Planning and Zoning
Department of Transportation and Development

Development Services Building
150 Beavercreek Road | Oregon City, OR 97045

503-742-4500 | zoninginfo@clackamas.us
www.clackamas.us/planning

STAFF USE ONLY

Staff Initials: *File Number:*

Land use application for:

NONCONFORMING USE

VERIFICATION, RESTORATION, REPLACEMENT, AND/OR ALTERATION

APPLICANT INFORMATION			
Applicant name:	Applicant email:	Applicant phone:	
Applicant mailing address:	City:	State:	ZIP:
Contact person name (if other than applicant):	Contact person email:	Contact person phone:	
Contact person mailing address:	City:	State:	ZIP:

PROPOSAL
Brief description of proposal:

SITE INFORMATION		
Site address:	Comprehensive Plan designation:	Zoning district:
Map and tax lot #: *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____		Land area:
Adjacent properties under same ownership: *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____		

Printed names of all property owners:	Signatures of all property owners:	Date(s):

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

Applicant signature: Date:

A. Review applicable land use rules:

This application is subject to the provisions of Section 1206, *Nonconforming Uses and Vested Rights* of the Clackamas County Zoning and Development Ordinance (ZDO).

It is also subject to the definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards as outlined in the ZDO.

B. Turn in all of the following:

☐ **Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.

☐ **Application fee: Refer to the FAQs at the end of this form and to the adopted *Fee Schedule* for applicable fees and refund policies. A notification surcharge may also apply if an expanded notification area is required by ZDO Section 1307**. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the *Credit Card Authorization Form* available from the Planning and Zoning website. Payment is due when the application is submitted.

☐ **Site plan:** Provide a site plan (also called a plot plan). A *Site Plan Sample* is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):

- Lot lines, lot/parcel numbers, and acreage/square footage of lots;
- Contiguous properties under the same ownership;
- All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
- Setbacks of all structures from lot lines and easements;
- Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
- Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).

☐ **Floor plans:** Attach detailed, accurate, and to-scale floor plans for all structures to be considered in this application. Label all rooms with their existing and proposed use, show all of their dimensions, include the square footage of each room, and identify all doors and partition walls.

☐ **Building elevation diagrams:** Attach drawings of all structures to be considered in this application. The drawings must be to-scale and must show each side of the building and any windows, doors, or other appurtenances. Include all measurements (height, length, width, and area).

☐ **Evidence of lawful establishment:** Attach evidence (e.g. building permits, tax records, dated photographs, dated aerial images, financial statements, signed affidavits, and previous land use approvals) substantiating that the nonconforming use to be verified, restored, replaced, and/or altered was lawfully established.

C. For *verification* of a nonconforming use:

If you are requesting verification of nonconforming use pursuant to ZDO Subsection 1206.05, answer the following questions here in Part C. Attach additional pages, if necessary, and copies of supporting documentation.

For the purposes of Part C, the "nonconforming use" is the land use(s), structure(s), and/or physical improvement(s) for which you are seeking nonconforming use verification.

1. What is the nonconforming use? Describe the nonconforming use in detail, including buildings, vehicles, equipment, and materials used, days and hours of operation, the number of employees, and other operational and physical information, as applicable:

2. When did the nonconforming use first become nonconforming to the County's zoning regulations?

Date: _____

3. What *current* zoning regulations do/does the nonconforming use described in response to Question C.1 not conform to?

4. When was the nonconforming use described in response to Question C.1 established? Attach evidence that supports your response.

Date: _____

5. Describe any changes in the nonconforming use since being established, and identify, with supporting documentation, when those changes occurred:

6. Did the existence, continuity, nature, or extent of the nonconforming use discontinue for any 24-month period in the 20 years immediately preceding the date of this application? (If the nonconforming use is surface mining or marijuana production, see ZDO Subsection 1206.04 for the allowed discontinuance period.)

☐ NO, and supporting documentation is attached.

☐ NO, and supporting documentation is attached to prove the existence, continuity, nature, and extend of the nonconforming use for the *10-year* period immediately preceding the date of this application. Pursuant to ZDO Subsection 1206.05(B), this creates a rebuttable presumption that the nonconforming use, as proven, lawfully existed at the time of, and has continued uninterrupted since, the adoption of restrictive zoning regulations, or a change in the zoning or zoning regulations, that have the effect of prohibiting the nonconforming use under the current provisions of the ZDO.

☐ YES, as explained in the box below:

D. For *restoration or replacement* of a nonconforming use:

If this application requests restoration or replacement of a nonconforming use, answer the following questions here in Part D. Attach additional pages, if necessary, and copies of supporting documentation.

For the purposes of Part D, the "nonconforming use" is the land use(s), structure(s), and/or physical improvement(s) you are seeking to restore or replace.

