



HAMILTON COUNTY ZONING RESOLUTION
USER'S GUIDE

Compatible Nonconforming Uses

HAMILTON COUNTY

Board of Zoning Appeals

138 E COURT ST RM. 801
CINCINNATI, OH 45202-1224

GENERAL INFORMATION

Phone: (513) 946-4550
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**Secretary/
Development Services
Administrator**

Bryan Snyder, AICP

- **What is a Compatible Nonconforming Use?**

Any use that was in existence at the time zoning was established, or in existence prior to the adoption of a zone amendment that subsequently prohibited the use within the zone district, is known as a nonconforming use. So long as no structural alterations are made, the property may be sold and the use changed to another nonconforming use of the same use classification or a more restricted use permitted as-of-right in the zone district.

The compatible nonconforming use process is designed to provide for the expansion or other improvement of an existing legally established nonconforming use. The Board of Zoning Appeals may permit such expansion after having determined that the nonconforming use is compatible or can be made compatible with, and will have no adverse impact upon, the adjacent property owners or other permitted land uses in the surrounding neighborhood.

- **What are the criteria for evaluation of a Compatible Nonconforming Use?**

The Board of Zoning Appeals (BZA) will consider the following elements of a site development plan when deciding a compatible nonconforming use application:

- a) The location and size of the property including setbacks and lot dimensions
- b) The use of the property on the effective date of this Resolution
- c) All uses adjacent to the property and within the surrounding neighborhood
- d) All existing structures, yards, utility easements, right-of-way, floodplains, and wooded areas adjacent to the property
- e) The density and intensity of the nonconforming use
- f) Landscaping
- g) Architectural treatment
- h) Traffic impact
- i) The reasons why the nonconforming use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located
- j) Nature and extent of additional protection from adverse impacts afforded to adjacent property owners.

In addition, the BZA may require appropriate conditions and safeguards to assure that the nonconformity does not adversely affect orderly development and the value of nearby property including, but not limited to: required improvement of, or modifications to existing improvements on, the property; limitations on hours of operations; and limitations on the nature of operations.

- **How do I apply for a Compatible Nonconforming Use?**

An application for a compatible nonconforming zoning certificate shall be accompanied by site plans, structural details, and additional information as outlined in the attached checklist. The completed application packet and application fee shall be filed directly with the Board of Zoning Appeals. You may schedule an appointment with the Administrator of the Board if you have questions or wish to further discuss details of a case prior to submission. *Requests for variance of a yard,*

bulk or parking standard must be clearly stated in the letter of application as submitted to the Board.

- **Processing Procedures for a Compatible Nonconforming Use:**

Minimum processing time for a Compatible Nonconforming Use is typically 62 days.

- a) Within 5 days after filing a complete application, the BZA Administrator sets a public hearing for between 30 and 62 days from that date.
- b) The BZA Administrator prepares a report setting forth findings and recommendations to be submitted for consideration by the Board.
- c) The BZA Administrator sends notice of the public hearing at least 10 days prior to such hearing to the applicant, the Township, and to property owners within 200 feet of the subject property. A legal advertisement is published in a local county newspaper.
- d) **The Board of Zoning Appeals holds a Public Hearing** at their regularly scheduled meeting, usually the second Wednesday of each month at 1:00 p.m. Please refer to schedule for exact submission and hearing dates. The applicant or someone representing the applicant MUST be present at the public hearing.
- e) Following the closure of the public hearing, the BZA takes action within 30 days.
- f) If the application is approved:
 - 1) The BZA Administrator prepares a Resolution of Approval for the Chairman of the Board to sign officially authorizing the variance.
 - 2) Applicant must apply to the Rural Zoning Commission for a Compatible Nonconforming Use Zoning Certificate. Zoning Certificates for projects that also require a building permit are valid for a period no longer than six months unless a building permit has been issued or the BZA has granted an extension.
 - 3) Applicant applies to the Building Department for a Building Permit when required.
- g) When the development is complete a Final Zoning Inspection will be made and a Final Zoning Inspection Certificate will be issued.

