
ARTICLE 21
NONCONFORMING USES

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Section 2100 Intent

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

Section 2101 Nonconforming Use Limitations

- A. It is recognized that there may exist within the districts established by this Ordinance and subsequent amendments, lots, structures, signs, and uses of land and structures which were lawful before this Ordinance was adopted or amended which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved.
- B. It is further the intent of this Ordinance that nonconformities shall be enlarged upon, expanded or extended only in specified circumstances and only as strictly regulated by Section 2103.
- C. Nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.

Section 2102 Nonconforming Lots

In any zoning district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this Ordinance or any subsequent amendment. 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.

Where such a nonconforming lot does not meet the minimum area or width requirements, or both, the following setback requirements shall apply:

- A. The minimum front setback shall conform to the clearly prevailing setback pattern of developed lots within the same block fronting the same street. When an unimproved lot is situated between two lots with existing principal buildings that each have front yard setbacks less than the setback required in that district, then the front yard setback may be reduced to a depth equal to the average of the two adjacent lots, provided that in no case shall a front yard be reduced by more than 50 percent of the required front yard for that district.
- B. No side setback shall be less than 5 feet in any event, unless provided for in this Ordinance.

Section 2103 Nonconforming Structure Used for a Permitted Use

A lawfully existing structure, which contains a permitted use but does not comply with the other requirements of this Ordinance for the zoning district in which it is located, may be continued but shall be subject to the regulations below. In such cases, however, the failure to meet landscaping or screening requirements shall not be considered a nonconformity.

- A. Enlargement, repair, alteration

A nonconforming structure may be enlarged, maintained, repaired, or structurally altered, provided no such enlargement, maintenance, repair, or structural alteration shall create any additional nonconformity or increase the degree of the existing nonconformity of such structure.

- B. Reconstruction

In the event a nonconforming structure is destroyed by any means to an extent of less than 50 percent of its replacement costs, exclusive of the foundation, the structure may be reconstructed on the same foundation, provided the reconstruction is begun within 12 months of the date it was destroyed.

- C. Relocation

Should a nonconforming structure be moved for any distance for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 2104 Nonconforming Use of a Structure or Land

A nonconforming use of a structure or land may be continued so long as otherwise lawful but shall be subject to the regulations below.

A. Enlargement

No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, unless the structure and the use shall thereafter conform to the regulations for the district in which they are located.

B. Ordinary repair and maintenance

Ordinary maintenance and repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, shall be permitted, provided these actions shall not be deemed to authorize any violation of the other parts of this Section. Nothing in this Ordinance shall be deemed to prevent the strengthening of a structure, or the restoration of a structure to a safe condition except for a damaged or destroyed structure subject to provisions of Section 2103.B. of this Section, in accordance with an order of the Borough Zoning Officer.

C. Structural alteration

No structural alteration shall be made unless the entire structure and the use shall thereafter conform to the regulations for the district in which they are located. However, nothing in this Ordinance shall be construed to prevent owners of nonconforming residential structures the right to perform structural alterations which do not increase the number of dwelling units within the nonconforming residential structure or enlarge its exterior dimension.

D. Damage or destruction

A nonconforming structure or a nonconforming use that is destroyed by any cause, partially or in its entirety, may be restored, repaired, or reconstructed only by the owner, and, in the case of a nonconforming structure, then only to the same nonconforming use. The restored area shall be of substantially the same size, and the nonconforming use may not be enlarged or expanded. No repairs, restoration, or reconstruction shall be permitted unless a building permit is obtained, If required, and said repairs, restoration, and/or reconstruction begins within one year of the date of the partial or entire destruction, and is diligently pursued to completion.

E. Moving

Should a nonconforming use of land or structure be moved, in whole or in part, for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after being moved.

F. Change

A nonconforming use shall not be changed to any use other than the same use or a use permitted in the district in which the land is located. When a nonconforming use has been changed to a permitted use, it shall not thereafter be changed to a nonconforming use.

G. Discontinuance

A nonconforming use which is hereafter discontinued for any reason, and remains such for a continuous period of one year, shall not thereafter be re-established. Such location shall thereafter be occupied by a use which conforms to the regulations for the district in which it is located.

H. Nonconforming accessory use

A nonconforming accessory use shall not continue to remain after the principal use to which it is accessory has been destroyed, relocated, or abandoned.

Section 2105 Nonconforming Signs

Nonconforming signs shall be regulated by the provisions of Article 19.

Section 2106 Burden of Establishing Nonconforming Status

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for a building permit or zoning permit; or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Zoning Officer of the following:

- A. The date of construction of the building or structure, or the date the use was established;
- B. The continuous operation of the nonconforming use; and,
- C. Such other proof as may be deemed necessary by the Zoning Officer to verify legal, nonconforming status.