

ORDINANCE NO. 11, 2022

AN ORDINANCE AMENDING CHAPTER 277 ZONING, ARTICLE X, USES AND SUPPLEMENTAL STANDARDS, SECTION 277-38, NONCONFORMING USES, STRUCTURES AND LOTS, OF THE CODE OF THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Chapter 277, Article X, Uses and Supplemental Standards, Section 277-38, Nonconforming uses, structures and lots is hereby amended to add the following section:

G. Abandonment of nonconforming uses; in the event that there shall be an abandonment of any existing nonconforming use, such use shall not be permitted to continue.

(1) Definitions:

(a) Abandonment of a nonconforming use requires the occurrence of two elements: (1) an intention to abandon or relinquish; and (2) some overt act, or some failure to act, which carries the implication that the owner neither claims nor obtains any interest in the subject matter of the abandonment.

(b) Certificate of Non-Conforming Use. A non-conforming use is any use of land or structure that is not permitted by the current zoning ordinance but existed at the time of the adoption of the zoning ordinance. For purposes of continuing the nonconforming use approval without occupancy, a Certificate of Non-Conforming Use shall be obtained upon application by the owner of said property to the Zoning Officer or Board of Adjustment when such land or structure is not occupied and being used.

(2) A nonconforming use business shall continue to obtain a Mercantile License from the City Clerk to continue operation as an approved nonconforming use. Should the business close or become vacant, the property owner shall obtain a Certificate of Nonconformity in order for the location to continue to hold nonconforming use approval. Upon failure to obtain a Mercantile License for two consecutive years without obtaining a Certificate of Nonconformity during those same two years, such nonconforming use shall not be permitted to continue.

- (3) For purposes of a nonconforming rental unit/duplex, owners shall continue to register the property as such. Should the rental become vacant, the property owner shall obtain a Certificate of Nonconformity for the location to continue to hold the nonconforming use approval. Upon failure to register the rental unit/duplex for two consecutive years without obtaining a Certificate of Nonconformity from the City during those same two years, such use shall not be permitted to continue.
- (4) The Certificate of Nonconformity shall be renewed annually or until such time as a Mercantile License or a Rental Registration is obtained.
- (5) The fee for the Certificate of Nonconformity shall be \$75.00 per certificate.

SECTION 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 3: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 4: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

<i>FIRST READING:</i>	<i>August 10, 2022</i>
<i>PUBLICATION:</i>	<i>August 15, 2022</i>
<i>PASSAGE:</i>	<i>September 14, 2022</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, August 10, 2022 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 14, 2022.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

DARREN MATIK, MAYOR