

**CHAPTER 1155**  
**Non-Conforming Uses**

**CROSS REFERENCES**

Nonconforming uses - see Ohio R.C. 713.15

Nonconforming building and use defined - see P. & Z. 1135.01

Nonconforming signs - see P. & Z. 1163.18

**1155.01 INTENT.**

Within the districts established by this Ordinance or subsequent amendments there exist lots, structures, and uses which were lawful before the Ordinance was passed or amended but which would be prohibited under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed voluntarily. The legitimate interest of those who lawfully established these non-conformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution.

**1155.02 AVOIDANCE OF UNDUE HARDSHIP.**

- A. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual building construction has been carried on diligently.
- B. Such construction may be completed and put into such non-conforming use provided it is done within one (1) year after the Zoning Ordinance takes effect.
- C. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

**1155.03 NON-CONFORMING USE MADE TO CONFORM.**

Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.

**1155.04 SINGLE NON-CONFORMING LOTS OF RECORD.**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district in which such lot is located. Variances of requirements listed in Chapter 1147 Supplementary District Regulations of this Ordinance, other than lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals as provided in Chapter 1179.

**1155.05 NON-CONFORMING LOTS OF RECORD IN COMBINATION.**

If two (2) or more lots, or a combination of lots or portion of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of these do not meet the requirements established for lot

width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

#### **1155.06 NON-CONFORMING USES OF LAND.**

Where, at the time of adoption or amendment of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- A. The non-conforming use may not be enlarged or increased unless approval by the Board of Zoning Appeals has been granted to the applicant.
- B. A non-conforming use may be extended throughout a building which was designed and arranged for such use if no structural alterations are made, except those required by law.
- C. If a non-conforming use of any lot, building, or structure and of any lot or premises is voluntarily discontinued or abandoned for a period of one (1) year (except when government action impedes access to the premises), any subsequent use of such lot, building, or structure shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. With approval from the Board of Zoning Appeals, the extension of a non-conforming use may be permitted where modifications make the non-conforming use more compatible or less in conflict with the character of the district than the existing non-conforming use.
- E. The adoption or amendment of this Ordinance does not legalize any illegal use existing at the time of its adoption

#### **1155.07 NON-CONFORMING STRUCTURES.**

If any structure was built prior to the adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, building, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. If a structure is non-conforming due to a yard requirement, the structure may be enlarged or increased provided it does not increase its non-conformity. For example, if a structure is non-conforming due to a front yard setback, the structure may be enlarged only to the extent that the previously established front yard setback is not further reduced.
- B. If a non-conforming building or structure which has been damaged by fire, explosion, act of God or other circumstance to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored or reconstructed except in conformity with regulations of the zoned district in which the building or structure is located.
  - 1. When a non-conforming use qualifies for reconstruction through damage, a building permit shall be secured for that purpose and reconstruction shall be diligently completed without delay. Failure

to reconstruct within one (1) year of damage revokes the right to non-conforming use, and the premises shall conform thereafter to the established district regulations.

- C. Should a non-conforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for that district in which it is located after it is moved.

**1155.08 REPAIRS AND MAINTENANCE.**

Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof. Where appropriate, a building permit for such activities shall be required.

**1155.09 ABANDONED AUTOMOBILE SERVICE STATIONS, GAS STATIONS OR FILLING STATIONS.**

- A. For the purpose of this Ordinance, an abandoned automobile service station, gas station, or filling station shall be defined as one in which the petitioner or lessee has failed to operate for at least six (6) consecutive months in any eighteen (18) month period.
- B. All automobile service stations, gas stations, or filling stations where use is discontinued after the enactment of this Ordinance shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property, or general welfare of the community, and shall be abated (refer to ORC 3791.11-13 and 3791.99).