
17.3 NONCONFORMING LOT OF RECORD

A nonconforming lot of record is a lot of record that at one time conformed to the lot dimension requirements of the zoning district in which it is located, but because of this Code, or a subsequent amendment to this Code, does not conform. This includes nonconformities created by prior zoning codes or amendments to those codes.

A. Use

1. In a nonresidential zoning district, a~~A~~ nonconforming lot of record may be used for a permitted or special use allowed within the zoning district.
2. In residential zoning districts, only one single family dwelling as a principal use may be constructed on a nonconforming lot of record.
3. If a nonconforming lot of record is in compliance with Article 4.6 and Table 4-4 pertaining to Middle Housing, only one Middle Housing structure may be permitted.

B. Development

Subject to Article 17.3.A, d~~Development~~ of a nonconforming lot of record must meet all applicable dimensional and design regulations of the district in which it is located with the exception of the lot area and/or width requirement that renders it nonconforming. Development of a nonconforming lot under Article 4.6 must meet all applicable dimensional and design regulations of the Middle Housing Standards, including lot width per Table 4-4.

C. Lot Division

No recorded lot may be divided into two or more lots unless such division results in the creation of lots each of which conform to all of the applicable regulations of the district where the property is located. No reduction in the size of a recorded lot below the minimum requirements of this Code is permitted except in the following situations:

1. When the dedication of right-of-way is required and approved under the provisions of the Knoxville-Knox County Minimum Subdivision Regulations, and this dedication makes a lot or structure nonconforming with requirements for setbacks, building coverage, lot area, or lot width, a final plat may be approved which results in no other new nonconformity and no other increase in the extent of a nonconformity.
2. When a legal, nonconforming structure exists on the property being subdivided and this structure is nonconforming with requirements for setbacks or height, a final plat may be approved which results in no new nonconformity and no increase in the extent of any existing nonconformity.
3. When a subdivision of property is proposed and each proposed new lot will contain a principal building categorized as contributing in an H or NC Overlay District. If each proposed new lot meets this criteria, and the existing principal buildings are nonconforming with requirements for setbacks and/or lot coverage, the property owner may seek a variance as prescribed by law.
4. Items 1, 2, and 3 above also apply to one lot subdivisions, as defined in the Knoxville-Knox County Minimum Subdivision Regulations, which combine two or more lots into one lot or where an adjustment is made to one lot line between two existing recorded lots.

D. Lot Consolidation

A nonconforming lot is permitted to consolidate with an adjacent lot, even if such consolidation still does not conform to the lot dimension requirements of the zoning district in which it is located. Such consolidation is seen as a reduction of the nonconformity.

E. Lot Created by Deed

In any residential district, ~~a house~~ a single-family dwelling may be constructed on a lot created by deed provided the lot is located in the area within the City boundary, is described by a deed recorded prior to July 8, 1971 and has remained intact with the same boundary configuration since the recorded date.

If a lot created by deed meets the criteria cited above, and is nonconforming with requirements for minimum yards, building setbacks, and/or lot coverage, the property owners may request a final plat. Upon application for a building permit, the property must be a lot of record (platted and recorded at the Knox County Register of Deeds). In limited situations, the Department of Engineering may grant approval for a property that is not a lot of record.

(Ord. No. O-45-2020, § 1, 3-24-20; Ord. No. O-102-2023, § 1, 7-11-23)

**MEMORANDUM**

DATE: June 17, 2025

TO: Amy Brooks

FROM: Bryan Berry
Deputy Director of Plans Review & Inspections

RE: Amendments to City Zoning Code Article 17.3 – Nonconforming Lots of Record

The language in Article 17.3.A of the zoning code states, *a nonconforming lot of record may be used for a permitted or special use allowed within the zoning district*, while Article 17.3.B states, *that development of a nonconforming lot of record must meet all applicable dimensional and design regulations of the district in which it is located with the exception of the lot area and/or width requirement that renders it nonconforming*. The difficulty this creates is allowing all special or permitted uses an exception to lot area and/or width on a nonconforming lot of record. The following example illustrates how this nonconforming language needs to be modified.

