

ORDINANCE NO. 16-2019

To Amend Sections 1125.02, 1129.05, and 1173.05 of the Codified Ordinances of the City of Worthington Related to the Coordination with the State of Ohio Building Codes, the Establishment of Demolition Standards, Modifying Pool Barrier Requirements, and Adjusting Fees.

WHEREAS, the City Council is certified by the State of Ohio to enforce the state building codes; and,

WHEREAS, the City Council wishes to amend provisions of the City's Codified Ordinances to coordinate with the state building codes; and,

WHEREAS, the City Council wishes to adopt additional requirements for the demolition of buildings.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Sections 1125.02, 1129.05, 1173.05 of the of the Planning and Zoning Code of the City of Worthington be and the same is hereby amended to read as follows:

1125.02 CERTIFICATE OF COMPLIANCE.

- (a) A Certificate of Compliance shall be required for any of the following:
- (1) Any occupancy and use of a building hereinafter erected or structurally altered;
 - (2) Any occupancy and use of vacant land;
 - (3) Any change in the use of a nonconforming use;
 - (4) Any change in the use of land to a use of a different district classification;
 - (5) Any nonconforming use existing on or after the effective date of this Zoning Ordinance; and,
 - (6) Any change in use of an existing building to a use of a different district classification.

No occupancy, use or change of use shall take place until a Certificate of Compliance therefor shall have been issued by the Building Inspector or a person designated by the City Manager.

(b) The Building Inspector or the person designated by the City Manager shall not issue a Certificate of Compliance for any application requiring prior review by the Municipal Planning Commission or Council until such review has been finally concluded.

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(c) Written application for a Certificate of Compliance for a new building or for the alteration of an existing building shall be made within ten days after the completion of such construction or alteration. Such Certificate shall be issued by the Building Inspector or a person designated by the City Manager within ten days after the filing of such application. Issuance of the Certificate of Compliance for the erection or alteration of such building or part thereof shall be dependent upon the completion of such erection or alteration in conformity with the building and zoning laws of this City.

(d) Written application for a Certificate of Compliance for the use of vacant land, for a change in the use of land or of a building for a nonconforming use, or for a change in a nonconforming use, as herein provided, shall be made to the Building Inspector, or a person designated by the City Manager; if the proposed use is in conformity with the provisions of this Zoning Ordinance, the Certificate of Compliance shall be issued within ten days after the application for the same has been made.

(e) A fee of fifty dollars (\$50.00) shall accompany each application for a Certificate of Compliance for commercial, industrial or apartment structures or use of land. A fee of twenty-five dollars (\$25.00) shall accompany all other applications for a Certificate of Compliance.

(f) A record of all Certificates of Compliance shall be kept on file in the Worthington City offices, and copies shall be furnished on request and with the payment of a copying fee of one dollar (\$1.00) for each copy to any person having proprietary or tenancy interest in the building or land affected.

1129.05 POWERS AND DUTIES.

(a) Generally. The Board of Zoning Appeals shall have the following powers, and it shall be its duty to: hear and decide appeals where it is alleged there is an error of interpretation made by the Building Inspector in the enforcement of this Zoning Ordinance, the Building Code, or the Property Maintenance Code, or any amendment thereto.

(b) Exceptions. In hearing and deciding appeals, the Board shall have the power to grant an exception in the following instances:

- (1) Interpretation of Zoning Ordinance and Zoning Maps. Where the street layout actually on the ground varies from the street layout as shown on the Zoning District Map, the Board may interpret provisions of this Zoning Ordinance.
- (2) Reconstruction on nonconforming structure or use. Where a nonconforming structure or a structure occupied by a nonconforming use has been damaged to an extent of more than fifty percent (50%) of its fair market value, the Board may permit reconstruction where it finds an owner would incur undue hardship requiring a continuance of the nonconforming structure or use.

