

TITLE THREE - Administration
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ARTICLE 1341
Nonconforming Uses

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CROSS REFERENCES

Validation of existing ordinances - see W.Va. Code 8-24-49
 Existing uses safeguarded - see W.Va. Code 8-24-50

1341.01 CONTINUATION OF USE.

Except as otherwise provided in this article, the lawful use of any building, structure, or land existing at the time of the enactment of this Zoning Ordinance, or any applicable amendment thereto, may be continued, although such use does not conform to the provisions of the Zoning Ordinance.

(Passed 2-14-78)

1341.02 REGULATION OF NONCONFORMING USES.

No existing building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, except as follows:

- (a) Restoration. If any nonconforming building or structure, which as a result of fire, explosion, or other casualty, has less than two-thirds of its fair sale value, including foundation made unsafe or unusable, such nonconforming building or structure may be restored, reconstructed or used as before, provided that the bulk, height, and area requirements shall not be in excess of those which existed prior to the damage. Such restoration must be completed within one year of such occurrence, or the use of such building, structure, or land as a legal nonconforming use shall thereafter be terminated.

(b) Extension and Displacement. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Zoning Ordinance shall be deemed the extension of such nonconforming use. No nonconforming use shall be extended to displace a conforming use.

(c) Unsafe Structures. Any nonconforming building or structure or portion thereof declared unsafe by proper authority may be restored to a proper condition.

(d) Alterations and Repairs. A nonconforming building or structure for other than residential purposes may not be reconstructed or structurally altered during its life to an extent that such alterations exceed in aggregate cost two-thirds of the full valuation of the building or structure, exclusive of the value of land, unless such building or structure is changed to a conforming use. A nonconforming building or structure containing residential use may be altered in any way to improve interior livability provided that no structural alteration shall be made which would increase the nonconformity with regard to the number of housing units or the bulk of the building or structure. Normal maintenance repairs and incidental alteration of a building or structure containing a nonconforming use shall be permitted provided that such repairs and alterations do not extend the volume of area of space occupied by the nonconforming use.

(e) Change of Use. A nonconforming use or structure may be changed to another nonconforming use of an equal or more restricted classification provided that no structural change, enlargement, extension or reconstruction is made.

(1) A nonconforming use may be changed into a conforming use.

(2) When a nonconforming use is changed into a conforming use or a building or land shall not thereafter be changed into a nonconforming use or a less restricted nonconforming use.

(f) Prior Approval. Nothing herein contained shall require any change in the plans, construction or designated use of a building complying with existing laws, a permit for which had been duly granted before the date of adoption of this Zoning Ordinance or any applicable amendment thereto, providing that such building shall be completed according to such plans as filed within six months from the date of this Zoning Ordinance.

(Passed 2-14-78)

1341.03 TERMINATION OF NONCONFORMING USES.

(a) Abandonment. The discontinuance of a nonconforming use for a period of six months or the change of use to a more restrictive or conforming use for any period of time shall be considered an abandonment thereof, and such nonconforming use shall not thereafter be revived.

(b) Partial Destruction. Any nonconforming building or structure, which as a result of fire, explosion, or other casualty, has two-thirds or more of its fair sale value destroyed, including its foundation immediately prior to such damage, the use of such building or structure, as a nonconforming use, shall thereafter be terminated and any new construction shall be in accordance with the provisions of this Zoning Ordinance.

(c) Amortization and Fencing. Nonconforming signs shall be discontinued and removed or changed to a use permitted in the respective district not later than two years after the adoption of this Zoning Ordinance.

Every junk yard existing as a nonconforming use shall, within two years after becoming nonconforming, be completely enclosed with a continuous solid fence or evergreen hedge found on determination of the Zoning Inspector to be of such height and character as to screen all of the operations from public view. Such fence or hedge shall be adequately maintained and in full conformity with any conditions attached to such approval.

(Passed 2-14-78)

1341.04 MINING OR EXTRACTION OF MINERALS.

EDITOR'S NOTE: Article 1341, Section .04, originally passed 6-23-98, was repealed by Ordinance passed 7-11-06.