

**CITY OF SOUTH BEND/ST.JOSEPH COUNTY BUILDING DEPARTMENT**  
**APPLICATION FOR CERTIFICATE OF LEGALLY ESTABLISHED NON-CONFORMING USE OF LAND**

**Submission Requirements**

The South Bend / St. Joseph County Building Department reviews applications for a Certificate Of Legally Established Non-Conforming Use Of Land. Any use of a parcel of land that is not permitted by the current zoning regulations applicable to that parcel is considered a "non-conforming use". Generally, there are two ways to prove the legality of a nonconforming use:

- 1) prove that the nonconforming use existed prior to the relevant dates, or has existed continually since a relevant date, and in the case of a use of land or a use of a structure, has existed continually since a relevant date with no more than a one-year break; or
- 2) prove that the existence of the use or development standard(s) on the property pre-date the zoning ordinance section which now prohibits that use or development standard(s) on the property. The burden of proof is on the applicant to show evidence and prove either of the above two noted conditions.

Prior to submittal, an applicant is encouraged to become familiar with either [Section 21-01.03](#)<sup>1</sup> of the South Bend Zoning Ordinance or [Section 154.045](#)<sup>2</sup> of the St. Joseph Zoning Ordinance depending on the location of the non-conformance.

Questions? Call the Building Department at 574-235-9554

**APPLICATION SUBMISSION REQUIREMENTS**

Applications submitted without the required material, or otherwise incomplete or otherwise not legible, will not be reviewed.

- 1. Completed Application.** Signed by the owner of the subject property, or an authorized agent, and notarized.
- 2. Non-refundable Filing Fee.** \$50.00 payable to the South Bend/St. Joseph County Building Dept.
- 3. Assessor Property Card.** If the use was permitted under previous zoning ordinance provide a copy of the assessor property card from 2004-current. If the use was not permitted in the previous zoning ordinance provide a copy of the assessor property card from 1968-current

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<sup>1</sup> Section 21-01.03 of the South Bend Zoning Ordinance -

<http://www.stjosephcountyindiana.com/departments/Areaplan/Ordinances/Zoning%20Ordinances/South%20Bend%20Zoning%20Ordinance/Section%2021-01-03%20Nonconforming%20Lots,%20Uses,%20Buildings,%20Structures%20or%20Signs.pdf>

<sup>2</sup> Section 154.045 of the St. Joseph Zoning Ordinance -

<http://www.stjosephcountyindiana.com/departments/Areaplan/new/Ordinances/St.%20Joseph%20County%20Zoning/St.%20Joseph%20County%20Zoning%20Ordinance%20-%20Chapter%20154.045%20-%20Nonco.pdf>

4. **Site Plan.** Drawn to scale, noting all buildings and improvements on the property. A current survey may be used.
5. **Legal Description.**
6. **Photographs.** A series of photographs showing, at a minimum, each elevation (side) of the property.
7. **Supplemental Proof.** Provide at least one (1) additional source of information supporting the legal non-conformity during the time required. If the use was permitted under previous zoning ordinance provide proof that the existing use has continued without a 12 month gap from 2004-present. If the use was not permitted in the previous zoning ordinance provide proof that the existing use has continued without a 12 month gap from 1968-present. (Examples of supplemental proof are listed below).
8. **Department of Code Enforcement Records** Contact the Department to obtain any outstanding violations on file. Submit the violations or a letter from the Department stating that there are no violations on file. (Only required for properties located within the City of South Bend)

### **EXAMPLES OF SUPPLEMENTAL PROOF**

The following sources may yield important information about the land use history of the property. Submitting only the minimum documentation required above may not be enough to substantiate the non-conforming status. It is the responsibility of the applicant to provide sufficient evidence; therefore, it is strongly urged that thorough and exhaustive research be conducted.