HAMILTON COUNTY BOARD OF ZONING APPEALS

County Administration Building
138 E. Court Street, Room 801
Cincinnati, Ohio 45202
513-946-4550

CHECKLIST FOR FILING A COMPATIBLE NONCONFORMING USE APPLICATION

Applications for a compatible nonconforming use shall be **filed in person** with the Board of Zoning Appeals. A legal notice will be prepared by the Board of Zoning Appeals and placed in a newspaper of general circulation in the county at least 10 days prior to the public hearing. *The applicant will receive the bill for said legal notice.* The Board may also prepare for the applicant, if requested, a typewritten list of names and complete addresses of the property owners of all lots and lands located within 200 feet of the property requesting the appeal. Said list will be prepared from the County Auditor's current tax list. *The office of the Board will execute all forms, including individual and legal notices, necessary for the processing of an application.*

Hearings are held by the Board of Zoning Appeals in Room 805 of the County Administration Building, located at 138 East Court Street, Cincinnati, Ohio 45202

All complete applications shall include the following information. *Please submit this checklist with your application.*

1. THE LETTER - Please provide 1 copy

An explicit typewritten statement addressed to the Board of Zoning Appeals, setting forth the following:

_____ The location and size of the property.

_____ A clear and accurate description of the proposed construction or use of the property, including the date the nonconforming use certificate was issued.

_____ State clearly the reasons why the nonconforming use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located

_____ State clearly the extent of additional protection from adverse impacts afforded to the adjacent property owners including protection from aesthetic, lighting, traffic, noise, and other issues

2. THE SITE PLAN - Provide six (6) full size drawings + two (2) reduced drawings, 11" x 17" or smaller

The site plan shall be drawn to scale of not less than 1 inch equals 50' and shall contain the following information.

_____ Surveyor's Seal (*Required for all new dwellings, residential additions or structures over 600 sq. ft. or less than 10' from a property line, and all commercial buildings.*)

_____ Name of person(s) preparing the plan

_____ Title, name of owner, & name of builder/contractor

_____ North Arrow (North to top of plan)

_____ Property lines, property dimensions, street name(s), site size

_____ Intensity in terms of impervious surface ratio (ISR) calculations for all non-residential applications or density in terms of dwelling units per acre for residential applications

_____ Existing and proposed buildings & other structures including the use of each structure

- _____ Distance from structures to property lines
- _____ Paving, parking areas, driveways, walks, etc.
- _____ Parking space, aisle & drive dimensions, & parking analysis
- _____ Identify land uses on parcels adjoining the proposed site and within the surrounding neighborhood
- _____ Streetscape & boundary buffer yards & interior landscape areas
- _____ Existing & proposed grades and flood plains
- _____ Easements & purpose of easements

Note: Modification or changes to the plats and/or plans approved by the Board are subject to review by the Board and a new case may be required.

3. THE LANDSCAPE & LIGHTING PLAN

Provide six (6) full size drawings + two (2) reduced drawings, 11" x 17" or smaller

The landscape & lighting plan(s) shall be drawn to scale of not less than 1 inch equals 50 feet. A landscape & lighting plan is not required for single family dwellings and similar uses not subject to buffering and landscape standards, but when required for other uses, the plan shall contain the following information.

- _____ Landscape Architects Seal or plants selected from Appendix A-2 – Recommended Plant List
- _____ Streetscape buffer yard width & location
- _____ Boundary buffer yard(s) width & location
- _____ Interior landscape areas size & location
- _____ Detailed schedule of planting materials including type, size, and location within each yard or area
- _____ Location and details (height, type, etc.) of any exterior light fixtures or poles
- _____ Indication (either photometric plan or similar lighting plan) that the light levels will be less than 0.5 footcandles at all property lines.

4. THE STRUCTURAL DRAWING – Provide six (6) sets of elevation drawings.

5. THE APPLICATION – Complete one (1) copy of the BZA application form.

6. THE FEE \$ _____ + Legal Advertisement

An application fee is required when the appeal is filed (all fees are nonrefundable and must be made payable to the Hamilton County Treasurer). Contact the Board of Zoning Appeals at 946-4550 for additional information.

Checklist Prepared by: Name _____
 Address _____
 Phone _____
 E-Mail _____
 Date _____