



Date of Meeting: August 7, 2025

TOWN OF LEESBURG
PLANNING COMMISSION WORK SESSION

Subject: Zoning Ordinance Rewrite

Staff Contact: Michael Watkins, Zoning Administrator
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Purpose: Review of Zoning Ordinance Rewrite Article VII: Nonconformities, Article VIII: Enforcement, Violations, and Penalties, and Article IV: Word Usage

Background: At their July 20, 2023 Public Meeting, the Planning Commission received an introductory presentation on the Zoning Ordinance Rewrite project. In October 2023, representatives from Kendig Keast Collaborative (Consultant) presented their code audit of the Town's current Zoning Ordinance and broad recommendations for changes at a joint meeting of the Planning Commission and Town Council. In February and September 2024, the consultants delivered their first draft of the new Ordinance via the Town's enCodePlus online zoning platform and provided an overview of concepts in each Article to the Planning Commission. The first draft of the Zoning Ordinance Rewrite was released on March 6, 2025 for a 60-day public review period. All Planning Commission and public presentations and the code audit are available on the Zoning Ordinance Rewrite project page at: leesburgva.gov/zoningordinancerewrite.

Issues: At the Planning Commission meeting on August 7, 2025, discussion will focus on Article VII: Nonconformities, Article VIII: Enforcement, Violations, and Penalties, and Article IV: Word Usage.

Article VII: Nonconformities

Article VII addresses nonconformities, which are uses, structures, lots, or site features that were lawful when established but no longer conform to current zoning regulations due to changes in the ordinance. This article seeks to balance property rights with long-term planning goals by allowing limited continuation of nonconformities while encouraging gradual alignment with current zoning standards. Another goal is to encourage the reuse and rehabilitation of older properties while limiting expansion of nonconformities that could negatively affect surrounding areas. There are five types of nonconformities listed in the Zoning Ordinance:

- Nonconforming uses (e.g., a business operating in a residential zone that was once legal),
- Nonconforming structures (e.g., a building that doesn't meet today's height or setback requirements),
- Nonconforming lots (e.g., a lot that's smaller than current minimum lot size rules),
- Nonconforming signs (e.g., a larger sign that has lawfully existed but no longer conforms to current sign regulations), and

- Nonconforming site elements (e.g., off-street parking, lighting, landscaping that lawfully existed but no longer conforms to current development standards).

If a use, structure, lot, sign, or site element lawfully existed before the current zoning code, or became nonconforming due to a zoning amendment, it may continue to exist. However, the property owner has the burden of proof to show the nonconformity is lawful (i.e., existed legally at the time). Other key provisions of Article VII include:

Nonconforming uses

- If a use was legal when created, even if special approval wasn't previously required, it is not automatically nonconforming simply because new procedures now apply.
- Any expansions or enlargements must meet current procedural requirements.
- A nonconforming use loses nonconforming status if it is inactive for 2 or more years.
- In limited circumstances, property owners of legally nonconforming uses may apply for a special exception to change the status of the use from nonconforming to conforming.

Nonconforming structures

- May continue and be used for permitted uses.
- May be expanded only if expansion doesn't worsen nonconformity.
- May be moved if it eliminates nonconformity or improves flood resilience.
- If destroyed by causes beyond control, the structure may be rebuilt on the same footprint within 2 years.

Nonconforming lots

- Vacant lots can be developed provided setbacks are met.
- Side yards may be reduced to the greater of 10% of lot width or 5 feet.
- Existing buildings may remain but any expansions must comply with zoning standards.
- Applies to lots reduced in size due to highway realignment or condemnation.

Article VIII: Enforcement, Violations, and Penalties

Article VIII outlines how the Town of Leesburg ensures compliance with the Zoning Ordinance. It defines what constitutes a violation, identifies who is responsible, and describes the procedures and penalties used to enforce the regulations. The following are examples of zoning ordinance violations:

- Construction or improvements that contradict ordinance provisions.
- Uses operated contrary to the ordinance or any zoning-related Town approval.
- Exceeding maximum occupancy limits in dwelling units.

Civil violations are those considered enforceable by civil penalty, and certain civil violations can escalate to *criminal violations*. The Zoning Administrator may issue a Notice of Violation and/or Correction Order for both civil and criminal violations. Generally, appeals go to the Board of Zoning Appeals within 30 days. If a violation remains uncorrected, Article VIII lays out a structured schedule of fines that can escalate to criminal prosecution and judicial remedies.

Article IV: Word Usage

Article IV contains two divisions that address rules of construction and definitions. *Division 37 Rules of Construction* provides interpretive guidance for how terms, references, and provisions in the Zoning Ordinance are to be read and applied. These rules ensure consistency in application and clarify ambiguities, particularly when multiple interpretations may be possible. *Division 38* is essentially a glossary with a list of defined terms.

Key takeaways for *Division 37 Rules of Construction* include:

- “Shall,” “must,” and “will” are required, while “may” and “should” are optional.
- “Days” means calendar days, unless stated otherwise.
- Text always takes precedence over headings and illustrations.
- The Zoning Administrator has authority to delegate tasks to staff members.
- Legal terms are interpreted based on their recognized legal or professional meanings.

Division 38 Definitions relies on language that was carried over from the existing ordinance and/or research of the North American Industry Classification System (NAICS) and American Planning Association Land Based Classification Standards (LBCS). NAICS is a system used by the U.S. government to classify businesses. LBCS is a system for classifying land uses based on multiple dimensions, including activity, function, building type, and character. Efforts were made in the ZO Rewrite to remove development standards from land use definitions and relocate them to Article IV Development Standards.

Next Steps

Tentative PC Zoning Ordinance Rewrite Work Plan

#	Topic	Commission Meeting Date
1	ZO Rewrite Work Plan	January 16, 2025
2	Zoning Map	February 6, 2025
3	Release of Draft Text	March 6, 2025
4	Article 1 General Provisions	
4	Article 2 Zoning Districts and Dimensional Standards	April 3, 2025
5	Article 3 Use Regulations	April 17, 2025
6	Article 3 Use Regulations (continued)	May 1, 2025
7	Article 3 Use Regulations (continued)	May 15, 2025
8	None	June 5, 2025
9	Recap Articles 1-3, Article 4 Development Standards	July 10, 2025
10	Article 5 Review Bodies, Article 6 Review Procedures	July 17, 2025
11	Article 7 Nonconformities, Article 8 Enforcement, Article 9 Word Usage	August 7, 2025
12	No Meeting	August 21, 2025
13	Recap Articles 4-9, Public Comment Report	September 4, 2025
14	Deep Dive List	September 18, 2025
15	Deep Dive List (continued)	October 2, 2025
16	Deep Dive List (continued), Loose Ends	October 16, 2025
17	Public Hearing Draft	November 6, 2025

Online Zoning Platform (enCodePlus)

The draft Zoning Ordinance Rewrite was available until May 5, 2025 via enCodePlus at the following website address: <https://online.encodeplus.com/regs/leesburg-va/>.

Planning Commissioners and public are strongly encouraged to review and make comments on the Zoning Ordinance Rewrite via this online platform. It will enable staff to receive questions and comments in real time, respond quickly to questions via the platform, and create reports of all public and Planning Commission comments received.

The August 7, 2025 Planning Commission Meeting is another of many opportunities throughout the Zoning Ordinance Rewrite project for members of the Planning Commission and the public to provide input.

Attachments

1. Public Comment Report
2. Future Discussion Items (Dive List)