1. **Affidavits.** Written affidavits from neighbors, present or past property owners or tenants, or anyone who may have knowledge of the non-conforming use, may be used to supplement primary evidence. These affidavits must be legible, include the telephone number and address of the affiant, and must be notarized.
2. **Zoning base maps.** A copy of a current zoning base map. Historical zoning maps are available and may be an important piece of information. Maps are available in the offices of the Area Plan Commission, 11<sup>th</sup> Floor of the County-City Building; (574) 235-9571.
3. **Polk Directory / Haines Directory Pages.** Reproduce information found in Polk Directory pages and/or Haines Directory pages pertaining to the address of the property under consideration. Highlight or underline the information, and include the year.
4. **Township Assessor Property Cards.** This information may be obtained at the Assessor's Office for the township in which the parcel is located. Assessors have cards from assessments from previous years. Submit cards for all years available. Penn Township Assessor: (574) 256-6204; for all other townships, contact the County Assessor at (574) 235-9523.

- 5. Variance/Rezoning petitions (Zoning History).** Information on variances may be obtained through the records of the South Bend/St. Joseph County Building Department. Helpful clues may be obtained by checking zoning petitions for adjacent properties. Information on zoning petitions may be obtained through the records of the Area Plan Commission.
- 6. Improvement Location Permits/Building permits.** Past permits issued may be obtained at the South Bend/St. Joseph County Building Department.
- 7. Historic Preservation Commission documents.** For properties within a locally designated Historic Preservation District, the records and collections of the Commission may provide useful historical information regarding the use of the property or its improvements.
- 8. Recorded Documents.** Recorded documents are located in the Office of the St. Joseph County Recorder, 3rd Floor County-City Building. Include any documents that relate to the history of the use of the property, such as contracts and liens.
- 9. Sanborn Fire Insurance Maps.** The Sanborn maps are available only for properties located within the original city limits of South Bend. These maps give detailed information about lots and land use. These maps are available in the offices of the Area Plan Commission.
- 10. Licenses (Liquor, Merchant, etc.).** Include any documents that relate to transactions that have occurred on, or in regard to, the affected property at any time since the use began.
- 11. Business / Financial Records.** Such as rent receipts, financial records, tax statements and property insurance statements. IRS tax filings may be an important source of information. Financial amounts may be blackened out for privacy.
- 12. Utility Bills** (such as utility, construction, etc.). This information may give insight as to when a non-conforming use began and may be available from utility companies, current or former tenants, or creditors. Financial amounts may be blackened out for privacy.
- 13. Photographic evidence.** This may include newspapers, periodicals, publications, aerial photographs, or other image documentation. Photographs have limited value unless a verifiable date is included.
- 14. Floor or Building Plan(s).** (Original/as-built, historic, current) with verifiable date. Required if the request for the Certificate Of Legally Established Non-Conforming Use Of Land is for uses or expansion of uses.

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ST. JOSEPH COUNTY, INDIANA**

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1. **Address of Subject Property:**

2. **Legal Description:** Subdivision: \_\_\_\_\_ Lot#: \_\_\_\_\_

*(If metes and bounds, provide copy of the deed; or a separate description)*

3. **Tax Key Number:** \_\_\_\_\_

4. **Applicant's Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_  
*(Applicant must be the Owner of the subject property)*

5. **Applicant's Address:** \_\_\_\_\_  
\_\_\_\_\_ **Zip Code:** \_\_\_\_\_

6. **Email:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

7. **Current use of the property:**

- a. primarily commercial (retail) use
- b. primarily business (office) use
- c. primarily industrial use
- d. primarily residential use:
  - multi-family
  - group residence
  - single family

**Detailed description of property use:**



8. **Zoning History.**

a. Current Zoning: \_\_\_\_\_ Since: \_\_\_\_\_

b. Previous Zoning: \_\_\_\_\_

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**9. Variances & Special Exceptions** granted by the Board of Zoning Appeals:

**10. Building Specifics.**

a. Date of Construction of building: \_\_\_\_\_ Date of Conversion: \_\_\_\_\_

b. Since what date has this building been used for the CURRENT USE: \_\_\_\_\_

**11. Are utilities** still connected? Yes \_\_\_\_\_ No \_\_\_\_\_. If multiple units, this must be answered for each unit.

Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_; Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_;  
Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_; Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_;  
Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_; Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_;  
Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_; Unit# \_\_\_\_\_: Yes \_\_\_\_\_ No \_\_\_\_\_;

**12a. Request.** This application seeks a certificate of legally established nonconforming (*check one*):

Use       Development Standards       Use and Development Standards

**12b. Additional Information:**

