST AND ASSESSED VALUE

- A. For purposes of determining if upgrading of nonconforming site features is required by this subsection, the cost of the remodeling shall be as shown on the approved building permit application.
- B. Assessed value shall be based on the most recently available Camden County tax records.

²³⁷ This is a new section designed to [replace the standards in Section 151.144, Nonconforming Landscaping, as well as](#) address existing sites that do not comply with the development and design standards included in this draft ordinance. It seeks to allow existing business to gradually reach full compliance through incremental improvements to the use or building. It allows small changes to existing buildings and sites to take place without requiring full compliance with current standards. This section is proposed for the County's consideration, but is not required to maintain an effective nonconformities article. This section could be removed without serious impact to the other provisions; however, the Ordinance should clarify the point at which existing nonconforming sites will be required to comply with the new standards. This may be upon removal of an existing building or at some other point. Regardless, the Ordinance should be clear on when existing development needs to be upgraded for compliance with new standards.

8.6.3 REMODELING OF BUILDINGS OR STRUCTURES

If a building permit is required for interior or exterior remodeling of the building or structure, the remodeling or redevelopment shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and lighting in accordance with this section.

A. 25 Percent or Less of Structure Value

Remodeling in any continuous one-year period that costs 25 percent or less of the current assessed value of the structure shall not require any correction to nonconforming site aspects.

B. More Than 25 Percent but Less Than 75 Percent of Structure Value

Remodeling in any continuous one-year period that costs more than 25 percent but less than 75 percent of the current assessed value of the structure shall require that a corresponding percentage of the off-street parking, landscaping, perimeter buffer, screening, and lighting standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.

Example: A hypothetical building is required to provide at least 40 off-street parking spaces, but the building site only includes 20 spaces. If the building is remodeled such that the cost of remodeling equals 30 percent of the building's assessed value, the remodeling project must add 12 parking spaces (30% x 40 required spaces). This increases the development's degree of compliance with off-street parking standards from 50 percent (20 of 40 required spaces) to 80 percent (32 of 40 required spaces).

C. 75 Percent or More of Structure Value

Remodeling projects that cost 75 percent or more of the current assessed value of the structure shall require 100 percent compliance with the off-street parking, landscaping, perimeter buffer, screening, and lighting standards of this Ordinance.

D. Five or Fewer Additional Parking Spaces

When five or fewer additional off-street parking spaces are required under this subsection as a result of a remodeling project, such additional off-street parking is not required to be installed, but the applicant may install a comparable number of bicycle parking spaces.

8.6.4 ADDITIONS AND EXPANSIONS

Additions and expansions to structures on nonconforming sites shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and lighting standards in accordance with this section.

A. Off-Street Parking, Landscaping, Perimeter Buffers, Signage, and Screening

1. Expansion of 50 Percent or Less of Gross Square Footage Over One Year

Expansions in any continuous one-year period, which result in a 50 percent or less increase in the gross square footage of the existing structure (measured at the beginning of the one-year period), require that a corresponding percentage of the off-street parking, bicycle parking, landscaping, perimeter buffer, screening, and lighting standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.

Example: if the addition is 25 percent of the area of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required. Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.

2. Expansion of Greater Than 50 Percent of Gross Square Footage Over One Year

Expansions over any continuous one-year period, which result in a greater than 50 percent increase of the gross square footage of the existing structure (measured at the beginning of the one-year period), require the entire property to meet all of the off-street parking, landscaping, perimeter buffer, screening, and signage standards of this Ordinance.

B. Addition of Outdoor Storage Area Only

When only outdoor operations/storage/display areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in [Section <>, Landscaping](#), with priority given to screening the impacts of outdoor operations.

8.6.5 PHYSICALLY CONSTRAINED PROPERTIES - COMPLY TO MAXIMUM EXTENT PRACTICABLE

ARTICLE 151.8. NONCONFORMITIES225F

8.6. Nonconforming Sites236F

8.6.5. Physically Constrained Properties - Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply, to the maximum extent practicable, as determined by the UDO Administrator.