

Article XXIV: Nonconformance Standards

SECTION 240-2400. APPLICABILITY

This Article shall apply to existing uses, structures, buildings, lots, and signs that do not conform to the provisions of this Chapter, but that were in lawful existence either as conforming or nonconforming prior to the effective date of this Chapter. Such shall be known and regarded hereon as 'nonconforming'.

SECTION 240-2401. CONTINUATION

Any lawful building or other structure, use of a building, structure, lot, or sign legally existing at the time of adoption of this Chapter, or authorized by permit issued prior thereto, may be continued in the form evident at the effective date of this Chapter.

SECTION 240-2402. NONCONFORMING USES

- A. Expansion of a nonconforming use, whether or not such use is in a conforming or nonconforming building or structure. If such nonconforming use is in a nonconforming building or structure, § 240-2403 also applies. Any nonconforming use of land, buildings, structures, or a portion thereof may be expanded where exists at the effective date of this Chapter, subject to the following:
1. Such expansion shall conform to the area and bulk requirements and design standards of this Chapter.
 2. The expansion of a nonconforming use on a lot shall be limited to the lot that was in existence on the effective date of this Chapter. Lots shall not be merged to allow for the expansion of a nonconforming use.
 3. Over its lifetime, the nonconforming use shall not be increased by more than up to fifty percent (50%) of its floor area on the date such use became nonconforming.
 4. A nonconforming use shall not be expanded to displace conforming uses.
 5. It is clear that such expansion is not materially detrimental to adjacent properties, the character of the surrounding area, or the Township.
- B. Change in use. Once changed to a conforming use, within a structure or on land, the use shall not be permitted to revert to a nonconforming use. A nonconforming use shall not be changed to another nonconforming use.
- C. Discontinuance or abandonment. Whenever a nonconforming use has been discontinued for a continuous period of one (1) year, such nonconforming use shall be deemed to have been discontinued and shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this Chapter.

SECTION 240-2403. NONCONFORMING BUILDINGS AND STRUCTURES

- A. Reconstruction. Any lawful nonconforming building or structure which has been involuntarily damaged or destroyed by fire, explosion, flood, wind, or similar cause, or legally condemned, may be reconstructed within the limits of the existing foundation and within its original dimensions. Reconstruction shall commence within one (1) year from the date of damage or destruction, or condemnation. The applicant may request an extension of time from the Township Codes Officer if necessary and shall provide a reason for the extension.

- B. Alteration or expansion. Any lawful nonconforming building or structure may be altered or expanded, provided such alteration or expansion does not increase the nonconformity of the building or structure under the provision of this Chapter. However, if such alteration or expansion is sought by variance, in addition to standards in Article XXIII, the Zoning Hearing Board shall also consider the following:
 - 1. A nonconforming building or structure shall not be altered or expanded to displace a conforming building or structure.
 - 2. The use of the altered or expanded portion of the nonconforming building or structure and whether such use is expanding an existing nonconforming use in which case § 240-2402.A would be considered, or is for a permitted use.
 - 3. Whether the existing nonconforming building or structure is a historic resource.
 - 4. Over its lifetime, any existing nonconforming building or structure shall not be increased by more than up to fifty percent (50%) of its floor area on the date such building or structure became nonconforming.
 - a. It is clear that such alteration or expansion is not materially detrimental to adjacent properties, the character of the surrounding area, or the Township.
 - b. Alteration or expansion of such buildings and structures conforms to the building height requirement and shall not impose any hazard to adjoining properties.

- C. Voluntary demolition. Where a nonconforming building or structure is voluntarily demolished or destroyed, except for its reconstruction, repair, rehabilitation, or modernization, the nonconforming building or structure shall be deemed to have been discontinued and any building or structure thereafter shall be conforming with the provisions of this Chapter.

SECTION 240-2404. NONCONFORMING LOTS

- A. A nonconforming lot held on the effective date of this Chapter, which does not meet the required minimum area or dimensional requirements of the district where it is located, may be used and a structure or building may be built thereon, provided:
 - 1. The proposed use is permitted under the district; and
 - 2. The building or structure complies with district provisions; however if said provisions cannot be met such building or structure shall require a special exception.

- B. In the event an applicant owns adjacent property sufficient to enable compliance with the provisions of this Chapter, such property or portions thereof shall be combined prior to the erection, expansion, enlargement, or alteration of a building or structure.
- C. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.

SECTION 240-2405. NONCONFORMING SIGNS

- A. Any nonconforming sign may continue to be used in its existing location, provided it is maintained in good condition and repair at all times
- B. Moving. A nonconforming sign may be moved, provided that moving such a sign would eliminate the nonconformity. A nonconforming sign shall not be moved to a position where such sign remains nonconforming except by special exception approval.
- C. Area. The total area of all such signs relating to a single use at the effective date of this Chapter, or at the effective date of any amendment to this Chapter by which any sign shall be made nonconforming, shall not be increased.
- D. Repair or replacement. Nonconforming signs once removed or damaged more than sixty percent (60%), including structural framing or bracing, shall be replaced with conforming signs. Nonconforming signs with damage of sixty percent (60%) or less may be repainted or repaired, provided that such repainted or repaired sign does not exceed the dimensions of the existing sign or otherwise increase its nonconformity.
- E. Discontinuance. Whenever any nonconforming use of building, structure, or land, or a combination or portion thereof, ceases per § 240-2402.C and § 240-2403.C, all signs accessory to such use shall be removed within thirty (30) days from the date such use terminates.

SECTION 240-2406. NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD DISTRICT

A structure or use of a structure or premises which lawfully existed before the enactment of the Flood Hazard District provisions, but which is not in conformity with those provisions, shall be subject to the requirements of the Township Flood Plain Ordinance.

SECTION 240-2407. NONCONFORMING REGISTRATION

In order to protect the rights given hereunder to each owner of a nonconforming use, structure, building, lot, or sign such owners shall identify and register such nonconformity with the Township by securing a certificate of nonconformity from the Zoning Officer. Such owner shall state the nature of the nonconformity and the extent to which such nonconformity may be continued on form(s) furnished by the Township. The burden of proof shall be upon the applicant to prove the lawfulness of the nonconformity.