

ARTICLE XX
NONCONFORMING USE REGULATIONS

2001 Statement of Intent.

- A. Within the zoning districts established by this Ordinance or subsequent amendments thereto, there may exist certain non-conformities which, if lawful prior to the adoption or amendment of this Ordinance, may be continued, subject to certain limitations, under the terms of this Ordinance or subsequent amendments thereto.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans construction, or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of this Ordinance or any amendment thereto, and has been diligently carried on.

2002 Applicability.

The regulations of this Article shall apply to nonconforming uses, structures, lots, and signs, as defined below:

- A. Nonconforming Use – A use, whether of land or of a structure, which does not comply with the applicable use provisions of this Ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment. Any use which is permitted by grant of variance or approval of a conditional use or special exception under the terms of this Ordinance (other than a change through Zoning Hearing Board action from one non-conforming use to another non-conforming use) shall not be deemed a non-conformity, but shall without further action be considered a conforming use, subject to any conditions which may have been set at the time such use was permitted.
- B. Nonconforming Structure – A structure or part of a structure which does not comply with the applicable dimensional regulations, including those relating to density, impervious surfaces, building coverage, building height, and setbacks in this Ordinance or amendments hereafter enacted where such structure was lawfully in existence prior to effective date of this Ordinance. Such structures include, but are not limited to, buildings, fences, and swimming pools.
- C. Nonconforming Lot – A lot or site which does not comply with the applicable dimensional regulations, including those related to site area, lot area, and lot width, in this Ordinance or amendments hereafter enacted where such lot was lawfully in existence prior to effective date of this Ordinance or amendments.
- D. Nonconforming Sign – Any sign legally existing at the effective date of this Ordinance that does not conform in use, location, height, size, materials, construction, or lighting to the regulations of Section 1713.

- E. Nonconforming Lighting – Any lighting fixture or ancillary equipment or structure, light output or lighting level, or result of lighting (e.g., glare) legally existing at the effective date of this Ordinance that does not conform to the regulations set forth in Section 1717.

2003 Continuation.

Any lawful building or other structure, or any lawful use of a building, land, sign or lighting legally existing at the effective date of this Ordinance, or authorized by a building permit issued prior thereto, may be continued in the form evident at the effective date of this Ordinance.

2004 Nonconforming Use.

- A. Expansion. The nonconforming use of a building or of a lot shall not be expanded so as to use other portions of the building or lot, and a nonconforming building housing a nonconforming or permitted use shall not be expanded or structurally altered, except insofar as is permitted by law to assure the structural safety of the building; unless the Zoning Hearing Board shall, by special exception as hereinafter provided, authorize the expansion of such use or building. The Zoning Hearing Board, upon proper application, may grant such special exception, provided that:

1. It is clear that such expansion is not materially detrimental to the character of the surrounding area or to the interest of the Township.
2. The area devoted to the nonconforming use shall not be increased more than once during the life of the use. In addition, the area devoted to the nonconforming use shall not be increased more than fifty (50) percent above its original size.
3. Any expansion of the building or of a lot having a nonconforming use shall conform to all applicable area and bulk regulations of the district in which it is situated and to all regulations applicable to such a use in the district or districts.
4. Where a nonconforming use is conducted entirely on an unenclosed premise, no structure to house or enclose such use, whether or not such structure would otherwise conform to zoning regulations, shall be permitted to be erected on the property.

B. Change of Use

1. A nonconforming use may be changed to another nonconforming use by the grant of a special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be similar to or less detrimental to its neighborhood and abutting properties than is the use it is to replace. In evaluating relative detriment, the Zoning Hearing Board shall take into consideration, among other things: potential traffic generation; nuisance characteristics such as emission of noise, dust, odor, glare and smoke; fire hazards; and hours and manner of operation.

2. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

C. **Restoration**

A structure containing a nonconforming use involuntarily destroyed by fire, explosion, flood or other natural phenomena, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that:

1. Reconstruction of the structure shall commence within one (1) year from the date the structure was destroyed or condemned and shall be completed within one (1) year of the date commenced.
2. The reconstructed structure shall not exceed the area and bulk of the damaged or destroyed structure, except as provided by subsection 2004.A above.

D. **Abandonment**

If a nonconforming use of a structure or land is removed or discontinued for twelve (12) or more consecutive months, such use shall be considered abandoned and subsequent use of such structure or land shall conform with the regulations of the district in which it is located. However, if an application for special exception is made prior to the expiration of the 12 month period after removal or discontinuation, and thereafter approved by the Zoning Hearing Board, a prior non-conforming use may be restored after the expiration of the 12 month period and subject to any conditions of approval which may be imposed by the Zoning Hearing Board.

2005 Nonconforming Structure.

A. **Alteration, Renovation, or Enlargement**

1. Nonconforming structures may be altered, renovated, or enlarged provided that such alteration, renovation or enlargement does not increase the existing gross floor area by more than fifty (50) percent nor increase the existing nonconformity. The dimension that is nonconforming shall not extend the nonconformity beyond the existing building line. For example, a structure that is nonconforming as to front yard setback may be expanded, so long as the expansion does not further reduce the existing setback. In the case of a nonconforming structure which is occupied by a nonconforming use, such alteration, renovation or enlargement shall also meet the requirements of Section 2004.A of this Article. In the case of a nonconforming structure which is located on a nonconforming lot, such alteration, renovation or enlargement shall also meet the requirements of Section 2006.D of this Article.

2. Except as provided for in subsection A.1 above, any structural alteration of or addition to existing buildings shall conform with all area and bulk regulations including minimum area, height, width, yard and coverage requirements for the district in which it is located as well as building code regulations currently in effect.
- B. **Restoration.** Any lawful nonconforming building or other structure which has been involuntarily destroyed by fire, explosion, flood or other natural phenomena, or legally condemned may be reconstructed in the same location provided that:
1. The reconstructed building or structure shall not exceed the height, area or bulk permitted by 2004.A.
 2. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be completed without interruption.
- C. **Moving of Structure.** If a non-conforming structure or building shall be moved, it shall be sited in conformance with all applicable regulations of the zoning district to which it is moved.

2006 Nonconforming Lot.

- A. A building may be constructed on a nonconforming lot of record in existence at the effective date of this Ordinance under the following circumstances:
1. A building may be constructed on a lot existing at the time of ordinance adoption which is nonconforming solely with respect to lot area requirements, when authorized by the Zoning Officer, prior to the issuance of a building permit.
 2. Where the side, rear or front yard setbacks cannot be met, a variance to construct a building on a nonconforming lot may be authorized by the Zoning Hearing Board.
- B. An owner of two or more contiguous nonconforming lots which, if combined, would create a lot of conforming size, shall be required to combine such lots prior to the issuance of a building permit. This provision shall not apply where there was a manifest intent by the property owner to maintain such lots as separate lots (e.g., improvements or construction has occurred on one lot but not on the adjacent lot, the parcels have been described separately in the deed).
- C. No lot area shall be reduced so that the area or width of the lot or the applicable area and bulk dimensions shall be smaller than herein prescribed.
- D. An existing structure located on a lot nonconforming as to the required area may be used for the use permitted in the district in which it is located, provided the structure complies within all bulk requirements of that district. If a nonconforming structure is located on a

nonconforming lot, such structure may be used for a use permitted in the district in which it is located when it is determined by the Zoning Officer, or by the Zoning Hearing Board on appeal, that the proposed use is not injurious to health, safety, and general welfare of the Township in general and the surrounding property owners in particular.

2007 Nonconforming Sign.

Any nonconforming sign legally existing at the effective date of this Ordinance shall be bound by regulations set forth in Section 1713 of this Ordinance.

2008 Nonconforming Lighting.

Any nonconforming lighting legally existing at the effective date of this Ordinance shall be bound by regulations set forth in Section 1717 of this Ordinance.

