

INTRODUCED BY: Bradley S. Eaby
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Ordinance 11-02
Existing Nonconforming Billboards

An Ordinance to amend Kent County Code, Vol. II, Chapter 205, Zoning, Article XVI, Nonconforming Uses, §205-217 Nonconforming buildings, structures, and uses to permit the reconstruction of existing nonconforming billboards.

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article XVI, Nonconforming Uses, §205-217 Nonconforming buildings, structures, and uses is hereby amended by adding the following underlined language:

§ 205-217. Nonconforming buildings, structures and uses.

Nonconforming buildings, structures or uses may continue to exist, subject to the following provisions:

A. No nonconforming use shall be changed to a use not permitted by this chapter in the particular district in which the building or structure is located except:

(1) If no structural alterations are made, a nonconforming use of a building may be changed to a similar or more restricted use of the same or lesser intensity; or

(2) Whenever a nonconforming use has been changed to a more restricted use, such use shall not thereafter revert to a less restricted use.

(3) Any change in use of a nonconforming structure must be approved by the Board of Adjustment.

B. Any residential use located on a lot having less road frontage or lot area than required herein may continue to exist, and may be enlarged, without increasing the number of dwelling units therein, provided that no such addition shall extend closer to any lot existing building surfaces or the required yard dimensions for the district, whichever is less.

C. In the event that a nonconforming use ceases for a period of one year or more, then the nonconforming use shall be deemed abandoned and compliance with this chapter shall be required. The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.

D. Any nonconforming building or structure which is damaged or destroyed by any cause, except for willful demolition, may be reconstructed to its former dimensions on the same lot and with the same nonconforming use. Reconstruction shall be substantially completed within a period of 12 months from the date of damage or the structures nonconforming status shall be lost. Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any building or structure declared to be unsafe.

E. Any nonconforming billboard may be reconstructed provided the sign area is not enlarged; the structure itself is not enlarged; the height of the structure is not increased; and the structure is rebuilt no closer to any property line or right-of-way. A building permit is required for any reconstruction and the Department of Planning Services shall verify the height and dimensions of the existing sign prior to demolition/reconstruction. Any such reconstruction shall also be compliant with all applicable Delaware Department of Transportation regulations.

Section 2. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 3. Effective Date.

This Ordinance shall be effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT
COUNTY, DELAWARE



President, Kent County Levy Court

This 25th day of January, 2011

ATTEST: Loretta L. Wooten
Clerk of the Peace

Synopsis: This ordinance permits the reconstruction of existing nonconforming billboards to their current dimensions and sign area.