In the RN-4 zoning district dimensional standards below, the minimum lot area for a single-family dwelling (SF) is 5,000 square feet and a two-family dwelling (2F) is 7,000 square feet. Lot width is the same for both at 50 feet.

Table 4-2: Residential Districts Dimensional Standards	
	RN-4
Bulk	
Minimum Lot Area	SF: 5,000 sf 2F: 7,000 sf TH: 3,000 sf/du MF: 2,000 sf/du Nonresidential: 10,000 sf
Maximum Lot Area	MF: 40,000 sf
Minimum Lot Width	SF, 2F: 50' TH: 20'/du MF: 60' Nonresidential: 75'
Maximum Building Height	SF, 2F, TH: 35' MF: 45', unless adjacent to a single-family dwelling, then 35'
Maximum Building Coverage	35% TH, MF, Nonresidential: 50%
Maximum Impervious Surface	45% TH, MF, Nonresidential: 60%

Lot 18 in the image below is zoned RN-4 with a lot width of 35 feet and lot area of 4,900 square feet.



Single-family and two-family dwellings are permitted uses in RN-4, but lot 18 does not meet the minimum area or width for either use. Because the nonconforming language states *the lot can be developed with the exception of area and/or width*, a single-family or two-family dwelling use would not need variances for lot area or width.

However, if lot 18 was slightly larger at 5,000 square feet in area and had a width of 50 feet, it would be conforming to a single-family dwelling, but not a two-family dwelling. A variance would then be needed to reduce the lot area required for a two-family dwelling from 7,000 square feet to 5,000 square feet.

The zoning code provides an exception to this 35-foot wide and 4,900 square foot nonconforming lot that is not granted to the same lot if it was slightly larger and conforming at 50 foot wide and 5,000 square feet. This is contradictory.

One of the ways many municipalities across the country regulate this is to limit nonconforming residential lots to only one single-family dwelling. This helps to reduce the degree of nonconformity by preventing overuse of undersized parcels as illustrated. It is staff's recommendation that nonconforming residential lots should only allow one single-family dwelling as a principal use to be constructed.

The Plans Review and Inspections Department worked closely with Planning and is supportive of these amendments to the zoning ordinance found in Article 17.3 Nonconforming Lot of Record.

Sincerely,

A handwritten signature in black ink that reads "Bryan Berry". The signature is written in a cursive, flowing style with a large initial 'B'.

Bryan Berry, AICP
Deputy Director of Plans Review & Inspections

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

Nonconforming Lots in Other Municipalities

For comparison, the nonconforming language of 15 municipalities of similar size and mostly within the southern region are included below with links to the applicable zoning ordinances. This research was compiled by Mark Riehl, City Zoning Chief for the City of Knoxville.

1. **Charlotte, NC** - *Nonconforming lots*. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance to yard requirements may be obtained through the Board of Appeals.
https://codelibrary.amlegal.com/codes/charlotte/latest/charlotte_mi/0-0-0-20008
2. **Nashville, TN** - Single Family Structures in Residential and Agricultural Districts. Within the R and R-A, RS and RS-A, RM, RM-NS, RM-A, RM-A-NS, AR2a and AG districts, a single-family structure may be constructed on a legally created lot that contains less than the minimum lot area required by Tables 17.12.020A, 17.12.020B, 17.12.020C or 17.12.020D, provided the lot contains a minimum area of three thousand seven hundred fifty square feet and existed prior to the effective date of the ordinance codified in this title. Single Family Structures in R and R-A, RS and RS-A, RM, RM-A districts shall comply with the bulk standards of the district within the same classification of zoning district (R/R-A and RS/RS-A, RM or RM-A) in which the lot area would be conforming. If the application of these bulk standards results in a change in the minimum side setback, then the height of the single family structure shall be limited to 35 feet, including foundation height. Lots less than 5,000 square feet shall build to the 3' side setback for at least 25% of the depth of the structure beginning at the street setback.
[https://library.municode.com/tn/Metro Government of Nashville and Davidson County/codes/code of ordinances?nodeId=CD TIT17ZO CH17.40ADPR ARTXIVNOUSSTLOSI 17.40.670NO LOAR](https://library.municode.com/tn/Metro%20Government%20of%20Nashville%20and%20Davidson%20County/codes/code%20of%20ordinances?nodeId=CD_TIT17ZO_CH17.40ADPR_ARTXIVNOUSSTLOSI_17.40.670NO_LOAR)
3. **Memphis, TN** - *Nonconforming lots* - In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. A variance to yard requirements shall be obtained through approval of the Board of Appeals.
https://codelibrary.amlegal.com/codes/memphis/latest/memphis_mi/0-0-0-2588
4. **Greensboro, NC** - A [nonconforming lot of record](#) may be built upon if compliance is achieved with regard to all ordinance requirements except for [lot area](#) or [width](#).

