

## CHAPTER 20 NONCONFORMING USES

**Section 20.01. Intent and Purpose.** The purpose of this chapter is to provide regulations concerning lots and parcels of land, buildings, structures, and the uses thereof which were lawful prior to the enactment of this Ordinance, or relevant amendment thereto, but which are prohibited or more strictly regulated under the current provisions of this Ordinance.

Further, the provisions of this chapter are intended to permit such lawfully nonconforming lots and parcels of land, buildings, structures and uses to continue, though not to encourage their nonconforming status on a long term basis. Because the continued existence of such nonconforming lots, buildings, structures and uses prevents the full realization of the goals and purposes of this Ordinance, a significant purpose of this chapter is to promote the reduction or elimination of such nonconformities.

The provisions of this chapter are intended to accomplish the following:

- (a) To permit lawful nonconforming buildings, structures and uses to remain until they are discontinued or removed.
- (b) To permit lawfully nonconforming lots and parcels of land to be improved by the construction and use of buildings only as specifically permitted by the terms of this Ordinance.
- (c) To promote the termination and removal of any use, building or structure in violation of this Ordinance that was established prior to the effective date hereof or prior to the effective date of any relevant amendment thereto.
- (d) Encourage the combining of contiguous nonconforming lots or parcels of land, so as to create lots and parcels which comply with current minimum provisions as to area, width and other aspects thereof.
- (e) To encourage the improvement of buildings and structures so as to comply with current minimum provisions of this Ordinance.

### **Section 20.02. Lawfully Nonconforming Buildings and Structures.**

- (a) Building and structures which are existing and lawful on the effective date of this Ordinance or any relevant amendment therein may be continued even though such buildings and structures do not comply with the provisions of this Ordinance or any relevant amendment therein, subject, however, to the following limitations:
  - (1) A nonconforming building or a nonconforming structure shall not be enlarged or altered in any manner or to any extent which increases the nonconformity of the building or structure; provided, however, that such enlargement or alteration may be permitted by the Planning Commission as a special exception use after public hearing with notice in the same manner and to the same extent as required for a special land use.

- (2) If a nonconforming building or structure is altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be subsequently reestablished or increased.
- (3) Repairs, improvements, or modernizing of a nonconforming building or structure are permitted, provided that such repairs, improvements, or modernizing do not exceed one-half the value of the building or structure during any period of twelve consecutive months; provided, however, that the Planning Commission may permit as a special exception use, after public hearing and with notice as stated in subparagraph (I) the repair, improvement or modernizing of a nonconforming building or structure as to which such action exceeds one-half the value of the building or structure during any period of 12 consecutive months.
- (4) A lawfully nonconforming building may be altered, modernized, restored or otherwise improved if such activity will cause the building or structure to be more conforming to the provisions of this Ordinance.
- (5) A lawfully nonconforming building or structure may be enlarged or expanded if the enlargement or expansion will be within all the required minimum building setbacks and if all other dimensional and Township Building Code requirements are complied with.
- (6) The special exception uses referred to in subsections (1) and (3) of this Section 20.03(a) may be considered and approved as follows:
  - (i) The Planning Commission may approve, as a special exception use, (1) the enlargement or expansion of a lawfully nonconforming building, if the enlargement or expansion would result in the building or structure becoming more nonconforming and (2) the repairing, improving or modernizing of a nonconforming building or structure if the value of the result thereof would exceed one-half the value of the building or structure during any period of 12 consecutive months.
  - (ii) An applicant shall apply for such special exception use on a form provided by the Township and shall pay the required application fee. The application shall include the same type and extent of information as is required for a special land use.
  - (iii) The Planning Commission shall convene a public hearing on the application for the special exception use, after the giving of notice that is of the same type and extent as is required for consideration of a special land use.
  - (iv) The special exception use may be approved by the Planning Commission in its discretion, if the Commission determines that all of the following apply:
    - (I) As to the enlargement or alteration of a nonconforming building or structure described in subparagraph (a)(1), the enforcement of the

requirements of this Ordinance with respect to the expansion or enlargement of the nonconforming building would preclude a reasonable enlargement or expansion of a nonconforming building, would augment or enhance a conforming use, or would avoid the discontinuance of a conforming use. As to the repair, improvement or modernizing of a nonconforming building or structure, where the value of the result of such action would exceed one-half the value of the building or structure during any period of 12 consecutive months, the enforcement of the requirements of this ordinance requiring that the value of such action not exceed one-half the value of the building or structure would preclude reasonable repairs, improvements or modernizing of the building or structure.