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- (3) Performance Requirements. Where a decision is needed as to whether an industry should be permitted within the “I-1” or “I-2” Industrial District because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts. (Pertains to performance requirements only.)
- A. The Board shall have the power to authorize issuance of a Certificate of Compliance for uses that are subject to performance requirements as set forth in this Zoning Ordinance in Section 1175.03 provided they are accompanied by: a plan of proposed construction of development; a description of the proposed machinery, processes and products; and specifications for the mechanisms and techniques to be used in meeting the performance requirements.
- B. The Board may require the applicant to furnish the expert opinion of consultants qualified to advise as to whether a proposed use will conform to the performance requirements. A copy of such reports shall be furnished to the Board.
- (4) Changes in nonconforming uses. The Board may authorize substituting a nonconforming use for another nonconforming use provided no structural alterations except those required by law or ordinance are made. However, in an “R” or “AR” District, no change shall be authorized by the Board to any use which is not a permitted or conditional use in any “R” or “AR” District, and in a “C” District no changes shall be authorized to any use which is not a permitted or conditional use in any “C” District.
- (5) Temporary use permits. A temporary use permit may be granted where the temporary use of a structure or premises in any district where such temporary use shall be for a period of more than ninety days is proposed for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A temporary use permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a six-month period, subject to a six months’ renewal and such conditions as will safeguard the public health, safety, convenience and general welfare. (Ord. 19-2005. Passed 6-6-05.)
- (6) Extension and construction completion periods. The Board may authorize, for good cause shown, extension of the time period provided for the completion of structures in the Building Code. However, the Board may not authorize extension of the period for

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greater than a one-year extension of time subject to one-year renewals and such conditions as well safeguard the public health, safety, convenience and general welfare.

(c) Area Variances. The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objective of this Zoning Ordinance. The Board may grant a variance in the application of the provisions of the Zoning Ordinance when it is determined that practical difficulty exists based on the following factors:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage).
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and,
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(d) Interpretation of District Map. In case of any questions as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning District Map may be made to the Board which shall interpret the Map in such a way as to carry out the intent and purpose of this Zoning Ordinance.

(e) Extension of Nonconforming Use. The Board shall have the authority to grant an extension of a building or the expansion of the use of a lot devoted to a nonconforming use upon a lot occupied by such building or use, or on a lot adjoining, provided that such lot was under the same ownership as the lot in question on the date such building or use became nonconforming, and where such extension is necessary and incidental to the existing use of such building or lot. However, the floor areas or lot areas of such extensions shall not exceed, in all, 100 percent (100%) of the area of the existing building or lot devoted to a nonconforming use.

(f) Variances to the Building Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Building Code, Chapter 1305 of the Codified Ordinances for one, two and three family dwellings, and Section 1301.07 Demolition or Moving Buildings, as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions

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and require such guarantee or bond as it may deem necessary to assure compliance with the objective of the Building Code. The Board may grant a variance in the application of the provisions of the Building Code for one, two and three family dwellings after hearing expert independent testimony on the application only if all of the following findings are made:

- (1) There are unique circumstances or conditions present by which strict conformity to the provisions of the Building Code would create significant hardship for the property owner or contractor performing services for the property owner;
- (2) The unique circumstances or conditions were not created by the property owner or contractor performing services for the property owner; and,
- (3) The variance, if authorized, shall not, in any way endanger the health, safety or welfare of the building occupants or the general public. Such determination shall be based on independent expert testimony.

(g) Variances to the Property Maintenance Code. The Board shall have the power to hear and decide appeals and authorize such variances from the provisions or requirements of the Property Maintenance Code, Chapter 1311 of the Codified Ordinances. Variances may be granted only when the Board determines that strict scrutiny to the provisions of the Property Maintenance Code would create significant hardship for the property owner, and the variance, if authorized, would not endanger the health, safety or welfare of the general public. Variances to the Property Maintenance Code, if authorized, are applicant specific and do not pass to future property owners or occupants.

1173.05 PORTABLE AND NONPORTABLE SWIMMING POOLS.

(a) For the purposes of this section, the following terms are defined as follows:

"Portable swimming pool" means a container which is designed or used for wading purposes; which will not permit filling with water to a depth greater than 24 inches; and which may be dismantled, stored or moved from one place to another without the use of tools other than those normally found in a household workshop.

"Nonportable swimming pool" means any artificial body of water, whether inground or above-ground which conforms to the following criteria.

- (1) It is supplied with water from a controlled water source.
- (2) It is not enclosed within a building.
- (3) The depth of water exceeds 24 inches at any point.

(b) Portable swimming pools shall be considered as a conforming use in any "R" or "AR" District.

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(c) Nonportable swimming pools may be allowed as an accessory use only in "R" and "AR" Districts provided that they comply with the following conditions and requirements:

- (1) The pool is intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- (2) The pool may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten feet to any property line of the property on which it is located.
- (3) The swimming pool or the property as hereinafter defined on which it is located, shall have a barrier as required by Chapter 1305 to prevent uncontrolled access by children or other persons from the street or other adjacent properties.

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed May 6, 2019

/s/ Bonnie D. Michael
President of Council

Attest:

/s/ D. Kay Thress
Clerk of Council

Introduced April 15, 2019
P.H. May 6, 2019
Effective July 8, 2019