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

In residential zoning districts, only a single-family dwelling may be permitted on a nonconforming lot of record.

<https://online.encodeplus.com/regs/greensboro-nc/doc-viewer.aspx?secid=688#secid-17>

5. **Mount Pleasant, SC** - *Nonconforming lots of record*. Any nonconforming lot may continue to be used without a change in boundaries and may be utilized or developed under the applicable zoning, provided that any such activity is otherwise authorized by these regulations.

If only one lot is involved, the owner may use such lot if the dimensional requirements, including front, side, and rear yard setbacks, meet 80% of each numerical standard established in the district. If a dimensional requirement must be modified more than 20% to accommodate the proposed use of the lot, a request for relief must be considered by the Board of Zoning Appeals.

https://codelibrary.amlegal.com/codes/mtpleasantnc/latest/mpleasant_sc/0-0-0-343

6. **Fayetteville, NC** - Development of Unimproved Nonconforming Lots

All other dimensional standards met

Notwithstanding limitations imposed by other provisions of this Article, where the lot of record fails to comply with the district's dimensional standards for area or width, a single primary use and customary accessory structures allowed by right in the base zoning district may be developed on any single lot of record existing prior to July 1, 2011, provided that development on the lot of record shall comply with the other district dimensional standards.

Reduction in another dimension standard

When the site conditions and lot non-conformity combine to require a reduction in other dimensional standards, side or rear setback standards may be reduced in proportion to the percent of nonconformity of the lot, up to 20 percent, if approved during a Minor Site Plan Review (see Section [30-2.C.5.b.2](#)). Other or greater dimensional reductions must be requested through the variance process (Section [30-2.C.14](#)).

<https://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10620>

7. **Richmond, VA** - *Lot and unit width*. Minimum lot and unit width requirements set forth in this chapter for single-family and two-family dwellings shall not apply to lots legally recorded prior to the effective date of the ordinance from which such requirements are derived.
https://library.municode.com/va/richmond/codes/code_of_ordinances?nodeId=CH30ZO_ARTVI_SURE_DIV3LOLOAR_S30-620.1LOREPREFDARE

8. **Norfolk, VA** - Development of Single-family Dwelling on Nonconforming Zoning Lots - [Residential](#) lots which do not comply with the minimum lot area or width requirements of the applicable zoning district or [overlay district](#) in which they are located, may be developed with a [single-family dwelling](#) where

The lot is located within a zoning district where a single-family dwelling is a permitted use.

