

**Article 400
Nonconforming Uses, Buildings, Lots and Structures**

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401 PURPOSE.

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures which lawfully existed at the time of this Resolution’s enactment, or amendment thereto, but which do not conform with one or more of the regulations contained in this Resolution. While it is the intent of this Zoning Resolution to permit such nonconforming status to continue until abandoned, removed or abated, a nonconforming status is considered to be incompatible with permitted uses in the zoning district in which it exists and with the land use plan of the Township and should be discouraged. A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally-granted variance from a zoning restriction.

402 NONCONFORMING BUILDINGS OR STRUCTURES.

A building or other structure existing lawfully at the time this Zoning Resolution, or any amendment thereto, became or becomes effective, but which does not conform to setback, building size, lot coverage, height of building or other regulations of the district in which it is located, is a lawful, nonconforming building or structure. A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- a. Maintenance and Repair. A nonconforming building or structure may be maintained and repaired provided that no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

- b. Additions and Alterations. A nonconforming building or structure shall not be altered, added to, or enlarged unless the additions or alterations are made to conform to the regulations of the district in which it is located.
- c. Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Resolution specified for such use except the regulations to which the building did not conform prior to the change in use.
- d. Restoration of Damaged Building or Structure. Any nonconforming building or structure damaged by fire, explosion, act of God or act of the public enemy may be reconstructed and used as before such calamity provided such building or structure is not damaged to the extent of more than 50 percent of its replacement or reproduction cost at the time of destruction. A zoning permit for such reconstruction shall be required. Nonconforming buildings or structures damaged to the extent of more than 50 percent of the replacement cost shall not be reconstructed except in conformity with the provisions of this Resolution.

403 NONCONFORMING USE OF BUILDINGS AND LAND.

A use of building or land, or building and land in combination, existing lawfully at the time this Zoning Resolution, or any amendment thereto, became or becomes effective but which does not conform to the use regulations of the district in which it is located is a lawful nonconforming use. A nonconforming use may continue in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- a. Maintenance and Repair. A building or structure devoted in whole or in part to a nonconforming use may be maintained and work may be done in any consecutive 12 month period on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 10 percent of the current replacement value of the building or structure, provided that the cubic content of such building or structure as it existed at the time of passage or amendment of this Resolution is not increased.
- b. Substitution of Use. Whenever a nonconforming use of a building, structure or land has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- c. Expansion of Nonconforming Use. A nonconforming use of a building, part of a building, lot or part of a lot, including outdoor storage, shall not be expanded,

extended or increased to occupy a greater area of building or land than was occupied on the effective date of the adoption or amendment of this Resolution.

- d. Discontinuance of Use. Discontinuance of the nonconforming use of a building, part of a building, lot or part of a lot for any reason for a continuous period of two (2) years or longer shall constitute voluntary abandonment of such use and thereafter establishment or re-establishment of a use shall conform to the use regulations of the district in which the building or lot is located.
- e. Nonconforming as to Performance Standards. A use existing lawfully at the time the enactment of this Zoning Resolution, or an amendment thereto, became or becomes effective, but which fails to conform to one or more performance standards, shall not be required to comply therewith except in the event that the use is substituted or expanded such substitution or expansion shall conform to these regulations.

404 NONCONFORMING PARKING FACILITIES.

A building or use existing lawfully at the time this Zoning Resolution, or an amendment thereto, became or becomes effective, but which does not comply with off-street parking regulations for the district or use in which it is located may continue without such parking facilities. In the event an existing building is altered or the use is expanded in accordance with these regulations, then additional off-street parking spaces shall be provided so that the nonconforming parking condition is not increased.

405 NONCONFORMING SIGNS.

A sign, lawfully existing at the time this Zoning Resolution, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign. Nonconforming signs shall comply with the regulations set forth in Section 1612.

406 NONCONFORMING LOTS.

A lot of record which does not comply with the lot area or lot width regulations of the district in which the lot is located on the effective date of this Zoning Resolution or any amendment thereto which causes the lot to become nonconforming, may be used as follows:

- a. Residential Lots. In any R Residential District, construction of a single-family dwelling on any single lot of record existing on the effective date of the adoption or amendment of this Resolution shall be permitted and may be approved by the

Zoning Inspector when the placement of the dwelling unit on the lot complies with the yard regulations for the district in which the lot is located.

- b. If occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged sections comply with all regulations of this Zoning Resolution, with the exception of the lot area and the lot width regulations. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.
- c. Non-Residential Lots. Any lot or parcel of land of record at the time of adoption of this Resolution, or applicable amendment thereto, and where no adjoining land was under the same ownership on said date, may be developed as a building site provided that such development complies with all regulations of this Resolution except those not met by the lot.
- d. Lots in Combination. If a vacant nonconforming lot adjoins one or more lots with continuous frontage and in common ownership on the effective date of this Resolution or applicable amendment thereto, such lot shall be replatted to create conforming lots as a prerequisite for development.

407 NONCONFORMING USE DUE TO RECLASSIFICATION.

The provisions of this chapter shall also apply to the buildings, structures, land or other uses hereafter becoming nonconforming as a result of amendments made to this Zoning Resolution or Zoning Map.

408 CHANGE FROM NONCONFORMING USE.

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no previous nonconforming use shall be made or resumed.

409 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.

A lawfully existing use that would be eligible for a conditional use permit in the district in which it is located shall not be a nonconforming use, but without further action, shall be deemed to be a conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in ownership shall only be permitted upon review and approval by the Zoning Board of Appeals according to the procedures for conditional uses set forth in Article 2300.

410 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.

Nothing in this Zoning Resolution shall prohibit the completion of the construction and the use of nonconforming buildings for which a zoning certificate has been issued prior to the effective date of this Zoning Resolution, or amendments thereto, provided that construction is commenced within 90 days after such effective date and completed within one year after the issuance of the zoning certificate.

