

ARTICLE 1100

NONCONFORMING USES, STRUCTURES AND LOTS

Statement of Intent

The zoning districts established by this Ordinance are designed to guide future use of land in the Borough by encouraging the development of desirable residential, commercial and industrial areas, with appropriate groupings of compatible and related uses, to the end of promoting and protecting the public health, safety, comfort, prosperity and other aspects of the general welfare.

To achieve this end, lawful existing uses which would be prohibited or restricted under the terms of this Ordinance, or future amendments, and which do not conform to the character and regulations of the zoning district in which they are located shall be subject to certain limitations.

Similarly, buildings or other structures which do not comply with one or more of the applicable district requirements as to lot width, minimum lot area and yard spaces, lot coverages, or building height, are deemed to be nonconforming.

Nonconforming uses and structures will generally be permitted to remain; the purpose of regulating them is to restrict further investment in uses or structures which are inappropriate to their location, except when the Zoning Hearing Board determines that the enlargement, expansion or extension is necessitated by the natural expansion and growth of trade. Further, nonconforming single family dwellings on lots previously laid out or recorded shall not be deemed to be inappropriate to their location by virtue of the existence of the plan of lots in which they are located and shall have special requirements for their reconstruction or expansion.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or intended use of any building on which actual construction was lawfully begun prior to the effective date, or amendment, of this Ordinance and on which actual building construction has been diligently carried on.

SECTION 1101 NONCONFORMING USE REGULATIONS

1101.1 Continuation

Lawful uses located either within a building or other structure, or part thereof, or on the land, or in combination of both, which, at the effective date of this Ordinance, or subsequent amendment thereto, become nonconforming, may be continued so long as they remain otherwise lawful, including subsequent sales of the property to other owners who continue the use.

1101.2 Enlargement or Expansion

No such nonconforming use shall be enlarged or increased or extended to occupy greater lot area than was occupied at the effective date of adoption or amendment of this Ordinance, unless the Zoning Hearing Board shall interpret that the enlargement or extension is necessitated by the natural expansion and growth of trade of the nonconforming use.

No such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use at the effective date of adoption or amendment of this Ordinance.

No existing structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to an authorized use in the zoning district in which it is located, unless the Zoning Hearing Board shall interpret that the enlargement, extension, construction, reconstruction or structural alteration is necessitated by the natural expansion and growth of trade of the nonconforming use.

Any nonconforming use may be extended throughout any part of a structure which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any lot or portion of a lot outside such structure, except on a lot or portion of a lot owned at the time the use became nonconforming.

Any structure and lot in combination in or on which a nonconforming use is superseded by an authorized use shall thereafter conform to the regulations for the zoning district in which the structure is located and the nonconforming use may not thereafter be resumed.

1101.3 Discontinuance

If a nonconforming use of a lot or structure ceases operations for a continuous period of more than six (6) months, then this shall be deemed to be an intent to abandon such use and any subsequent use of the lot or structure shall conform to the regulations of the zoning district in which the lot is located.

1101.4 Repairs or Maintenance

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any public official charged with protecting the safety of the public.

1101.5 Damage or Destruction

Except for single family dwellings located in any zoning district, other nonconforming uses located in any zoning district which are damaged or partially destroyed by fire, explosion, or any other cause, or are otherwise damaged to the extent of fifty percent (50%) or more of either their assessed valuation (as determined from the assessment rolls effective at the time of damage or destruction) or the bulk of all buildings, structures or other improvement on the lot, shall terminate and the lot shall thereafter be used only for conforming uses.

Single family dwellings which are nonconforming uses in any zoning district shall be permitted to be reconstructed regardless of the amount of damage or destruction.

In any case, the remains of any building so destroyed, whether conforming or nonconforming, shall be removed from the premises within six (6) calendar months from the date of damage or destruction unless a building permit is issued for the repair or reconstruction of the structure.

1101.6 Change of Use

A nonconforming use shall not be changed to any use other than a conforming use, except as permitted by the Zoning Hearing Board in accordance with the following:

- a. The new use will more closely correspond to the uses permitted in the district.
- b. The changed use will be in keeping with the character of the neighborhood in which it is located.
- c. The applicant clearly demonstrates a hardship in converting the use to a conforming use in accordance with the criteria of Subsection 1303.2 for obtaining a variance.

When a nonconforming use is changed to a conforming use, the use thereafter shall not be changed to a nonconforming use. Any change from one nonconforming use to another shall comply with the parking requirements of Subsection 902.6 for the use and shall be subject to the area, bulk and other applicable regulations for such use in the District where such use is authorized.