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

Neither the lot nor any portion of it has been held in common ownership with any adjacent lot so that the combined property holdings of the landowner form a zoning lot of sufficient width and area to conform to the requirements of this Ordinance at any time during the period of common ownership;

The lot was created or re-subdivided lawfully and in accordance with the minimum lot width or area requirement which would allow by-right development of a single-family dwelling in the zoning district applicable at the time of its creation or re-subdivision

[https://www.norfolkva.gov/norfolkzoningordinance/#Norfolk-ZO/6 4 Nonconforming Zoning Lots.htm# Toc502655870?TocPath=Article%25206%253A%2520Nonconformities%257C6.4%2520Nonconforming%2520Zoning%2520Lots%257C 3](https://www.norfolkva.gov/norfolkzoningordinance/#Norfolk-ZO/6%204%20Nonconforming%20Zoning%20Lots.htm#Toc502655870?TocPath=Article%25206%253A%2520Nonconformities%257C6.4%2520Nonconforming%2520Zoning%2520Lots%257C3)

9. **Pittsburgh, PA** – Nonconforming Lots, Vacant Lot - If the lot or parcel was vacant on the date which this code became applicable to it and is in separate ownership from abutting lots or parcels, then the Zoning Administrator shall approve the use of the lot as an Administrator Exception for a single-unit residential use, or the Zoning Board of Adjustment shall approve, as a special exception, the lot for a conforming use permitted in the district in which the lot is located, according to the following standards:

1. The use and structure shall comply with all applicable dimensional requirements of the code to the extent practicable; and
2. If the applicable zoning district permits a variety of uses or a variety of intensities of uses, and one (1) or more uses or intensities would comply with applicable setback requirements while others would not, then only the uses or intensities that would conform with the applicable setback requirements are permitted.

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances/249908?nodeId=PIZOC O TITNINEZOCO ARTVIINO CH921NO 921.04NOLO&showChanges=true

10. **Indianapolis, IN** - *Lot area and width exceptions for previously recorded lots.*

All lots recorded or any platted lot recorded prior to December 20, 1989, having less than the minimum lot area or minimum lot width required by the applicable Dwelling District regulations of the Zoning Ordinance for a single-family detached dwelling, shall be deemed an exception to such minimum lot area and lot width requirement, and a single-family detached dwelling may be constructed thereon provided all other requirements of this ordinance, including minimum yard and setback requirements, shall be maintained.

In the D-6, D-6II and D-7 districts, a single-family detached dwelling or two-family dwelling, including accessory structures, may be constructed, erected, enlarged, extended, or reconstructed on any platted lot recorded prior to December 20, 1989, that was specifically platted for single-family or two-family dwelling purposes. Such development shall be in accordance with the approved plat, any restrictions thereof, and any commitments resulting from the rezoning of such lot

All lots recorded or any platted lot recorded prior to August 2, 1993 having less than the minimum frontage required by the applicable Commercial District regulations of the Zoning

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

Ordinance, shall be deemed an exception to such minimum frontage requirement, and a commercial establishment may be constructed thereon provided all other requirements of the Commercial District, unless specifically excepted in this section, shall be maintained.

[https://library.municode.com/in/indianapolis -
marion county/codes/code of ordinances?nodeId=TITIIPUHEWE CH744DEST ARTILOBUDI
S744-202NECONO](https://library.municode.com/in/indianapolis_-_marion_county/codes/code_of_ordinances?nodeId=TITIIPUHEWE_CH744DEST_ARTILOBUDIS744-202NECONO)

11. **Huntsville, AL** - *Nonconforming lots of record.* Subject to section 74.1.3, a nonconforming lot of record may be used for a permitted use, except apartments and duplexes, nonetheless provided:

- (1) The lot has a minimum width of 40 feet and a minimum area of 4,000 square feet, except as permitted in a Residence 2-C District;
- (2) The lot abuts an all-weather street and has not less than 20 feet frontage;
- (3) The proposed building conforms to all yard requirements for the district; and
- (4) The water supply and sewage disposal meet all health requirements.

Where two or more contiguous lots under common ownership are sufficient to create one lot of dimensions conforming to the requirements for the district in which the lots are located but the lots are not sufficient for the creation of two or more fully conforming lots, then all of the said lots shall be deemed merged into one lot.

