

CHAPTER 35 NONCONFORMING USES

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35.1.0 PURPOSE. Amendments over time to regulatory authority provided within this ordinance may result in structures, land and uses which no longer conform with the provisions set forth for the district in which they are situated. Therefore, it is the purpose of this chapter to allow for the continuance and maintenance of legally established nonconforming uses and structures subject to standards and provisions prescribed within this chapter.

35.2.0 ESTABLISHMENT OF NONCONFORMITY. The burden of establishing that any nonconformity is a legal nonconformity as defined herein shall, in all cases, be upon the owner of such nonconformity and not upon the county. Upon request, the administrative officials shall assist the property owner in locating public records of which pertain to the legal status of the nonconformity.

35.3.0 DEVELOPMENT ON EXISTING LOTS OF RECORD. In any district, any permitted use or structure may be erected on an existing lot of record as recorded in the Franklin County Auditors office. Said lots shall be deemed to meet the lot size requirements of this ordinance, provided all adjacent or abutting lots are held under separate ownership on the effective date of this ordinance.

35.4.0 CONTINUATION OF NONCONFORMING USES.

- (1) Generally. Any legal nonconforming use may continue as long as it remains otherwise lawful and provided that:
 - (a) A nonconforming use may not be altered or extended during its life except as provided herein.
 - (b) No nonconforming use shall be extended to displace a conforming use.
 - (c) Once a nonconforming use has changed to a conforming use, it shall not revert back to a nonconforming use.
 - (d) The extension of a lawful use of any portion of a nonconforming building shall not be deemed the extension of such nonconforming use.

35.5.0 MAINTENANCE, DAMAGE, REPAIRS AND RESTORATION.

- (1) Ordinary maintenance of a nonconforming structure which includes minor interior and exterior repairs and incidental alterations is permitted. Minor

maintenance and repair may include but is not limited to painting, roof repairs and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization. Incidental alterations may include construction of nonbearing walls and partitions. Ordinary maintenance and incidental alterations shall not exceed 20 percent of the value of the building at the time of repair or alteration.

- (2) No building damaged by fire or other causes to the extent of more than fifty percent of the assessed value of the structure as determined by the records of the Franklin County Assessor shall be repaired or rebuilt except multi family units previously authorized by building permit in any residential zoning district may be rebuilt under the following conditions:
 - (a) The fire or other cause of damage was determined to be accidental or a natural disaster.
 - (b) The proposed repair or reconstruction must duplicate the original building footprint.
 - (c) The proposed repair or reconstruction does not increase the nonconformity of the structure or use.
 - (d) Reconstruction must adhere to the required district set backs.
 - (e) Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any nonconforming building ordered by any official charged with protecting public safety.
- (3) Any structure or portion thereof declared unsafe by a properly authorized person may be restored to a safe condition and continue as a nonconforming use, unless such repairs exceed fifty percent of the assessed valuation of the structure as determined by the records of the Franklin County Assessor except multi family units previously authorized by building permit in any residential zoning district may be rebuilt under the following conditions:
 - (a) The fire or other cause of damage was determined to be accidental or a natural disaster.
 - (b) The proposed repair or reconstruction must duplicate the original building footprint.
 - (c) The proposed repair or reconstruction does not increase the nonconformity of the structure or use.
 - (d) Reconstruction must adhere to the required district set backs.
 - (e) Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any nonconforming building ordered by any official charged with protecting public safety.

35.6.0 DISCONTINUANCE OF A NONCONFORMING USE OR STRUCTURE.

A nonconforming use or structure shall become discontinued when it is:

- (1) Abandoned for a period of one or more years.
- (2) Damaged and application for rebuilding has not been made within six months of such damage.
- (3) Damaged to the extent that reconstruction costs exceeds fifty (50) percent of the assessed value of the structure.