

ARTICLE XVIII

NONCONFORMING USES, STRUCTURES AND LOTS

SECTION 1800 APPLICABILITY

This Article shall apply to all nonconforming uses, structures and lots, as defined by this Ordinance. Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approval and required permits have been granted prior to the effective date of this Ordinance or any amendment thereto.

SECTION 1801 NONCONFORMING USES

These regulations shall apply to any use of a structure or lot in any Zoning District which is a nonconforming use as defined by this Ordinance. Whenever the boundaries of a Zoning District shall be changed so as to transfer an area from one Zoning District to another Zoning District of a different classification, these regulations shall apply to any uses which thereby become nonconforming.

1801.1 Continuation and Sale

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of a lot or structure exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be sold or otherwise transferred to other owners and may be continued as long as it remains otherwise lawful in accordance with the provisions of this Article.

1801.2 Enlargement or Expansion

No nonconforming use of a lot or nonconforming use of a structure shall be enlarged or increased or extended to occupy a greater area of the lot or structure than was occupied at the effective date of adoption or amendment of this Ordinance, unless the Zoning Hearing Board, after public hearing, shall interpret that the enlargement or extension is necessitated by the natural expansion and growth of the nonconforming use. Any such enlargement or expansion shall conform to the area, height and yard requirements of the Zoning District in which it is located.

No 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.

Any nonconforming use may be extended throughout any part of a structure which was designed for such use at the time the use became nonconforming; however, a nonconforming use shall not be extended to occupy any structure, lot or portion of a lot that was not owned by the owner of the nonconforming use at the time the use became nonconforming.

1801.3 Change of Use

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

- a. The new use will more closely correspond to the uses authorized in the District as permitted uses, conditional uses or uses by special exception.
- b. The new use will be in keeping with the character of the neighborhood in which it is located and will have an equal or lesser impact on the neighborhood than the existing nonconforming use.
- c. The applicant clearly demonstrates a hardship in converting the use to a conforming use in accordance with the criteria of Section 1905 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 Article XVI for the use and shall be subject to the area, bulk and buffer area regulations for such use in the zoning district where such use is authorized as a permitted use, conditional use or use by special exception.

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.

1801.4 Abandonment

When a nonconforming use of a structure and/or lot is discontinued or abandoned for twelve (12) consecutive months, the structure and/or lot shall not thereafter be used, except in conformance with the regulations of the Zoning District in which it is located.

In the case of a building or structure that previously housed a nonconforming use that has been abandoned, and that, because of its physical characteristics, cannot easily be converted to a conforming use, the Zoning Hearing Board may authorize the establishment of a nonconforming use as a use by special exception subject to the criteria of §1801.3 governing change of use and the applicable criteria of §1403.13 governing comparable uses not specifically listed.

1801.5 Damage or Destruction

Residential dwellings which are nonconforming uses in the C-1, C-2, I-P or M-1 Districts may be rebuilt on the existing foundation in the event of damage or destruction, provided the reconstruction is started within three (3) years of the date of destruction.

In the case of nonconforming uses other than dwellings; when damage or destruction of a structure in which the nonconforming use is conducted involves fifty percent (50%) or less of the total floor area of the structure, repairs or reconstruction may be undertaken, provided that such restoration is started within eighteen (18) months of the date of destruction.

In the case of nonconforming uses, other than dwellings, when the structure in which the nonconforming use is conducted is damaged or destroyed by fire or other means to an extent of more than fifty percent (50%) of its total floor area, the structure shall be reconstructed only to house a conforming use.

SECTION 1802 NONCONFORMING STRUCTURES

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

1802.1 Structural Alteration

No nonconforming structure shall 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 variance for the reasonable modification of such structure.

1802.2 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.

1802.3 Moving

Should a nonconforming 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.

1802.4 Signs

Nonconforming signs may be repaired or reconstructed, provided that no structural alterations are made which increase the gross surface area of the sign; however, nonconforming signs which are damaged or destroyed to an extent of more than fifty percent (50%) of their replacement cost at the time of destruction shall not be reconstructed except in conformity with the provisions of this Ordinance.

Nonconforming signs shall not be enlarged, added to or replaced by another nonconforming sign, use or structure, except that the interchange of poster panels shall be permitted.

1802.5 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, provided all other requirements of this Section are met.

SECTION 1803 NONCONFORMING LOTS

The following regulations shall apply to nonconforming lots, as defined by this Ordinance.

1803.1

Any lot of record existing at the effective date of this Ordinance may be used for the erection of a structure conforming to the use regulations of the Zoning District in which it is located, without a lot area or lot width variance, even though its lot area and width are less than the minimum required by this Ordinance; however, such lot must comply with the front, rear and side yards, height and lot coverage standards of the Zoning District wherein it is located.

1803.2

Where structures exist on adjacent nonconforming lots of record which have front yards less than the minimum depth required, the minimum front yard for an adjacent undeveloped nonconforming lot of record shall be the average depth of the nonconforming front yards on the immediately adjacent developed nonconforming lots on either side of the undeveloped lot.

SECTION 1804 REGISTRATION OF NONCONFORMITY

The owner of a nonconforming use shall make an application for registration of the nonconforming use and upon presentation of documentation acceptable to the Zoning Officer that the use was lawfully in existence prior to the effective date of this Ordinance or any amendment which created the nonconformity, the Zoning Officer shall register the same on a map and by Lawrence County Assessor's Tax Parcel Number as a legal nonconforming use.

In the course of administering this Ordinance and reviewing applications for zoning approval, building permits, certificates of occupancy or variances, the Zoning Officer shall register all nonconforming structures and nonconforming lots as they become known through the application process.