
Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

- (a) Except for fences, which are regulated by article VII of this chapter, nonconforming uses created by a change in regulations may continue to exist and shall be subject to all other provisions of this article.
- (b) Any building or structure for which normal repair, renovation, partial demolition and reconstruction or routine maintenance is proposed in an amount less than 50 percent of the current tax or certified appraised value of the building or structure, regardless of the reason for such repair or maintenance, shall be entitled to do so using the same building footprint and density with which the building or structure was originally constructed, provided the number of living units or nonresidential spaces are not increased and no additional nonconformities are created. [Notwithstanding the foregoing, lot coverage may exceed that of the original construction if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems.](#)
- (c) In the event normal repairs, renovations, full or partial demolition will result in new construction to a nonconforming structure exceeding 50 percent of the current tax or certified appraised value of the building or structure in any period of 12 consecutive months (except as otherwise allowed in subsection (e) of this section), regardless of the reason for such repairs, renovations, full or partial demolition or maintenance, the owner shall be entitled to undertake new construction using the same building density with which the building or structure was originally constructed, provided that the following provisions are met:
- (1) The number of living units or non-residential spaces are not increased.
 - (2) No additional nonconformities are created.
 - (3) All current minimum setbacks are met for the zoning district in which the structure is located.
 - (4) Maximum building height of the structure shall not exceed those of the zoning district in which it is located.
 - (5) Landscaping and buffer requirements shall meet the minimum requirements of the zoning district in which it is located.
 - (6) All parking requirements shall meet the minimum requirements of the district in which it is located.
 - (7) Lot coverage shall not exceed that of the original construction that is being replaced. [Notwithstanding the foregoing, lot coverage may exceed that of the original construction if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems](#)
 - (8) All stormwater requirements of the Town shall be met.
- (d) In any event, normal repair, renovation, or new construction shall be consistent with regulations as established by the state building code, state division of coastal management, the Federal Emergency Management Act, the Town flood damage prevention ordinance or any other state, or federal regulation that would supersede the provisions of this article.
- (e) Any nonconforming structure or structures containing a nonconforming or conforming use which was lawful on the adoption date of this article or was made unlawful by subsequent changes to the Carolina Beach Town Code can be rebuilt in the event it is damaged or destroyed, whether in whole or in part, by fire, wind, flood or other calamity or catastrophic event. Any such restoration, reconstruction, or repair shall be subject to the following requirements:
- (1) The construction shall be based upon and be substantially similar to the prior structure with no increase in nonconforming uses or nonconforming situations.

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- (2) The footprint of the foundation shall not be increased.
 - (3) Any such work shall comply with the electrical, plumbing, heating/air-conditioning and building code in effect at the time of the construction work. Said restoration, reconstruction, or repair shall meet all other regulations as specified by the state division of coastal management, the Federal Emergency Management Act, the Town flood damage prevention ordinance or any other state, or federal regulation that would supersede the provisions of this article.
 - (4) Reconstruction of a structure in accordance with this subsection (e) may cause new height nonconformities in order to meet all state and federal flood regulations. In this scenario, the structure may exceed height regulations of the district by no more than what is required to meet flood requirements.
 - (5) The number of living units or non-residential spaces shall not be increased and no additional nonconformities shall be created.
- (f) Reconstruction of a nonconforming building, structure or use under the provisions of subsection (e) of this section shall be subject to the following restrictions:
- (1) A letter of intention to reconstruct with certification of the original building or footprint is required to be delivered to the Building Inspector and Town Planning Director within 180 days from the date the building was damaged or destroyed. Prior to such letter of intent, buildings shall be made safe so as not to endanger the public or jeopardize public safety. Said 180-period may be extended by an action of the Town Council.
 - (2) A building permit is to be obtained from the Building Inspector within 365 days from the date the building or structure was damaged or destroyed and if the building permit is not obtained within the 365 days the reconstruction will have to be conforming. Any extensions to this time may be granted by the Town Manager for up to 365 additional days if the applicant provides a letter giving reason why the building permit has been unobtainable.

(Code 1986, app. A, § 18.4; Ord. No. 02-514, 9-17-2002; Ord. No. 06-625, 3-2-2006; Ord. No. 07-700, 8-14-2007; Ord. No. 09-784, 5-12-2009; Ord. No. 12-896, 7-10-2012)