



SENATE BILL 587: Clarify Nonconforming Uses.

2025-2026 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	May 6, 2025
Introduced by:	Sens. Lazzara, Sawrey	Prepared by:	Chris Saunders
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *Senate Bill 587 would, retroactively effective December 14, 2024, establish vested rights in nonconformities, provide that amendments to land development regulations are not applicable or enforceable with regard to a nonconformity unless the landowner consents, and allow for the reconstruction, re-establishment, repair, and maintenance of a nonconformity by right if the nonconformity is not extended, expanded, enlarged, increased, or intensified. It would also restore the authority of local governments to initiate down-zoning without the consent of all affected property owners, retroactively effective December 14, 2024.*

CURRENT LAW AND BILL ANALYSIS:

Nonconformities

Under common law, nonconformities are land uses or structures that were legal when established but do not conform with subsequently adopted or amended land use regulations. Zoning ordinances are not required by statute to allow for the continuance of nonconformities, but most do. Whether a use was in existence before the passage of an ordinance is a question of fact, determined on a case-by-case basis. Whether a use was lawful under the regulations in effect at the time is a question of law, with ambiguities being resolved in favor of the free use of land.

Section 1 would define the term "nonconformity." It would include any of the following that was lawfully operated, established, or commenced in accordance with applicable regulations in effect at the time the nonconformity became nonconforming, so long as the nonconformity is not expanded or intensified:

- A lot, parcel, or tract of land that fails to meet all current development regulation requirements.
- A structure that no longer complies with all current development regulation requirements applicable to that structure.
- The use of a property for a purpose or activity, or in a manner, made unlawful by a current development regulation.
- Any dwelling, accessory building, accessory structure, outdoor lighting, fence, wall, sign, off-street parking, vehicular surface area, or private access point.

Section 2 would provide that amendments to land development regulations are not applicable to nonconformities without the written consent of the owner. A nonconformity would continue unless it expired due to the intentional and voluntary discontinuance of the nonconformity for 24 months. The 24-month discontinuance period would be tolled during the same time periods applicable to vested rights. Reconstruction, re-establishment, repair and maintenance of a nonconformity would be permitted by right provided the nonconformity is not extended, expanded, enlarged, increased, or intensified.

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Section 3 would provide that the 24-month discontinuance period for vested rights generally would be tolled for the duration of any emergency declaration for which the defined emergency area includes all or part of the property.

Sections 4 through 10 would make conforming changes.

Down-zoning

G.S. 160D-601(d), as amended by Section 3K.1 of S.L. 2024-57 (Senate Bill 382), prohibited, without the written consent of all affected property owners, local government initiated rezonings or text amendments that (i) decrease the permitted density of development, (ii) reduce the range or permitted uses of the property, or (iii) create any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.

Section 11 would, retroactive to December 11, 2024, restore the authority of local governments to initiate down-zoning without the consent of all affected property owners. Any development ordinance affected by Section 3K.1 of S.L. 2024-57 would be treated as if it remained in effect from June 14, 2024, to December 11, 2024.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law and would apply to any nonconformity existing on or after December 11, 2024.

Erika Churchill and Ike McRee, Staff Attorneys, substantially contributed to this summary.