

### **ARTICLE III. NONCONFORMING SITUATIONS**

#### **Section 27-14. Continuation of Nonconforming Situations and Completion of Nonconforming Projects**

- (a) Unless specifically provided in these regulations and subject to the restrictions and qualifications set forth in these regulations, nonconforming situations that were otherwise lawful on the effective date of these regulations may be continued.
- (b) Nonconforming projects may be completed only in accordance with the provisions of Section 27-20.
- (c) Nonconforming signs shall be defined and regulated in accordance with the standards of Section 27-178.

#### **Section 27-15. Extension or Enlargement of Nonconforming Situations.**

- (a) Except as specifically provided in this section, a nonconforming situation shall not be intensified through expansion or enlargement. The following activities are particularly prohibited:
  - (1) For nonconforming uses, an increase in the total amount of space devoted to a nonconforming use; extensions throughout any portion of a building by a nonconforming use; and an increase in volume, intensity, or frequency by a nonconforming use.
  - (2) For other nonconforming situations, greater nonconformity with respect to dimensional restrictions, density requirements, or other regulations such as parking requirements; and enclosing a previously unenclosed area that does not meet all applicable development standards.
- (b) Subject to Section 27-20 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- (c) Subject to Section 27-20, a nonconforming use of undeveloped land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (a sandmining operation) may be expanded to within twenty (20) feet of the boundaries of the lot where the use was established at the time it became nonconforming if ten (10) percent or more of the earth products had already been removed on the effective date of these regulations.
- (d) Notwithstanding subsection (a), any structure used for single family residential purposes that is a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or intensify existing nonconformities such as failure to comply with required setbacks or parking regulations. This paragraph is subject to the limitations set out in Section 2718 (Abandonment and Discontinuance of Nonconforming Situations). Subject to Article XIX and notwithstanding other requirements of this article, the Board of Adjustment may grant a variance from the requirements within this chapter for the enlargement of a nonconforming single-family residence.

#### **Section 27-16. Repairs, Maintenance, and Reconstruction.**

- (a) If a structure is located on a lot where a nonconforming use exists, then minor repairs and routine maintenance is permitted, provided the cost of such repairs and maintenance within any twelve (12) month period does not exceed ten (10) percent

of the appraised valuation of the damaged structure, as shown on the Beaufort County tax records of the building, structure, or other development of land, or portion thereof.

- (b) If a structure located on a lot where a nonconforming use exists is damaged to an extent that the costs of repair or replacement would exceed twenty-five (25) percent of the appraised valuation of the damaged structure, as shown on the Beaufort County tax records at the time of such damage, then the structure, if restored, shall thereafter be devoted to conforming uses. Notwithstanding this requirement, any nonconforming owner-occupied single-family residence may be restored and used as an owner occupied residence regardless of the extent of the damage.

#### **Section 27-17. Change in Use of Property Where a Nonconforming Situation Exists.**

- (a) A change of use where a nonconforming situation exists shall be permitted only if the intended change is to a use that is permissible in the district where the property is located.
- (b) If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be met, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.
- (c) If the intended change is to a principal use that is permissible in the district where the property is located, but all the requirements of the chapter applicable to that use cannot be reasonably complied with, then the change is permissible if the Board of Adjustment issues a special use permit authorizing the change. The special use permit may be issued if the Board of Adjustment finds, in addition to any other findings that may be required by this chapter, that:
  - (1) The intended change will not violate Section 27-15 (Extension or Enlargement of Nonconforming Situations).
  - (2) All of the requirements of this chapter that can be reasonably complied with will be met. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting requirements, such as a paved parking lot, does not constitute grounds for finding that compliance is not reasonably possible. Except as provided in Section 27-15(c), the applicant shall not be given permission pursuant to this subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

#### **Section 27-18. Abandonment and Discontinuance of a Nonconforming Use.**

- (a) When a nonconforming situation is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes.
- (b) For purposes of determining whether a right to continue a nonconforming use is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use,

- discontinuance of the nonconforming use for the required one hundred eighty (180) day period shall terminate the right to maintain the nonconforming use thereafter.
- (c) When a structure or use made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the one hundred eighty (180) day period for purposes of this section begins to run on the effective date of this chapter.

