



357 South Livingston Avenue • Livingston, New Jersey 07039
Office 973-535-7954 • Fax 973-992-1016

PLANNING DEPARTMENT

APPLICATION FOR CERTIFICATE OF NONCONFORMITY

To be completed and returned to the Planning Department:

- 1 The Applicant shall submit to the Planning Department 15 copies of the completed Application Form (attached) along with 15 copies of any evidence or documents supporting the claim of Nonconformity.
- 2 All evidence must pre-date the specific ordinance restricting the use.
- 3 Each application package must be **collated and stapled in sets with evidence arranged in chronological order.**
- 4 Examples of accepted evidence or documentation of proof supporting a claim of Nonconformity include, but are not limited to:
 - Property Record Card
 - Certificate of Occupancy
 - Building Permits
 - State History Cards
 - Mercantile Licenses
 - Rent Control Filing Records
 - Landlord Registration Statements
 - Fire Code Inspection Reports
 - Previously Recorded Deeds
 - Advertisements or Telephone Directory Listings
- 5 Applicants are not precluded from submitting personal documents which may support the claim of Nonconformity. Applicants are cautioned however, that this category of documents may or may not be accepted by the Zoning Board. Examples include, but are not limited to:
 - Property Survey
 - Utility Bills
 - Lease Agreements and/or Rent Receipts
 - Fire and/or Flood Insurance Policies
 - Private Inspection Reports
 - Third Party Affidavits
- 6 The Planning Department has statutorily 45 days to review the application package. Additional information may be required, at which point the Applicant will be contacted by the Planning Department. Once the application is deemed complete, the Applicant will be scheduled for the next available hearing date.
- 7 Once the hearing date is set, Notice of Hearing must be placed in the newspaper of record (West Essex Tribune) **ten (10) days** prior to hearing date. Return notarized Affidavit of Publication (issued by the West Essex Tribune with copy of Public Notice article) to the Planning office for the file.
- 8 Provide all property owners within 200 feet of property with the **Zoning Board of Adjustment Notice of Hearing** letter via hand delivery or via Certified US Mail. Complete and notarize **Affidavit of Service of Notice** including signatures of all property owners that received the letter via hand delivery and/or provide original receipts of all Certified US Mail recipients. Form can be notarized at Town Hall.
- 9 List of names and addresses of persons having 10% interest or more in the applicant, corporation or partnership (if applicable).
- 10 Fees as required by Ordinance 33-2009 – \$300.00 Application Fee and \$500.00 Escrow Fee

TOWNSHIP OF LIVINGSTON – PLANNING DEPARTMENT

**APPLICATION FOR CERTIFICATE OF NONCONFORMITY
ZONING BOARD OF ADJUSTMENT**

APPLICATION NUMBER (to be assigned by the Planning Office) _____

APPLICANT NAME _____ PHONE _____

APPLICANT ADDRESS _____

OWNER NAME _____

OWNER ADDRESS _____

PROPERTY LOCATION _____

BLOCK _____ LOT(S) _____ ZONE _____

PROFESSIONAL CONSULTANTS _____

PRESENT USE _____

CERTIFICATE OF NONCONFORMITY BEING SOUGHT FOR NONCONFORMING:

USE STRUCTURE BOTH

Explain in detail the present nature of the nonconformity (attach additional sheets if necessary) _____

List the types of evidence supporting the claim of nonconformity (attach said evidence hereto)

1. _____
2. _____
3. _____
4. _____

I hereby affirm that all of the above statement and statements contained in the papers submitted herewith are true.

Signature of Applicant *Date*

Address

I hereby affirm that I am the owner of the premises involved in this application and that I consent to the filing of the application.

Signature of Owner *Date*

Address

Ordinance No. 33-2009

ORDINANCE AMENDING AND REVISING CHAPTER 170 ARTICLE VII OF THE CODE OF THE TOWNSHIP OF LIVINGSTON FOR LAND USE FEES

BE IT ORDAINED by the Township Council of the Township of Livingston, in the County of Essex and State of New Jersey, as follows:

New language is in bold and italicized

Section 1. Chapter 170 Article VII of the Code of the Township of Livingston is amended as follows:

§170 Article VII .Fees

§170 – 62 Schedule and Fees and Deposits

A. The following fees in application to the Planning or Zoning Board of Adjustment for any application for development shall be accompanied by a filing fee which shall be used to defray the administrative costs of processing the application as follows:

(6) *Application for Certificate of Nonconformity:* **\$300.00**

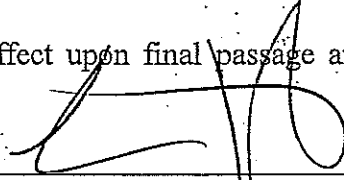
Section 2.

