

**ARTICLE 21. NONCONFORMING LOTS, NONCONFORMING USES OF LAND,
NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES
AND PREMISES**

SECTION 2100. INTENT

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

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 on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until the completion of the building involved.

SECTION 2101. NONCONFORMING LOTS

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customarily accessory building may be erected on any single lot conveyed or contracted to be conveyed of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be applied for through the Board of Appeals.

SECTION 2102. NONCONFORMING USES OF LAND

When, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; provided that in the case of Mobile Homes not located in a licensed Mobile Home Park this provision shall be applicable only to existing Mobile Homes and their replacement by a different Mobile Home, whether the same owner or not, shall be expressly prohibited.

SECTION 2103. NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged or altered in a way which increases its nonconformity; for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
- B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its reasonable market value, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- C. Should such structure be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 2104. NONCONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or structures and premises, may be changed to another nonconforming use provided

that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance.

- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 18 months during any three year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by successive constant seasonal uses shall be excepted from this provision.
- F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

SECTION 2105. REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty-five (25) percent of the market value at the date of repair, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 2106. USES SUBJECT TO SPECIAL CONDITIONS NOT NONCONFORMING USES

Any use for which a special condition approval is required is permitted as provided in this Ordinance and shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

SECTION 2107. CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.

SECTION 2108. CLASSIFICATION OF NONCONFORMING USES

A. Class A and Class B Nonconforming Uses

1. Class A nonconforming uses and structures are those which have been designated by the Zoning Board of Appeals after application by any interested person or the

Building Inspector upon findings that (1) continuance thereof would not be contrary to the public health, safety or welfare, (2) that the use or structure does not and is not likely to significantly depress the value of nearby properties, (3) that the use or structure was lawful at the time of its inception, and (4) that no useful purpose would be service by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

2. All nonconforming uses, buildings or structures not designated as Class A are Class B nonconforming uses, buildings or structures.

B. Procedures for Obtaining Class A Designation, Conditions

1. A written application shall be filed with the Township Clerk including the name and address of the applicant, a legal description of the property to which the application pertains and any other information as may be necessary to enable the Zoning Board of Appeals to make a determination of the matter. The Zoning Board of Appeals may require additional information as it considers necessary. The notice and hearing procedure before the Zoning Board of Appeals shall be the same as in the case of an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based.
2. Conditions may be attached, including any time limits, where necessary to assure that the use, building or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance.
3. No vested interest shall arise out of a Class A designation.

C. Revocation of Class A Designation

1. Any Class A designation shall be revoked, following the same procedure required for designation upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

D. Regulations Pertaining to Class A Nonconforming Uses and Structures

1. No Class A nonconforming use of land, buildings or structures shall be resumed if it has been, for any reason discontinued for a continuous period of at least twelve (12) months or if it has been changed to a conforming use for any period.
2. An individual Class A use or structure may be used, altered or enlarged provided that it does not violate any condition imposed by the Board of Appeals at the time of its designation.
3. The expansion of all Class A nonconforming uses, except those used as single family dwellings, shall require site plan approval by the Planning Commission prior to the issuance of a building permit. Refer to Section 305 of this Ordinance for site plan review regulations.

E. Regulations Pertaining to Class B Nonconforming Uses and Structures

1. Intent – It is the purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation.

2. No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of at least (12) months or if it has been changed to a conforming use for any period.
3. No Class B nonconforming structure shall be enlarged or structurally altered, nor shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50%) percent of the reproduction cost of such structure.
4. No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.
5. In the case of soil removal operations, existing holes or open pits may be worked and enlarged on the land which constituted the lot on which operations were conducted at the time of becoming nonconforming, but no new holes or open pits shall be established.
6. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.

SECTION 2109. RECORD OF NONCONFORMITY

Within six (6) months after the adoption of Section 2108 of this Ordinance, the Building Inspector shall compile a record of all known nonconforming uses and structures existing at the time of adoption of Section 2108 of this Ordinance. Such record shall contain then names and addresses of the owners of record of the nonconforming use, the legal description of the land as contained in the latest assessment roll, and nature and extent of the nonconforming use. Such record shall also contain any information regarding action by the Zoning Board of Appeals for designation of Class A status. The official record of nonconforming uses shall be kept in the office of the Township Clerk.