

## **CHAPTER 30**

### **NONCONFORMING USES, BUILDINGS OR STRUCTURES**

**SECTION 30.01 INTENT AND PURPOSE.** The intent and purpose of this chapter is to provide regulations concerning land uses, buildings and structures which were lawful prior to the adoption of this Ordinance, or prior to any relevant amendment thereof. Under the terms of this chapter, land uses, buildings and structures which were lawful at the time of the adoption of this Ordinance or of any amendment thereto, may continue, even though such land use, building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

#### **SECTION 30.02 CONTINUANCE OF NONCONFORMING USES,**

- (a) Except where specifically provided to the contrary, and subject to the provisions of this Chapter, the lawful use of any building or structure or of any land or premises, lot or parcel which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto and is otherwise lawful.
- (b) A nonconforming use shall not be enlarged, expanded or increased so as to increase or enlarge the nature or extent of the nonconformity, unless the continuance, expansion, enlargement or reestablishment of the use is permitted in accordance with this Section and Sections 30.03, 30.04 and 30.05 of this Chapter, as applicable.
- (c) A nonconforming use shall not be changed to another nonconforming use, except that the Planning Commission, may approve a special use permit to change to another nonconforming use, if the Planning Commission determines that the proposed other nonconforming use will be more conforming than the nonconforming use then existing. In granting a Special Use Permit for such use, the Planning Commission may impose reasonable terms and conditions on the proposed use.
- (d) If the nonconforming use of any land or structure shall terminate for a continuous period of any time exceeding one year, such use shall not be re-established and any future use of the land and structure shall be in conformity with this ordinance.
- (e) If a nonconforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming less restrictive use.
- (f) Nothing in this ordinance shall require any change in the erection or intended legal use of any building, the construction of which shall have been diligently prosecuted with 30 days preceding the passage of this ordinance and which is complete within three months following passage; provided, a written declaration of such use is filed with the township clerk or zoning administrator thirty days from the effective date of this ordinance.

#### **SECTION 30.03 CONTINUANCE AND EXPANSION OF NONCONFORMING BUILDINGS OR STRUCTURES.**

- (a) Continuance. Except where specifically provided to the contrary and subject to the provisions of this Chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendments, may be continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.
- (b) Restoration and Maintenance. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life.
- (c) Expansion. Structure or buildings nonconforming by reason of height, area and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled or modernized provided:
  - (1) There is compliance with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization; and
  - (2) The Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming portion of the building or structure.

Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.

- (d) Re-construction after change. Unless damaged by fire, wind, act of God, or public enemy a nonconforming building or structure or portion thereof shall not be re-established after it has been changed to a conforming or more conforming building or structure.
- (e) Re-construction after damage or destruction. In the event any nonconforming building or structure is damaged by fire, wind, act of God, or public enemy, it may be rebuilt or restored if the cost thereof does not exceed one half of the value of the nonconforming building or structure after the rebuilding or restoration is completed; provided, however, that the Planning Commission may approve the re-establishment of such nonconforming building or structure damaged beyond fifty (50) percent of replacement cost, as a special land use but only to the extent necessary to provide a reasonable use of the building or structure. In considering the approval of any such re-establishment of a nonconforming building or structure, the Planning Commission may impose reasonable terms and conditions.

**SECTION 30.04 NONCONFORMING SINGLE FAMILY RESIDENTIAL STRUCTURES AND USES WITHIN THE C-1 and I-1 DISTRICTS.** Single family residential structures located on lots within the C-1 General Business and I-1 Industrial Districts which were established as of the effective date of this Ordinance shall remain eligible for use as a single family dwelling subject to the following provisions:

- (a) Additions to or the repair or reconstruction of such structures and accessory buildings shall be governed by the height and area regulations pertaining to principal and accessory residential buildings located in the R-2 district.

- (b) Any non-conforming single family dwelling or attached residential accessory building located on any lot or parcel located within the C-1 or I-1 District as of the effective date of this section which is destroyed or damage by fire, wind, act of God or the public enemy, must within a period not to exceed twenty four (24) months after the date of the event causing the damage or destruction, be repaired or rebuilt and the residential use re-established.

**SECTION 30.05 EXPANSION OF COMMERCIAL AND INDUSTRIAL NON-CONFORMING USES WITHIN THE C-1 and I-1 DISTRICTS.** The use of any land or premises or building or structure thereon which is not a single family residential in nature but is otherwise classified as legally nonconforming for reasons of its' use, shall hereafter only be extended or enlarged if such extensions or enlargement is authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall at a minimum consider the following:

- (a) Whether the expansion will substantially extend the probable duration of such non-conforming use and the implications and consequences of such extended duration on the district and the adjacent land uses, if any.
- (b) The "General Discretionary Standards" applicable to all special land uses outlined in Section 17.03

If authorized, no expansion or enlargements or the aggregation of expansions or enlargements may exceed fifty (50) percent of the area of the original nonconforming use. All structural and parking and loading expansions or enlargements must comply with the height, area and site development standards applicable to the underlying zoning district or to the applicable height, area and site development standards of district or districts in which the non-conforming use is otherwise permitted, whichever are the more stringent requirements ( ref. Sec. 30.03(c)).