- (II) The proposed action and the result thereof would not result in serious adverse effects on adjacent or nearby lands and land uses or the abutting streets, or such serious adverse effects would be avoided or sufficiently moderated by the imposition of terms and conditions in the special exception use.
- (v) In approving a special exception use, the Planning Commission may impose reasonable terms, conditions and limitations.
- (7) In the event that any lawfully nonconforming building or structure is damaged by wind, fire, or other casualty to such extent that the cost of reconstruction or restoration is equal to or less than 60 percent of the value of such building or structure prior to the occurrence of the casualty, as determined by the most recent Township assessment of the value of the building or structure, excluding the fair market value of the land, then such reconstruction or restoration shall be permitted, provided that a building permit for the same is issued not later than one year after the occurrence of the casualty.

**Section 20.03. Lawfully Nonconforming Uses of Buildings, Structures and Land.**

- (a) The use of any building, structure or land that was lawful on the effective date of this Ordinance or any relevant amendment therein may be continued, even though the use of such building, structure or land does not comply with the provisions of this Ordinance or any relevant amendment therein, subject however to the following provisions:
  - (1) Any such lawfully nonconforming use may be expanded or extended throughout any parts of a building or structure which were manifestly arranged or designed for such use at the effective date of this Ordinance or any relevant amendment therein, but no such nonconforming use shall be expanded or extended to occupy any portion of the land outside the building.
  - (2) An existing building or structure devoted to a non conforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, for the purpose of changing the use of the building or structure to a use that is

permitted in the zoning district in which the building or structure is located, if the resulting building or structure otherwise complies with the applicable provisions of this ordinance.

- (3) If a building or structure which conforms with the provisions of this Ordinance, but which is used or occupied by a nonconforming use, is damaged by fire, wind, or other casualty to the extent that the cost of reconstruction or restoration exceeds 60 percent of the value of the building or structure prior to the occurrence of the casualty, as determined by the most recent Township assessment of the value of the building or structure, excluding the value of the land, then such building or structure may be reconstructed or restored only if the use thereof complies with the provisions of this Ordinance.
- (4) On any building or structure that is devoted in whole or in part to a nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs or on repair or replacement of fixtures, wiring, heating, plumbing, or other building systems, to an extent not exceeding 10 percent of the current replacement value of the building or structure, provided that the building or structure is not thereby enlarged, extended, or structurally altered.
- (5) No provision in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or any part thereof that is declared to be unsafe by any Township official having jurisdiction over the safety or condition of any building or structure.
- (6) If a nonconforming use of any building, structure or land is terminated and replaced by a permitted use, the nonconforming use shall not be later reestablished.
- (7) When a nonconforming use of a building, structure or land, or a nonconforming building or structure and land in combination, is discontinued or abandoned for at least 12 consecutive months, the building or structure or the building or structure and land in combination, shall not thereafter be used except in compliance with the provisions of the zoning district in which the building or structure or building or structure and land in combination are located.

#### **Section 20.04. Other Requirements.**

- (a) Where lawfully nonconforming use status applies to a building or structure and land in combination, the removal or destruction of the building or structure shall eliminate the lawful nonconforming status of the land.
- (b) The nonconforming use of a building, structure or land may not be changed to another nonconforming use, either in whole or in part.

- (c) The provisions of this chapter shall apply to the uses of buildings, structures or land which become nonconforming as a result of any amendments or other changes in any of the district provisions or the other provisions of this Ordinance.