

CITY OF NEWPORT

ORDINANCE

OF THE

COUNCIL

**NO. 2025-25**

AN ORDINANCE IN AMENDMENT OF TITLE 17 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWPORT, RHODE ISLAND, REVISION OF 1994, AS AMENDED, ENTITLED, "ZONING."

BE IT ORDAINED by the City of Newport:

SECTION 1. Chapter 17.72 of the Codified Ordinances of the City of Newport, RI, revision of 1994, as amended, entitled, "**Substandard Lots and Nonconforming Uses**," is hereby further amended as follows:

**17.72.010. Substandard lots of record—Effective January 1, 2024.**

- A. Notwithstanding the provisions of Section 17.72.030.C. to the contrary, a permitted use by right may be established on a single lot of record on the effective date of adoption or amendment of the zoning code, regardless of lot area or width, provided there is compliance with the limitations imposed by other provisions of this zoning code or relief from the same is obtained by way of a dimensional variance provided, however, where such substandard original lot is unimproved and has one or more common boundaries with another unimproved lot owned by the same owner or his/her affiliate, such lots shall be combined in accordance with the provisions of this section.
- B. If two or more unimproved lots or combinations of such lots or portions of such lots with continuous frontage in single ownership are of record at the time of passage or amendment of this zoning code, and if all or parts of the lots do not meet the requirements established for lot width and area, and a building or other use is proposed which utilizes such lots in combination, the land involved shall be consolidated. In this manner no portion of the lot created through consolidation may be used or sold in a manner which diminishes compliance with any of the requirements established by this zoning code. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty (50) percent of the lots within two hundred (200) feet of the subject lot, as confirmed by the zoning officer.

- C. If three or more unimproved lots or parcels of land in any residential zoning district, having one or more than one common boundary with another lot owned by the same owner or his/her or its affiliate, and one or more of these lots fails to meet the requirements established by zoning code for minimum lot width and area, such unimproved lots shall be considered to be an individual, undivided parcel of land for the purpose of this chapter. If the total lot width or lot area of such contiguous unimproved lots of record is less than required by this zoning code, such lots may be considered as a single nonconforming lot of record for the purpose of this chapter. The merger of lots shall not be required when the substandard lot of record has an area equal to or greater than the area of fifty (50) percent of the lots within two hundred (200) feet of the subject lot, as confirmed by the zoning officer.
- D. The provisions of subsections B. and C. of this section do not apply to any lot which has been assessed as a separate tax assessor's lot and which contains at least eighty thousand (80,000) square feet.
- E. The provisions of this section shall apply to all the districts specified in this zoning code and in merging substandard lots of record consideration shall be given to the availability of infrastructure, the character of the neighborhood, and the consistency with the comprehensive plan.
- F. Notwithstanding the failure of a single substandard lot of record or contiguous lots of record to meet the dimensional and/or quantitative requirements of this zoning ordinance, and/or road frontage or other access requirements applicable to the district as stated in the ordinance, a substandard lot of record shall not be required to seek any zoning relief based solely on the failure to meet minimum lot size requirements of the district in which such lot is located. For any structure proposed under this section on a substandard lot of record, the following dimensional regulations shall apply:
- i. Minimum building setbacks, lot frontage, and lot width requirements for a lot that is nonconforming in area shall be reduced by applying the building setback, lot frontage, and lot width requirements from another zoning district in the municipality in which the subject lot would be conforming as to lot area. If the subject lot is not conforming as to lot area in any zoning district in the municipality, the setbacks, lot frontage, and lot width shall be reduced by the same proportion that the area of such substandard lot meets the minimum lot area of the district in which the lot is located. By way of example, if the lot area of a substandard lot only meets forty

percent (40%) of the minimum lot area required in the district in which it is located, the setbacks, lot frontage, and lot width shall each be reduced to forty percent (40%) of the requirements for those dimensional standards in the same district.

- ii. Maximum lot building coverage for lots that are nonconforming in area shall be increased by the inverse proportion that the area of such substandard lot meets the minimum area requirements in the district in which the lot is located. By way of example, if the lot area of a substandard lot only meets forty percent (40%) of the required minimum lot area, the maximum lot building coverage is allowed to increase by sixty percent (60%) over the maximum permitted lot building coverage in that district.

**DELETE IN ITS ENTIRETY PARAGRAPH G**

- ~~G. The setback, frontage, and/or lot width requirements for a structure under this section shall be reduced and the maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding such reduced requirement shall proceed with a modification request under Chapter 17.108.010 or a dimensional variance request under Chapter 17.108.020, whichever is applicable.~~

**17.72.030. Alteration to nonconforming development.**

- A. Nothing in this zoning code shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by decree of any official charged with protecting the public safety, provided that such work does not increase the nonconformity thereof. Nothing in this zoning code shall be deemed to prohibit ordinary repair and maintenance of a nonconforming structure or replacement of existing materials, provided that such work does not increase the nonconformity thereof.
- B. No nonconforming use of land shall be moved to another part of a lot or outside the lot, and no nonconforming use of a building shall be moved or extended to any other part of the building not expressly arranged and designed for such use at the time the use became nonconforming, and no building containing a nonconforming use shall be moved, unless the result of such move is to end the nonconformity. No nonconforming building shall be moved, unless the result of such moving is to reduce or eliminate its nonconformity.
- C. Nonconforming by Use. No nonconforming use of land or nonconforming use of a structure shall be changed except to a conforming use or structure. No nonconforming use of land or

nonconforming use of a structure, if once changed to conform, shall thereafter be changed so as to be nonconforming by use again.

- D. Dimensionally Nonconforming—Alteration to dimensionally nonconforming structures that otherwise conform to the use regulations of the zoning district shall be allowed as a matter of right if the alteration in and of itself: (1) conforms to the current dimensional requirements of the zoning district in which the property is located; and (2) does not increase or intensify the element(s) of the dimensional nonconformity. ~~Alteration or construction of first-level decks that otherwise conform to the current use and dimensional requirements of the zoning district in which the property is located are permitted by right. Alteration or construction of decks and/or balconies above the first level of any building on a non-conforming property, by lot size, requires approval of a special use permit, under Category 6.~~
- E. A structure ~~or land~~ which is nonconforming by ~~dimension~~ lot coverage, but the use of which is a use permitted by right in the district in which the land or structure is located, shall only be altered, changed, enlarged or subject to addition or intensification ~~with respect to its nonconforming element(s)~~ by obtaining a ~~special use permit~~ variance from the zoning board of review or, if applicable pursuant to unified development review the planning board. ~~The criteria for review of a special use permit for a alteration of a nonconformity are listed under Chapter 17.109.020.F.~~
- F. A use established by variance or special use permit shall not acquire the rights of this section.

SECTION 2. This ordinance shall take effect upon its passage and all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

IN COUNCIL  
READ AND PASSED  
**MARCH 26, 2025**



LAURA C. SWISTAK, CMC  
CITY CLERK