#### **Section 27-19. Nonconforming Lots.**

- (a) Any single nonconforming lot of record existing as of the effective date of this ordinance that has eighty (80) percent or more of the minimum required lot area and lot width for the district where the property is located may be used as a building long as all other dimensional requirements can be met.
- (b) If any single nonconforming lot of record existing as of the effective date of this ordinance has eighty (80) percent or less of the minimum required lot area and lot width for the district where the property is located, or in any case where dimensional requirements for any nonconforming lot cannot be met, the board of adjustment may authorize a special use permit authorizing a single family residence on the lot if it finds that:
  - (1) The property cannot be reasonably developed for the use proposed without such deviations;
  - (2) Such residence will not substantially injure the value of adjoining or abutting property or significantly endanger the public health or safety if built as proposed; and
  - (3) Proposed yards, building height, and other dimensional requirements of the proposed residence will deviate from the requirements of this Chapter no more than shall be necessary to make reasonable use of the property.
- (c) Notwithstanding subsection (a) and (b) above, if a property owner owns adjoining vacant lots to a nonconforming lot, the property owner shall be required to combine one (1) or more of these lots to the nonconforming lot, in order to form one (1) conforming lot, before he shall be allowed to use the provisions of subsections (a) and (b) above.

#### **Section 27-20. Completion of Nonconforming Projects; Vested Rights.**

- (a) When a building permit has been validly issued for construction of a nonconforming project, such project shall be permitted to develop in accordance with the terms of that permit provided the building permit remains unrevoked and unexpired. A permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.
- (b) A vested right shall be deemed established to any property upon the valid approval of a site plan by the person or commission having planning and zoning jurisdiction over the property. Such vested right shall confer upon the property owner the right to undertake and complete the development and use of said property under the terms and conditions of the site plan. Nothing in this section shall prohibit the City of Washington from revoking the original approval for failure to comply with applicable terms and conditions of the approval.
- (c) A site plan shall be deemed approved upon the effective date of action of the appropriate person or commission with planning and zoning jurisdiction over the property.
- (d) A right which has been vested as provided for in this section shall remain vested for a period of two (2) years. The vesting shall not be extended to any amendments or modifications to any site plan; the vested right shall remain only in the original site plan, as approved. A right which has been vested as provided in this section shall

- terminate at the end of the two year period with respect to buildings and uses for which no valid building permit applications have been filed.
- (e) A vested right, once established as provided for in this section, precludes any zoning action by the City of Washington against the property which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site plan, except as provided by State or Federal Law. Applicable new regulations shall become effective with respect to property which is subject to a site plan upon the expiration or termination of the vested rights period provided for in this section.
  - (f) Notwithstanding any provision of this section, the establishment of a vested right shall not preclude, change, or impair the authority of the City of Washington to adopt and enforce zoning ordinance provisions governing nonconforming situations, lots, or uses.
  - (g) A vested right obtained under this section is not a personal right, but shall attach to and run with the applicable property. After approval of a site plan, all successors to the original landowner shall be entitled to exercise such rights as provided herein.
  - (h) Nothing in this section shall be deemed to conflict with the rights conferred upon a subdivider by the City of Washington Subdivision Regulations when preliminary plat approval has been given to a nonconforming project.
  - (i) Except as provided in this section, no building permit shall be issued, nor shall any site plan approval be vested for a project that does not conform to these regulations.

#### **Section 27-21. Removal of Certain Nonconforming Uses Required.**

- (a) The following use shall become nonconforming in all districts as of the date of adoption of this Ordinance and shall be removed within sixty (60) months after the date of adoption:
  - (1) Junkyards or Automobile Graveyards
- (b) The following uses shall become nonconforming in all districts except I-1 as of the date of adoption of this Ordinance and shall be removed within sixty (60) months after the date of adoption:
  - (1) Salvage Yards, Auto Parts
  - (2) Salvage Yards, Scrap Processing

### **ARTICLE IV. ZONING DISTRICTS**

#### **Section 27-22. Location and Boundaries of Districts.**

The location and boundaries of the districts established by Section 27-26 through Section 27-42 of this article shall be as shown on the official zoning map.

#### **Section 27-23. Rules for Interpretation of Boundaries.**

Where the location of district boundaries on the official zoning map is uncertain and where no specific ordinance description is found to exist the following rules shall apply:

- (a) Streets, rights-of-way and easements. Boundaries indicated on the zoning map as approximately following the center line of a street, highway, railroad right-of-way, utility easement, stream or river bed, or of such lines extended, shall be construed to be such district boundaries.
- (b) Lot lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

- (c) Political boundaries. Boundaries indicated as approximately following political boundaries shall be construed as following the political boundaries.

