

Hamiltonban Township Zoning Ordinance

ARTICLE XXI

NON-CONFORMING USES

SECTION 2100: GENERAL

All lawful uses of land or of a building or other structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, sold, or maintained even though such use may not conform to the use, height, area, yard, and other regulations of the district in which it is located, providing such non-conforming uses shall comply with the provision of this Article.

SECTION 2101: ALTERATIONS AND RECONSTRUCTION

- A. Repairs and structural alterations not constituting extensions, expansions, or enlargements, may be made to a non-conforming structure or to a structure occupied by a non-conforming use.
- B. A non-conforming structure which is damaged by fire, explosion, or natural disaster, may be rebuilt and used for the same purpose, provided that:
1. The reconstruction of the structure is commenced within one (1) year from the date of the destruction of the building and is carried to completion without undue delay.
 2. The reconstructed structure does not exceed the height, area, and volume of the building destroyed.
 3. The reconstructed structure shall be located within the footprint of the structure that was destroyed.

SECTION 2102: EXTENSION, EXPANSION, AND ENLARGEMENT OF NON-CONFORMING USES

- A. The Zoning Hearing Board may authorize, as a special exception, the following types of extensions, expansions, and enlargements of non-conforming uses existing on the effective date of this Ordinance.
1. The extension of a non-conforming use of land upon a lot occupied by such use.
 2. The extension, expansion, or enlargement of a conforming building occupied by a non-conforming use.
- B. The foregoing extension, expansions, and enlargements of such non-conforming uses shall be subject to the following conditions.
1. The extension, expansion, or enlargement shall conform to the height, area, yard,

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and coverage regulations of the district in which the use would ordinarily be permitted.

2. The criteria of Section 2102.B.1 notwithstanding, the extension, expansion, or enlargement of the non-conforming use shall not exceed an increase of fifty percent (50%) of the original area of the nonconforming use. Where the nonconforming use is fully conducted within a building, this standard shall apply to the total area of the building footprint. Where the nonconforming use is not fully conducted within a building, this standard shall apply to the total land area of the lot dedicated to the nonconforming use. The original area of the nonconforming use is the original building footprint or land area devoted to the nonconforming use on the date such nonconforming use became nonconforming.

3. The entire use shall be provided with off-street parking and loading spaces as required by Article XIX. Where the design of current off-street parking lots and loading facilities do not comply with current standards of Article XIX, such parking lots and loading facilities shall be redesigned to comply.

3. The extension, expansion, or enlargement does not replace a conforming use.

4. The extension, expansion, or enlargement of the non-conforming use shall not be permitted to extend into land adjacent to the initial parcel of existing land occupied on the effective date of this Ordinance.

SECTION 2103: EXTENSION, EXPANSION, AND ENLARGEMENT OF NON-CONFORMING STRUCTURES

A. Where an existing structure is nonconforming with regard to one or more applicable dimensional standards, such structure may be extended, expanded, or enlarged as a matter of right provided that the degree of nonconformity is not increased.

B. Where an existing structure is nonconforming with regard to one or more applicable dimensional standards, and an extension, expansion, or enlargement of said building is proposed that would increase the degree or nonconformity, such extension, expansion, or enlargement shall be subject to variance approval from the Zoning Hearing Board.

SECTION 2104: CHANGE OF USE

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

SECTION 2105: ABANDONMENT AND DISCONTINUANCE

If a non-conforming use of a structure or land ceases or is discontinued for a continuous period of one (1) year or more, the non-conforming use shall be considered to be abandoned, and subsequent use of such structure or land shall be in conformity with all the provisions of this Article. This standard shall not apply in cases where the cessation or discontinuance was caused

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by circumstances beyond the control of the owner.

SECTION 2106: NON-CONFORMING LOTS

A. Any lot held in single and separate ownership at the effective date of this Ordinance and which does not conform to one or more of the applicable dimensional regulations in the district in which it is located shall be considered non-conforming. A building may be erected upon a non-conforming lot and a use may be established upon a non-conforming lot provided a Zoning Permit is obtained in accordance with the provisions of this Ordinance. Such development shall comply with the following provisions.

1. The proposed use is permitted by right within the district in which it is located.
2. The proposed building and use shall comply with all applicable area, height, and bulk regulations of the district other than the regulation(s) that result in the lot being considered to be non-conforming. Zoning Permit approval shall not be granted for lots that are non-conforming with regard to minimum lot area, and where the underlying zoning district applies a minimum lot area standard for a specific use that exceeds the generally required minimum lot area standard for the zoning district as a whole.

SECTION 2107: NON-CONFORMING SIGNS

A. Signs in existence at the effective date of this Ordinance may be continued subject to the requirements contained in Section 2100 of this Ordinance.

B. If and when a non-conforming sign is replaced, the new sign shall comply with the requirements of Article XX of this Ordinance. "Replacement" shall refer to structural replacement and/or relocation of the sign, but shall only include simply revising the text or color of the sign.