1. What damaged or destroyed the nonconforming use?

☐ Fire

☐ Other casualty (i.e., an unfortunate or unforeseen happening), explained in the box below:

☐ Natural disaster, explained in the box below:

2. When was the nonconforming use damaged or destroyed by the incident(s) identified in response to Question D.1?

Date: _____

3. Explain in the box below, and demonstrate in your attached site plan and other supporting documentation, how your proposed restoration or replacement will *not* alter or change the nature or extent of the nonconforming use as lawfully established prior to the incident(s) identified in response to Question D.1.

(*Note: If you are requesting an alteration or change in the nature or extent of the nonconforming use, you must complete Part E of this application.*)

4. Identify how the nonconforming use status of the existing use will be, or already has been, verified pursuant to ZDO Subsection 1206.05:

☐ Verification is being requested in Part C of this application.

☐ Verification was previously approved by the County within the last 24 months.

File No. of approved verification: Z_____

☐ Verification was previously approved by the County more than 24 months ago, and documentation is attached showing that the nonconforming use has not discontinued for 24 consecutive months since that approved verification.

File No. of approved verification: Z_____

E. For *alteration* of a nonconforming use:

If this application requests alteration of a nonconforming use, answer the following questions here in Part E. Attach additional pages, if necessary, and copies of supporting documentation.

For the purposes of Part E, the "existing use" is the nonconforming land use(s), structure(s), and/or physical improvement(s) you are seeking to alter.

1. Describe the proposed alteration:

2. Explain how the alteration will, after the imposition of conditions of approval deemed necessary to ensure the mitigation of any adverse impacts, have no greater adverse impact on the neighborhood than the existing use:

3. Identify how the nonconforming use status of the existing use will be, or already has been, verified pursuant to ZDO Subsection 1206.05:

☐ Verification is being requested in Part C of this application.

☐ Verification was previously approved by the County within the last 24 months.

File No. of approved verification: Z_____

☐ Verification was previously approved by the County more than 24 months ago, and documentation is attached showing that the nonconforming use has not discontinued for 24 consecutive months since that approved verification.

File No. of approved verification: Z_____

4. Will the alteration expand the existing use from one lot of record to another?

☐ NO, the alteration will be on the same lot of record.

☐ YES, but the lot of record on which expansion is proposed, *and* the lot of record on which the existing use is currently located, have been part of the same tract continuously since the date the existing use became nonconforming, as evidenced by attached documentation.

☐ YES, but the expansion would allow only for facilities necessary to support the existing use, such as driveways, storm water management facilities, and on-site wastewater treatment systems. The alteration on the other lot of record are necessary to support the existing use for the following reasons:

FAQs

What is a nonconforming use?
A "nonconforming use" is a use of any building, structure or land allowed by right when established or that obtained a required land use approval when established but, due to a change in the zone or zoning regulations, is now prohibited in the zone.

When is a Nonconforming Use permit required?
The County's Zoning and Development Ordinance (ZDO) lists the uses, structures, and other physical improvements that are allowed in each zone. However, the ZDO also allows uses, structures, and other physical improvements to continue, even if they do not conform to current ZDO rules, provided they were legally established and meet other criteria.

Formal verification by the County that a nonconforming use/structure/improvement was legally established and meets the other criteria requires an application for nonconforming use verification using Part C of the Nonconforming Use permit application form.

The ZDO allows a verified nonconforming use to be restored or replaced if it was damaged or destroyed by fire, other casualty, or natural disaster, provided it is restored or replaced to the nature and extent of the nonconforming use as lawfully established prior to the incident, and subject to certain criteria. Requests for restoration or replacement are made using Part D of the Nonconforming Use permit application form. Restoration or replacement must be lawfully commenced, as defined by Subsection 1206.06(B) of the ZDO, within one year of the occurrence of the damage or destruction.

The ZDO also allows a verified nonconforming use to be altered (e.g., expanded), subject to certain criteria; such requests are made using Part E of the Nonconforming Use permit application form. Per ZDO Subsection 1206.07(A), the alteration of any nonconforming use that is necessary to comply with any lawful requirement does not require a Nonconforming Use permit.

What is the permit application process?
Nonconforming Use permits are subject to a "Type II" land use application process, as provided for in Section 1307 of the ZDO. Type II decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies. If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The Planning Director's decision can be appealed to the County Land Use Hearings Officer.

What is needed for the County to approve a land use permit?
Nonconforming use verifications, restorations, replacements, and/or alterations *may* be permitted after an evaluation by the County of applicable standards of the ZDO. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The County approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

FAQs continued

How long will it take the County to make a decision about an application?
The County makes every effort to issue a decision on a Type II land use application within 45 days of when we deem the application to be complete. State law generally requires a final County decision on a land use permit application in an urban area within 120 days of the application being deemed complete, and within 150 days for a land use permit in a rural area, although there are some exceptions.

If an application is submitted and then withdrawn, will a refund be given?
Please see Planning & Zoning Fee Schedule under "Other Fees" *here*. The $5 Technology Fee is non-refundable.

Who can help answer additional questions?
For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at **503-742-4500** or zoninginfo@clackamas.us. You can also find information online at the Planning and Zoning website: www.clackamas.us/planning.

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or drenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? 翻译或口译？| Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?