Where a nonconforming use exists on a lot, a conforming use shall not be established on the same lot unless the nonconforming use is discontinued.

SECTION 1102 NONCONFORMING STRUCTURES OTHER THAN SIGNS

These regulations shall apply to all nonconforming structures as defined by this Ordinance in all Zoning Districts.

1102.1 Structural Alteration

No such structure may be enlarged or structurally altered in a way which increases its nonconformity, except when the Zoning Hearing Board, after public hearing, may determine undue hardship and may authorize a reasonable modification of such structure.

1102.2 Damage or Destruction

Any nonconforming structure which has been partially or completely damaged or destroyed by fire or other means may be rebuilt or repaired on its existing foundation even though such foundation may violate the setback requirements for the Zoning District in which the structure is located, provided that the repair or reconstruction and reoccupancy of the structure occurs within eighteen (18) months of the date that the original structure was damaged or destroyed.

1102.3 Moving

Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of the zoning district in which it is located.

1102.4 Repair or Maintenance

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the safety of the public.

SECTION 1103 NONCONFORMING SIGNS

Signs in existence at the effective date of this Ordinance or amendments thereto, may be continued subject to the following regulations:

1103.1 Moving

No nonconforming advertising sign, billboard, commercial advertising structure or statuary shall be moved to another position on the building or lot on which it is located after the effective date of this Ordinance or amendment thereto.

1103.2 Structure Alterations

A nonconforming sign on a nonconforming use may be continued, but the area of such sign or signs shall not be increased, and such sign or signs shall not be structurally altered.

1103.3 Damage or Destruction

In the event that any nonconforming advertising sign, billboard, commercial advertising structure or statutory is damaged to the extent of twenty-five percent (25%) of its cost of replacement at the time of destruction, such sign shall not be restored or replaced.

1103.4 Discontinuance of Signs

Whenever any use of building or structure or land or of a combination of buildings, structures and land ceases, all signs accessory to such use shall be deemed to become nonconforming and shall be removed within six (6) calendar months.

SECTION 1104 NONCONFORMING LOTS OF RECORD

1104.1 Single Family Dwellings Authorized on Nonconforming Lots

In any district in which single family dwellings are permitted notwithstanding the area limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory structures may be erected on any single lot previously laid out or recorded which is in existence at the effective date of adoption or amendment of this Ordinance which has frontage on a street which has been accepted by the Borough, provided that the following requirements are met:

- a. Such lot must be in separate ownership and not form part of continuous frontage with other lots in the same ownership.
- b. The dwelling shall be permitted even though the lot fails to meet requirements of the zoning district for lot area or lot width, or both, subject to:
 1. The minimum side yard shall be five (5) feet.
 2. The minimum rear yard shall be twenty-five (25) feet.
 3. The minimum setback shall be the recorded building line for the lot, or in the absence of a recorded building line, the setback shall be the setback which exists for eighty percent (80%) of all lots on the same side of the street and in the same block (between the intersection of the street on which the lot has frontage and the intersecting streets on either side of the lot) or the portion of the block in which the lot is located which is in the same recorded plan as is the lot.

1104.2 Nonconforming Lots in the C-1 and I-1 Districts

Any lot of record existing at the effective date of this Ordinance may be used for erection of a structure proposed to house an authorized use in the Zoning District in which it is located without a lot area or lot width variance, even though its lot area and lot width are less than the minimum required by this Ordinance, provided all other applicable requirements governing yards, height and lot coverage are met.

SECTION 1105 REGISTRATION OF NONCONFORMITY

1105.1 Registration of Nonconforming Uses, Buildings, Lots and Signs

In order to administer this Ordinance, the Building Inspector shall prepare, after the adoption of this Ordinance, a complete list of all nonconforming uses, buildings, lots and signs then in existence.

1105.2 Certificates of Occupancy for Nonconforming Uses, Building and Signs

A certificate of occupancy shall be issued for any nonconforming use, building or sign to be continued after the effective date of this Ordinance, subject to the following regulations:

- a. Applications for certificates of occupancy for nonconforming uses, buildings or signs shall be submitted by the landowner on the form supplied by the Borough.
- b. Such certificate shall be issued only after the Building Inspector has inspected the premises and determined that the use, building or sign, is lawful and nonconforming, but in no case more than fifteen (15) days after date of application.
- c. Full particulars of the nature and extent of nonconformity shall be included in the certificate of occupancy.
- d. Owners or occupants of nonconforming uses shall apply for certificates of occupancy within six (6) calendar months from the date of enactment of this Ordinance or any amendments hereto which creates a nonconforming use. Owners and occupants of lots or structures which do not meet district area and bulk regulations are not required to apply for such certificates of occupancy.