[https://library.municode.com/al/huntsville/codes/code of ordinances?nodeId=COOR APXAZO
OR ART74NOLONOUSLANOSTNOUSSTPR 74.1NOLOREUNLO](https://library.municode.com/al/huntsville/codes/code_of_ordinances?nodeId=COOR_APXAZOOR_ART74NOLONOUSLANOSTNOUSSTPR_74.1NOLOREUNLO)

12. **Marietta, GA** - In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record existing on July 11, 1984, notwithstanding limitations imposed by other provisions of this article, only so long as it is used for a single-family residence. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements in order to build upon any such vacant single lot of record shall be obtained only through action of the board of zoning appeals.

If 2 or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this article, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this article, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this article, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this article.

[https://library.municode.com/ga/marietta/codes/code of ordinances?nodeId=COOR ZOOR DI
V706NOUS 706.04EX](https://library.municode.com/ga/marietta/codes/code_of_ordinances?nodeId=COOR_ZOOR_DIV706NOUS_706.04EX)

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

13. **Kansas City, MO** - A nonconforming lot is a lawfully created lot, shown on a plat or survey map recorded in the appropriate recorder of deeds office that does not comply with the most restrictive minimum lot area or lot width standards of the zoning district in which the lot is now located.

B. USE OF NONCONFORMING LOTS

In residential zoning districts, a nonconforming lot may be developed with a detached house. In nonresidential zoning districts, a nonconforming lot may be developed with a use allowed within the subject zoning classification. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area and lot width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.

https://library.municode.com/mo/kansas_city/codes/zoning_and_development_code/141331?nodeId=ZODECOKAMI_600_SERIESADEN_88-610NO_88-610-03NOLO

14. **Tampa, FL** - Nonconforming lots.

- (a) *Use of single nonconforming lots for a single-family dwelling.* A single-family dwelling and customary accessory structure may be erected, occupied and used on a single, nonconforming lot of record that is not in continuous frontage with other lots in the same ownership (except as provided below) in accord with other requirements applying in the separate districts.
 - (b) *Rules concerning combination of contiguous residential nonconforming lots in same ownership and with continuous frontage.*
- (2) *Combination required where nonconformity was created at enactment or amendment of this chapter.* Where more than one (1) residential nonconforming lots of record in single ownership and with continuous frontage exist, they shall be combined and considered a single zoning lot, and a zoning compliance permit authorizing their use shall only be issued when the lot area and lot width requirements for the district in which the lots are located are satisfied. Full setback requirements shall apply to all of the newly created lots.
 - (3) *Combination not required where nonconformity created by public taking or court order.* Where the nonconforming lots were created by public taking action or as a result of a court order, combination of the lots shall not be required.
 - (a) *Use of nonresidential nonconforming lots.*
 - (4) A separate nonconforming lot of record which is not in continuous ownership with other lots in the same ownership in office, commercial, industrial and other districts which are nonconforming due to inadequate area, width or both may be used for permitted principal and accessory uses and special uses in the district in which located. Such lots may be used, provided that all other provisions of this chapter, except the requirements for minimum lot size and minimum lot width, are met.
 - (5) On January 1, 1988, where more than one (1) nonconforming lot of record existed in a single ownership with continuous frontage, the lots shall be considered a single zoning lot.

Exhibit A. Nonconforming Lots of Record Language in Other Municipalities

- (a) *Nonconforming lots due to governmental acquisition.* If a nonconforming lot is created by a governmental acquisition, required yards shall be measured from the property line location prior to acquisition.

https://library.municode.com/fl/tampa/codes/code_of_ordinances?nodeId=COOR_CH27ZOLAD E_ARTVIINO_S27-295NOLO&showChanges=true

15. **Toledo, OH** - A nonconforming lot is a tract of land, designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means, that
- A. Was established prior to adoption of the City's first zoning ordinance; or
 - B. Complied with all applicable lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

Use of Nonconforming Lots.

In residential zoning districts, single nonconforming lots may be used for detached houses and related accessory structures, subject to all other applicable standards of the underlying zoning district.

https://codelibrary.amlegal.com/codes/toledo/latest/toledo_oh/0-0-0-107228