

ARTICLE IX – NONCONFORMING USES

§ 900. Purpose.

§ 900.1 The purpose of this Article is to provide for the continuation of uses that do not conform to the City of Monongahela Zoning Ordinance, but which were in operation prior to the enactment of this Ordinance or amendments thereto, except as otherwise provided in Article VI, §608, Nonconforming Signs.

§ 901. Disclaimer.

§ 901.1 Nothing in this Chapter 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.

§ 902. Nonconforming Uses.

§ 902.1 These regulations shall apply to any use of a structure or lot in any Zoning District that is a nonconforming use as defined by this Chapter. 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.

§ 902.2 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 Chapter 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 Ordinance.

§ 902.3 Single-family dwellings that are nonconforming uses in any nonresidential zoning district classification may be enlarged or expanded to occupy a greater area of the lot or to increase the height of the dwelling, provided all applicable area and bulk regulations of the Zoning District in which the property is located are met.

§ 902.4 No other 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 Chapter, 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.

- § 902.5** 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 Chapter.
- § 902.6** A nonconforming use may be extended into a structure or onto an adjoining lot or portion of a lot provided that the adjacent lot or structure or portion thereof was owned by the owner of the nonconforming use at the time the use became nonconforming. Nonconforming uses where the owner of the nonconforming use does not own the adjacent lot or structure at the time the use became nonconforming shall not be permitted extension or expansion onto adjacent properties or structures.
- § 902.7** 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) Any change from one nonconforming use to another shall comply with the parking requirements of §410 of this Ordinance for the new 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.
 - (D) When a nonconforming use is changed to a conforming use, the use thereafter shall not be changed to a nonconforming use.
 - (E) 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.
- § 902.8** A nonconforming use may be permitted to change to a use that is similar in nature to the existing nonconforming use at the discretion of the Planning Commission. It is within the rights of the Planning Commission to determine if the use is similar in nature based upon the proposed new use's impact on surrounding properties and its appropriateness within the context of the Zoning District in which it is located.

§ 902.9 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.

(A) When application is made not later than one (1) year from the date the use was discontinued or abandoned, the Zoning Hearing Board may approve an extension of not more than one (1) additional year within which the use may be resumed. No additional extensions may be approved.

(B) When the discontinuance is beyond the control of the owner or tenant and was without intent to abandon the use, the Zoning Officer may permit the nonconforming use to continue indefinitely until such a time when intent to abandon is established.

§ 902.10 All nonconforming uses may be rebuilt on the existing foundation in the event of damage or destruction, provided the reconstruction is started within eighteen (18) months of the date of destruction. No enlargement or expansion of the nonconforming structure shall be undertaken unless the provisions of §903 herein are met.

§ 903. Nonconforming Structures.

§ 903.1 A nonconforming structure may be enlarged or structurally altered, provided the enlargement or alteration does not encroach any further into a required yard setback than the existing nonconforming structure does and, further provided that no new nonconformities are created. All other alterations or enlargements shall require review by the Zoning Hearing Board and, after public hearing, the Zoning Hearing Board may determine undue hardship and may authorize a variance for the reasonable modification of such structure.

§ 903.2 Any nonconforming structure that 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 re-occupancy of the structure occurs within eighteen (18) months of the date that the original structure was damaged or destroyed. No enlargement or expansion of the nonconforming structure shall be undertaken unless the provisions of §903.1 herein are met.

§ 903.3 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.

§ 904. Nonconforming Lots.

§ 904.1 Any lot of record existing at the effective date of this Chapter 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 Chapter; 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.

§ 904.2 Where structures exist on adjacent nonconforming lots of record that have front yards less than the minimum depth required, the minimum front yard for an adjacent nonconforming lot of record shall be the average depth of the nonconforming front yards on the adjacent nonconforming lots in the same block on the same side of the street.

§ 905. Registration of Nonconformity.

§ 905.1 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 Chapter or any amendment that created the nonconformity, the Zoning Officer shall register the same on a map and by the Washington County Assessor's Tax Parcel Number as a legal nonconforming use.

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