B. Technical review of escrow deposits

(6) *Nonconforming use:* **\$500.00**

Section 3. Except as hereby amended, the Code of the Township of Livingston shall remain in full force and effect.

Section 4. This Ordinance shall take effect upon final passage and twenty (20) days from publication in accordance with the law.



CHARLES AUGUST, Mayor



GLENN R. TURTLETAUB, Township Clerk

Approved as to form:



SHARON L. WEINER, Township Attorney
Introduced: 10/19/2009

Adopted: November 2, 2009

{00518630.DOC}

I HEREBY CERTIFY the foregoing to be
a true copy of an ordinance adopted by
the Livingston Township Council.



Glenn R. Turtleaub, Township Clerk

§ 170-89. Nonconforming buildings and uses.

- A. Continuance of nonconforming use or structure. Any lawful nonconforming use which existed as of the date this comprehensive amendment to the entire Land Use Ordinance goes into effect may be continued, and any building designed, arranged, intended or devoted to a nonconforming use may be reconstructed or altered, subject to the following regulations:
- (1) The total alterations made in any such building shall in no case exceed 50% of the value of the building at the time of the proposed reconstruction or alteration, nor shall the building be enlarged, unless the use therein is changed to a conforming use; provided, however, that where a building meets the use requirements of this chapter but is nonconforming because of height and area regulations, alterations made in any such building may exceed 50% of the value, provided that the height and area requirements are not further violated.
 - (2) No nonconforming use shall be extended at the expense of a conforming use.
 - (3) A nonconforming use changed to a conforming use shall not thereafter be changed back to a nonconforming use.
 - (4) A nonconforming use in existence as of the date this comprehensive amendment to the entire Land Use Ordinance goes into effect shall not thereafter be changed to another nonconforming use.
 - (5) In the event that there is a cessation of operation of any nonconforming use for a period of 12 consecutive calendar months, the same shall be presumed to be an abandonment of such nonconforming use. Any subsequent exercise of such abandoned nonconforming use shall be deemed a violation of the provisions of this section, except that this subsection shall not apply to a use which is nonconforming because of height and area violations.

- (6) The prospective purchaser, prospective mortgagee or any other person interested in any land upon which a nonconforming use or structure exists may apply, in writing, for the issuance of a certificate certifying that the use or structure existing before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the administrative officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Board of Adjustment. The administrative officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in N.J.S.A. 54:5-14 and 54:5-15. The fees collected by the official shall be paid by him to the Township. Denial by the administrative officer shall be appealable to the Board of Adjustment. Sections 59 through 62 of P.L. 1979, c. 291 (N.J.S.A. 40:55D-72 to 40:55D-75) shall apply to applications or appeals to the Board of Adjustment.
- B. Completion of existing buildings. Nothing in this section shall require any change in plans, construction or designated use of a building for which a building (construction) permit has heretofore been issued, provided that construction thereof is diligently pursued within six months of the date of such permit.
- C. Restoration of existing buildings.
- (1) Nothing in this section shall be construed to prohibit the restoration of a nonconforming building or use partially destroyed by fire, explosion, act of God or act of public enemy, provided that any building or use so partially destroyed may be reconstructed and thereafter used only in such a manner as will not increase, enlarge or extend the preexisting nonconformity. Any building totally destroyed by any cause aforesaid may be rebuilt only as a conforming use.
- (2) The owner of any nonconforming building or use that is partially destroyed as above mentioned must apply for a building (construction) permit to rebuild the same within 12 months from the date of such destruction. If the application to rebuild is filed after such twelve-month period, a building (construction) permit shall be issued only for a conforming use. Nothing in this section shall prohibit the restoration of a wall declared unsafe by the Construction Official.
- D. Unlawful use not authorized. Nothing in this section shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of this comprehensive amendment to the entire Land Use Ordinance.
- E. Nonconformance due to reclassification. The foregoing provisions of this section shall apply to all buildings, structures, land or uses which may hereafter be rendered nonconforming by reason of any reclassification of zone districts under this chapter or any subsequent change in the regulations of this chapter.