



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

NONCONFORMING USE CONFIRMATION APPLICATION

Submittal Requirements:

- Original Application with original signatures.
- All requested information is required to be completed by all applicants

Case No. NCU - _____
Office Use Only

Munis No. _____

Date Filed: _____

Address or Location of Property: _____

Current Zoning: _____ Size of Property: _____

Property Owner Name (if different from Applicant): _____

Contact Person: _____ Email: _____

Mailing Address: _____

Telephone: _____ Fax: _____

Applicant Name (if different from Owner): _____

Contact Person: _____ Email: _____

Mailing Address: _____

Telephone: _____ Fax: _____

Agent or Counsel (if applicable): _____

Firm Name: _____ Email: _____

Mailing Address: _____

Telephone: _____ Fax: _____

Applicant's/Owner's Statements

This applicant and its addenda and supporting documentation are true and accurate to the best of my knowledge and belief.

Owner's Signature

Applicant's Signature (if different from owner)

Date

Date

For more information, please contact:

Hagerstown Planning and Code Administration Department

City of Hagerstown, Maryland
One East Franklin Street, Suite 300
Hagerstown, MD 21740
T: 301.739.8577, ext. 138
F: 301.791.2650
Email: planning@hagerstownmd.org

Last Amended: 3/7/2017

Nonconforming Use Process

What is a Nonconforming Use?

A nonconforming use is the use of a building or property that does not conform to the use regulations prescribed by the Zoning Ordinance for the district in which it is located, but which was lawfully in existence at the effective date of the Ordinance or subsequent text or map amendment. An example of a nonconforming use is the longstanding and continued use of a property for a motor vehicle repair business on a property that was later classified in a “residential” district that would not permit such uses.

What is this process about?

The Zoning Ordinance allows for an owner or lessee of a property to file documentation with the City Planning and Code Administration Department certifying that the use is nonconforming. This is done to:

- Create an official City record of the use in order to clear property for transfer; and
- Safeguard against allegations of zoning violations in the future.

How does the process work?

Complete and submit the attached application, providing the required description of the use (including a plan of the property for outdoor uses of land) and supporting documentation. The Zoning Administrator reviews the application and issues a letter conforming the existence and extent of the nonconforming use (or stating why the application was rejected), and creates a file that will be kept at the City Planning and Code Administration Department for future use. Should your application be rejected in full or part, or should a concerned party dispute the Zoning Administrator’s approval of your application, the decision may be appealed to the Board of Zoning Appeals within 30 days of the date of the written decision.

What do I need to demonstrate?

An applicant needs to demonstrate:

- That the establishment of the use predates the adoption of the Zoning Ordinance, or subsequent ordinance or zoning map amendment that may have rendered the use nonconforming;
- The extent of the use; and
- That since the date that the use became nonconforming it has not ceased operation for a period of 24 months or more.

Can I use this process to expand or change my nonconforming use?

No. The Zoning Administrator can only acknowledge the existence of a nonconforming use. Changing or enlarging the use is addressed elsewhere in the Zoning Ordinance and can only be approved by the Board of Zoning Appeals.

Why should I get my nonconforming use confirmed?

As time goes by, it becomes more and more difficult to document the history of a nonconforming use. Paperwork is discarded. Witnesses move away. While your use may go unchallenged for years, it is easier to document the use now rather than years from now. Having your use confirmed by the Planning and Code Administration Department creates an official record with the City that the use is nonconforming.

What kinds of documentation do I need?

Anything that demonstrates the existence of the use prior to the date the use became nonconforming can be used as evidence in your application. Such documentation could include:

- Business records or historic city directories identifying a business at that location.
- Old photographs.
- Historic property, insurance, land use maps, surveys, government records or deeds that may identify the use.
- Any other materials that are pertinent to documenting the use on the property.
- Notarized affidavits from current or past property owners, tenants, neighbors, etc., who have direct knowledge that the use predates the date it became nonconforming. Thirdhand accounts are not acceptable, however, secondhand accounts are acceptable only if:
 - The witness providing the affidavit can identify the individual who informed them of the creation of the use;
 - Identify that person's relationship to the property and how that person would have known when the use became nonconforming;
 - The specific year that this person states the use began or became nonconforming; and
 - The year that this person informed the witness providing the affidavit about the use.

Example: *You are purchasing an automobile repair facility located in a residential district and that use of the property appears to have become nonconforming in 1977. The current owner purchased the property in 1980 from the previous owner who informed them that they started the business there in 1970. This information is acceptable, provided that the current owner provides an affidavit stating: 1) who informed them of this (name of former owner); 2) how this person would have had firsthand knowledge (started the business); 3) the year the use began or become nonconforming (1970); and 4) the year that they were informed of this by the person with direct, firsthand knowledge (in 1980 when they bought the property).*

For more information:

Contact the City of Hagerstown Zoning Administrator at 301.739.8577, ext. 139.