

ARTICLE XIX

NONCONFORMING USES, STRUCTURES AND LOTS

1900 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.

1901 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 of a different classification, these regulations shall also apply to any uses which thereby become nonconforming.

1901.1 Continuation: 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.

1901.2 Enlargement or Expansion: No nonconforming use of a lot or structure shall be enlarged or increased or extended to occupy a greater area 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 necessary 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, except on a lot or portion of a lot owned at the time the use became nonconforming.

1901.3 **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 Section 1903 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 XVII for the use and shall be subject to the area, bulk and buffer area 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.

1901.4 **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.

1901.5 **Damage or Destruction:** Residential dwellings which are nonconforming uses in the AP, C-1, C-2, C-3 or I-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 event that damage or destruction of a structure in which a nonconforming use, other than a dwelling, 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 event that a structure in which a nonconforming use, other than a dwelling, 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.

1902 NONCONFORMING STRUCTURES

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

1902.1 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.

1902.2 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.

1902.3 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.

1902.4 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 may not be enlarged, added to or replaced by another nonconforming sign, use or structure, except that the interchange of poster panels shall be permitted.

1902.5 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.

1903 NONCONFORMING LOTS

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

1903.1 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.

1903.2 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 records shall be the average depth of the nonconforming front yards on the immediately adjacent developed nonconforming lots on either side of the undeveloped lot.

1903.3 In the R-2 District, nonconforming lots in Elrama and Gastonville shall be permitted to utilize reduced lot area, lot width and yard requirements without obtaining a variance from the Zoning Hearing Board if all of the following standards are met:

- (a) The nonconforming lot shall have frontage on at least one (1) of the following streets:
 - [1] Railroad Street and Belmont Street in Gastonville; or
 - [2] Davidson Avenue, Downer Street, Elrama Avenue, Fairview Street, Howe Street, Powell Lane, Rammage Avenue, Short Street and Stout Avenue or any named or unnamed alley in Elrama.
 - [3] Linden Street or Rankintown Road or any named or unnamed alley in Rankintown.
- (b) The reduced lot area and lot width requirements shall not be used to further subdivide any existing nonconforming lot of record.
- (c) The reduced lot area, lot width and yard requirements shall be utilized to permit the construction, reconstruction or enlargement of a single family dwelling or two family dwelling or the construction, reconstruction or enlargement of a permitted accessory structure to an existing single family dwelling or two family dwelling.

- (d) The minimum lot area required for a single family dwelling may be reduced to the existing lot area of the nonconforming lot of record, but in no case shall it be less than two thousand five hundred (2,500) square feet.
- (e) The minimum lot area required for a two family dwelling may be reduced to the existing lot area of the nonconforming lot of record, but in no case shall it be less than five thousand (5,000) square feet.
- (f) The minimum lot width for a single family dwelling may be reduced to the existing lot width of the nonconforming lot of record, but in no case shall it be less than twenty-five (25) feet.
- (g) The minimum lot width for a two family dwelling may be reduced to the existing lot width of the nonconforming lot of record, but in no case shall it be less than fifty (50) feet.
- (h) The minimum front yard shall be fifteen (15) feet.
- (i) The minimum rear yard for principal structures shall be twenty (20) feet; the minimum rear yard for accessory structures shall be five (5) feet.
- (j) The minimum side yard shall be five (5) feet.

1904 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 Washington County Assessor's Tax Parcel Number as a legal nonconforming use.

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