



City of Jeffersontown
Department of Permitting, Planning and Enforcement
10416 Watterson Trail
Jeffersontown, KY 40299
Phone: (502) 267-8333 Fax: (502) 267-0547
jeffersontownky.gov

Nonconforming Use Policy

The following process shall be used to establish nonconforming rights associated with a specific land use, or structure, on a property. This process shall be used by a property owner who is currently engaged in the use of the property, or by a prospective future property owner, seeking to use the property.

If the property has been cited by the Department of Permitting, Planning and Enforcement for a violation related to the land use, this process shall not substitute for an appeal of the citation of the Board of Zoning Adjustment. This process is not intended to confer a legal right to a nonconforming use and decisions rendered under this process are subject to appeal to the Jeffersontown Board of Adjustment pursuant to Kentucky Revised Statutes, Section 100.257.

Establishment of Nonconforming Use Rights

Nonconforming rights are measured by the following dates: April 2004 City of Jeffersontown

To establish nonconforming rights for the use, or structure, an **applicant must provide evidence of ALL of the following:**

1. The use lawfully existed on the property prior to the adoption, or amendment of the zoning regulation that makes the use nonconforming.
2. The use existed continuously on the property since the time it became nonconforming, without an interruption of more than twelve (12) consecutive months; and,
3. The use has not been expanded, or relocated, on the property since the adoption of the zoning regulation that makes it nonconforming.

In addition to the nonconforming rights application and proof of nonconforming rights, the application must submit the following:

4. One (1) copy of the 1st tier Adjoining Property Owner mailing labels, including all owners, applicants and contacts.
5. Fees: See fee schedule.



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To meet the listed requirements, the applicant must provide some combination of documentation to substantiate the claim of nonconforming rights. This documentation could include:

- Zoning maps from the time of commencement of the use to the present;
- A copy of the zoning regulations in effect at the time the use began;
- A copy of official documents for each year of the use's operation including, but not limited to, the following:
 - The Business License for each year of the use's operation showing the business name, or otherwise demonstrating on its face the existence of the use-continuous ownership of the property is not sufficient to demonstrate the existence of nonconforming rights.*
 - Copies of utility bills showing billing information for the use.
 - Copies of tax bills showing billing information for the use.
- Copies of directory listings for each year of the use's operation (including telephone directories, Caron's / Polk's directories, business association directories, Criss-Cross Directories, etc.)***
- Property Valuation Administration (PVA) records.
- Substantial proof by affidavit from individual(s) attesting to his, her, their knowledge of the continuous, uninterrupted use of the property for the particular use in question. Affidavits, by themselves, will not suffice as the only evidence of existence for a nonconforming use; in other words, the applicant should submit other evidence along with notarized affidavits. Affidavits must contain specific information as to the affiant's knowledge of the use, and the basis for that knowledge.
- Other documents that substantiate the existence of a specific use, or structure on the property, such as newspaper articles or photographs.

Planning and Design Services shall review the documentation and determine one of the following three conclusions:

1. The nonconforming use rights have been established for the property. If this is the conclusion, the property owner, or prospective property owner, is advised that any changes made to the use, or structure, shall result in a loss of nonconforming status. Any interested party can appeal the Planning Director's determination to the Jeffersontown Board of Adjustment pursuant to Kentucky Revised Statutes, Section 100.257.
2. The nonconforming use rights have not been established for the property. If this is the conclusion, the property owner, or prospective owner, can appeal to the Board of Zoning Adjustment pursuant to Kentucky Revised Statutes, Section 100.257.
3. No conclusion has been reached because of insufficient, or conflicting evidence. If this is the conclusion, the property owner, or prospective property owner, can provide additional documentation, or appeal the determination to the Jeffersontown Board of Adjustment pursuant to Kentucky Revised Statutes, Section 100.257.

If staff concludes that nonconforming rights exist, the property owner, prospective property owner, Permitting Department shall issue a statement outlining the nonconforming rights. This statement must be recorded in the chain of title in the Office of the Clerk of Jefferson County, Kentucky to put others on notice of the establishment of nonconforming use.

*In no case will official documents be accepted as proof where those documents do not specifically reference the use, either through the inclusion of a business name or type, or some other reference that identifies the actual use of the property. Continuous ownership of property does not imply continuous nonconforming use of the property.



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Case No. _____
 Intake Staff: _____
 Date: _____
 Fee: _____

Nonconforming Rights Application

Contact Information

Owner(s) Information and Signature(s) or Certification Statement required for all applications. The application will not be accepted without it. Add additional sheets as needed.

Attach any additional owners, or contact information, to this application. The Certification Statement must be completed if someone other than the owner(s) will be representing this case at Planning and Design Services (i.e., Surveyor, Engineer, Planner, Attorney, signing authority for a company, etc.)

Primary Owner: *Check if primary contact*

Name: _____

Signature¹: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email²: _____

Applicant: *Check if primary contact*

Name: _____

Signature³: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email²: _____

Secondary Owner: *Check if primary contact*

Name: _____

Signature¹: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email²: _____

Professional/Attorney: *Check if primary contact*

Name: _____

Signature³: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email²: _____

¹ Owner(s) Information & Signature(s) or Certification Statement: Required. The application will not be accepted without it. A Certification Statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company corporation, partnership association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application. ² Provide an e-mail address or fax # to receive agency comments for this case.



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Case No. _____

Intake Staff: _____

Date: _____

Fee: _____

Certification Statement

I, _____ in my capacity as

Owner Authorized Agent Representative Other: _____

hereby certify that _____ is (are) the

(owner / LLC / corporation / partnership / association / trustee / etc.)

owner(s) of property located at _____

which is the subject of this application, and that I, _____

(owner / LLC / representative / authorized agent / other)

am authorized to sign this application on behalf of the owner(s).

Print Name: _____

Signature: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email: * _____

I understand that knowingly providing false information on this application may result in any action taken being here on declared null and void. I further understand that pursuant to KRS 523.010 et. seq. knowingly making a material false statement or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.