**Section 27-24. Vacation, Abandonment, or Withdrawal of Streets and Alleys.**

Where any public street or alley is officially closed or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

**Section 27-25. Further Interpretation by Board of Adjustment.**

In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

**Section 27-26. Zoning Districts Established.**

In order that the purposes of these regulations may be accomplished, the following zoning districts are hereby established within the jurisdiction area as described in Section 27-4. The uses prescribed in each zoning district are intended to preserve and enhance the physical character of the area as well as to conserve and stabilize property values.

**Section 27-27. RA20 Residential Agricultural District.**

The RA20 district is primarily designed to accommodate a compatible mixture of single-family dwellings and agricultural uses at lower densities of approximately two units or less per acre. These areas are generally found in areas without sewer service that are not yet appropriate for development at higher densities.

**Section 27-28. R15S Residential-Single Family.**

The R15S district is primarily designed to accommodate single family dwellings at lower densities of approximately three units or less per acre.

**Section 27-29. R9S Residential Single-Family.**

The R9S district is primarily designed to accommodate single family dwellings at medium densities of approximately five units or less per acre.

**Section 27-30. R6S Residential Single Family.**

The R6S district is primarily designed to accommodate single family dwellings at higher densities of approximately seven units or less per acre.

**Section 27-31. RMF Residential Multi Family.**

The RMF district is primarily designed to accommodate a compatible mixture of single family, two family, and multi family dwellings at higher densities, as set out in Article XI, Multi-Family Development.

**Section 27-32. RMH Residential Mobile Home.**

The RMH district is primarily designed to accommodate a compatible mixture of single family (including mobile home), two family, and multi family dwellings at higher densities, as set out in Article VIII, Mobile Home Parks.

**Section 27-33. RHD Residential Historic District.**

The RHD district is primarily designed to accommodate a compatible mixture of single family, two family, and multifamily dwellings at higher densities of approximately seven units or less per acre while preserving the historic character of the district.

**Section 27-34. PUD Planned Unit Development.**

The PUD district is a special use residential zoning district that provides an alternative to traditional development standards and as further provided under Article 12.

**Section 27-35. O&I Office and Institutional District.**

The O&I district is primarily designed to accommodate a compatible mix of business, professional, and institutional uses, in addition to providing a desirable buffer between commercial and low density residential uses.

**Section 27-36. B1H Central Business Historic District.**

The B1H district is primarily designed to provide convenient shopping and service facilities by promoting compact development of commercial, office, and service uses while preserving the historic character of the district.

**Section 27-37. B2 General Business District.**

The B2 district is primarily designed to provide roadside uses which will best accommodate the needs of the motoring public and of businesses demanding high volume traffic. This district also includes the Central Business District fringe area.

**Section 27-38. B3 Shopping Center District.**

The B3 district is primarily intended to accommodate a wide range of high intensity retail and service developments meeting the need of the community and the region. The district is established on large sites to provide locations for major developments which contain multiple uses, shared parking and drives, and coordinated signage and landscaping.

**Section 27-39. B4 Neighborhood Business District.**

The B4 district is primarily designed to accommodate convenient shopping facilities consisting primarily of necessary goods and personal services required to serve a neighborhood.

**Section 27-40. I1 Heavy Industrial District.**

The I1 district is primarily designed to accommodate those industrial, wholesale, warehouse, and other uses which by their nature may create an excessive amount of noise, odor, smoke, dust, airborne debris or other objectionable impacts which might be detrimental to the health, safety, or welfare of surrounding areas.

### **Section 27-41. I2 Light Industrial District.**

The I2 district is primarily designed to accommodate those industrial, wholesale, warehouse, and other uses which by their nature do not create an excessive amount of noise, odor, smoke, dust, airborne debris, or other objectionable impacts which might be detrimental to the health, safety, or welfare of surrounding areas.

### **Section 27-42. AP Airport District.**

The AP district is primarily designed to accommodate a compatible mix of airport facilities and agricultural uses.

#### ***Section 27-42.1. CP Corporate Park District.***

***The CP Corporate Park District is primarily intended to accommodate office, warehouse, research and development, assembly uses on large sites in a planned, campus-like setting compatible with adjacent residential uses. The district also contains retail and service uses which customarily locate within planned employment centers.***

### **Section 27-43. Table of Uses.**

- (a) Permitted uses are indicated by the letter P.
- (b) Special uses are indicated by the letter S. Special use standards are included in Article V, Section 27
- (c) Permitted uses subject to developmental standards of Article VI, Section 27-61 are indicated by the letter D.
- (d) The following uses shall be allowed only within the respective zoning districts as specified herein.