

Article 12 Nonconformities

Section 12.01 Statement of Intent

- 12.01.1. Within the zoning districts established by this Ordinance or subsequent amendments thereto, there exists or will exist certain nonconformities that, if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such nonconformities would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendments thereto.
- 12.01.2. 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 adoption or amendment of this Ordinance and on which actual building construction has been diligently carried on or for which permits have been granted within one hundred eighty (180) calendar days of the effective date of this Ordinance.

Section 12.02 Nonconforming Lots of Record

- 12.02.1. Structures and customary accessory buildings may be erected in any district on any lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions 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 requirements, other than those applying to area or width, or both, shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Hearing Board.
- 12.02.2. If two (2) or more lots, combination of lots, and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner that diminishes compliance with lot width and/or area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance. This Section shall not apply for a period of five (5) years to an approved subdivision or development plan, whether preliminary or final.

Section 12.03 Nonconforming Uses of Land

Lawful uses of land that, at the effective date of this Ordinance or as a result of subsequent amendments thereto, become nonconforming and where such uses involve

no individual structure or building with a replacement cost exceeding one thousand dollars (\$1,000.00) may be continued by the current or any subsequent owner, as long as it remains otherwise lawful, subject to the following provisions:

- 12.03.1. Extension. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was owned or leased by the user at the effective date of adoption of such amendment of this Ordinance.
- 12.03.2. Discontinuance. Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished unless a certificate of intention has been filed. Any future use shall be in conformity with the provisions of this Ordinance.
- 12.03.3. Change of Use. A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, by special exception, be changed to another nonconforming use, provided that the Zoning Hearing Board shall find that the proposed use is equally appropriate or more appropriate in the zoning district than the existing nonconforming use.
- 12.03.4. Additional Structures or Buildings. No additional structures or buildings not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

Section 12.04 Nonconforming Structures or Buildings

Structures or buildings that, at the effective date of this Ordinance or subsequent amendments thereto, become nonconforming by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the building or structure, may be continued to be used as long as such structure or building remains otherwise lawful, subject to the following provisions:

- 12.04.1. Enlargement. No such nonconforming structure or building may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- 12.04.2. Damage or Destruction. A non-conforming building or structure which has been damaged by fire, explosion, accident and/or calamity may be reconstructed and used for the same non-conforming use, provided that the reconstructed building or structure does not exceed the area, volume and height of the destroyed buildings or structure. In addition, building reconstruction shall be started within one (1) year from the date the building or structure was destroyed and shall be carried through without interruption.
- 12.04.3. Moving of Structure or Building. No nonconforming structure or building shall be, for any reason, moved for any distance, unless it shall thereafter conform to the zoning regulations for the district in which it is located after it is moved.

- 12.04.4. Nonconforming Uses of Structures or Buildings. Lawful uses of structures or buildings that, at the effective date of this Ordinance or as a result of subsequent amendments thereto, become nonconforming, may be continued by the current or any subsequent owner, as long as such use remains otherwise lawful, subject to the following provisions:
- 12.04.5. Extension. A nonconforming use may be extended throughout any part of an existing structure or building or a new extension may be constructed, provided that any structural alterations, extensions, or additions shall comply with all provisions of this Ordinance with respect to height, area, width, yard, and coverage requirements for the zoning district in which the structure or building is located. However, such extension of a nonconforming use shall not exceed fifty (50) percent of the gross floor area occupied by said nonconforming use at the time such use became nonconforming.
- 12.04.6. Change of Use. A nonconforming use of a structure or building, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use of a structure or building may, by special exception, be changed to another nonconforming use, provided that the Zoning Hearing Board shall find that the proposed use is equally appropriate or more appropriate in the zoning district than the existing nonconforming use.
- 12.04.7. Discontinuance. Whenever a nonconforming structure or building or portion thereof has been discontinued or abandoned for eighteen (18) consecutive months, such structure or building or portion thereof shall not thereafter be reestablished unless a Certificate of Intention has been filed. Any future structure or building shall be in conformity with the provisions of this Ordinance.
- 12.04.8. Destruction. Removal or destruction of the structure or building in which a nonconforming use is located shall eliminate the use of the land upon which the structure or building was erected for a nonconforming use. Destruction for the purpose of this subsection is defined as damage to an extent of seventy-five (75) percent or more of the market value of the structure or building immediately prior to such damage or destruction. However, if construction begins within twelve (12) months after destruction or partial destruction has occurred, the same nonconforming use may be reestablished. The Zoning Hearing Board may, by special exception, authorize another equally appropriate or more appropriate use to be reestablished.

Section 12.05 Unsafe or Unlawful Structures or Buildings

If a nonconforming structure or building or portions thereof containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by the Board of Supervisors, upon the advice of the Township codes enforcement staff or the Township Engineer, to be unsafe or unlawful by reason of

physical condition, such structure or building shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

Section 12.06 Permitted Special Exception Uses

Any use that is permitted as a special exception in a zoning district under the terms of this Ordinance (other than a change through Zoning Hearing Board action from one nonconforming use to another nonconforming use) shall not be deemed a nonconforming use in such zoning district but shall without further action be considered a conforming use.

Section 12.07 Registration of Nonconforming Uses, Structures or Buildings

To facilitate the administration of this Ordinance, it shall be the duty of the Zoning Officer to prepare and maintain an accurate listing of all nonconforming uses, structures, and buildings. Such listing shall be a matter of public record and shall constitute sufficient notice of the nonconforming status of said property and the limitations therein expressed and implied to any transferee acquiring any right to use or own such property.

Section 12.08 Certificate of Intention

- 12.08.1. A Certificate of Intention shall be required in all instances where a nonconforming use of land or nonconforming use of a structure or building is discontinued if the owner or operator of such uses desires to maintain such a nonconforming use.
- 12.08.2. The Zoning Officer shall maintain proper forms for the registration of any Certificate of Intention. It shall be incumbent upon the owner or applicant to file such form with the Zoning Officer. The filing of such form shall be considered a ministerial duty of the Zoning Officer, who shall not refuse to accept the completed form.
- 12.08.3. The Zoning Officer shall maintain a separate file for all Certificates of Intention.
- 12.08.4. Each Certificate of Intention shall be valid for three (3) years.