

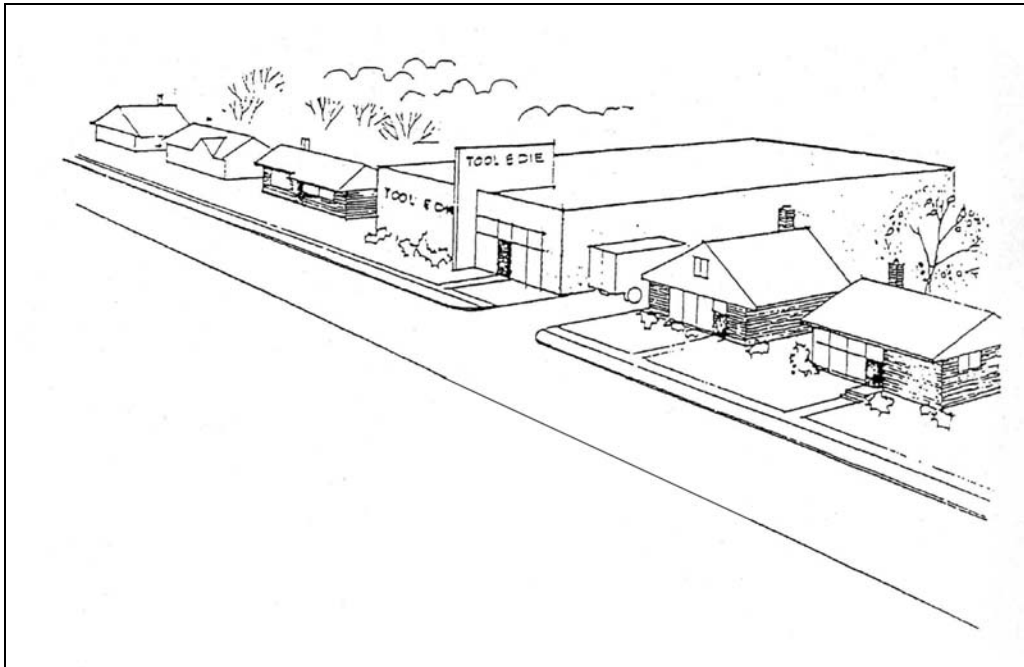
CHAPTER 20

NONCONFORMING USES AND STRUCTURES

SECTION 20.01 INTENT

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.



SECTION 20.02 NONCONFORMING USES OF LAND

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this ordinance, or the effective date of an amendment of this Ordinance, a 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. **Expansion of Use.** 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. **Moving.** 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. **Discontinuation of Use.** If such nonconforming use of land ceases for any reason for a period of more than twelve consecutive (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. In applying this Section to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Township.
- D. **Damage by Fire of other Natural Disaster.** Any nonconforming use that is damaged by fire, flood, wind, or other natural means, may be restored, and the nonconforming use that existed prior to such damage may be continued and resumed. This shall be permitted provided that such restoration is started within 12 months after the time of such damage and is diligently pursued to completion. A one time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within a specified timeframe. Damaged structures with nonconforming uses that are not repaired within these time requirements shall be considered abandoned and shall lose their nonconforming status.

SECTION 20.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

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, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Structure.** Structures, or uses nonconforming by reason of height, yards, area, or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby.
- B. **Moving.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

SECTION 20.04 ALTERATIONS, REPAIRS AND MAINTENANCE

- A. **Protecting Public Safety.** Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- B. **Damage by Fire or other Natural Disaster.** Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed. This shall be permitted provided that the reconstruction of the nonconforming structure does not increase the nonconformity that previously existed and that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A one time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame. Damaged structures or uses that are not repaired within these time conditions shall be considered abandoned and shall lose their nonconforming status.
- C. **Enlargement & Extension Beyond Present Building Confines.** No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use

of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence.

SECTION 20.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Section 208, Public Act 110 of 2006, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

SECTION 20.06 CHANGE IN 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 except in conformity with the provisions of this Ordinance.

SECTION 20.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

SECTION 20.08 UNLAWFUL NONCONFORMITIES

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

SECTION 20.09 RECORDING OF NONCONFORMING USES AND STRUCTURES

The Township shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Township with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

SECTION 20.10 PLANS ALREADY FILED

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a Building Permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.