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Sec. 27.1 NON-CONFORMING USES.

Any unlawful non-conforming use existing at the time of passage of this Ordinance may be continued.

- (A) A legal non-conforming use may not conform to the requirements of the Zoning District but is not considered a nuisance, or damaging to abutting premises, or hazardous to persons on the same or adjoining premises.
- (B) An illegal non-conforming use is one considered to be a nuisance and is to be abated or discontinued according to the provisions of Law and this Ordinance.

Sec. 27.2 RECORD OF NON-CONFORMING USES.

- (A) Immediately after the effective date of this Ordinance, the Township Board shall cause to be prepared and maintained, a record of all non-conforming uses and occupations of land, buildings, and structures, existing at the effective date hereof. Said record shall contain the names and addresses of owners and occupants of premises in non-conforming use; the legal description of the land in such use; description of buildings, structures, or vehicular units in said non-conforming use; and the specific nature of the non-conforming use. The Township Board shall prescribe the procedure for securing said record and making corrections and copies of the corrected record, which shall be filed in the office of the Township Clerk as part of the Township records.
- (B) If the Zoning Administrator shall find, upon reviewing the application for a Zoning Compliance Certificate, that the existing use is illegal or in violation of any other ordinance or law or if he finds that the building for which the Certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Building Code or the Zoning Ordinance in effect at the time of construction or alteration, he shall not issue the Zoning Compliance Certificate but shall declare such use to be in violation of this Ordinance.

Sec. 27.3 FORFEITURE OF RIGHT TO CONTINUE NON-CONFORMING USE.

- (A) When non-conforming use of property is discontinued through vacancy, lack of operation, or other similar condition, for a period of twelve (12) consecutive months or more, thereafter no right shall exist to maintain on said property a non-conforming use unless the Board of

Appeals grants such privilege prior to the expiration of such twelve (12) month period. In no case shall an extension of more than six (6) additional consecutive months be granted. No non-conforming use shall be resumed or changed back to a non-conforming use, after having been discontinued for the above stated time period.

- (B) The following factors shall be considered in determining whether a use has been discontinued.
- (1) Utilities such as water, gas and electricity to the property, have been disconnected;
 - (2) The property, buildings, and grounds have fallen into disrepair;
 - (3) Signs or external indications of the existence of the nonconforming use have been removed;
 - (4) Equipment or fixtures which are necessary for the operation of the nonconforming use have been removed; and
 - (5) Other actions have occurred which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

Sec. 27.4 RECONSTRUCTION OF DAMAGED NON-CONFORMING BUILDING AND STRUCTURES.

Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance, wherein the expense of such reconstruction does not exceed fifty (50) percent of the fair valuation of the entire building or structure at the time such damage occurred. The valuation of the proposed construction shall be subject to the approval of the Zoning Administrator whose decision may be appealed to the Board of Appeals, and provided that such restoration and resumption shall take place within six (6) months of the time of such damage and that it be completed within one (1) year from the time of such damage, and provided further, that said use be identical with the non-conforming use permitted and in effect directly preceding said damage. Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension of up to six (6) months, provided that the property owner submit a certification from the insurance company attesting to the delay. Until such time as the debris from the damage is fully removed, the premises shall be adequately fenced or screened from access by children who may be attracted to the premises.

Sec. 27.5 NON-CONFORMING LOTS OF RECORD IN RESIDENTIAL DISTRICTS.

- (A) In all districts which permit single family residences, only single family residences and buildings accessory thereto may be erected on non-conforming lots of record. The Zoning Administrator shall approve all applications for single family residence purposes on non-conforming lots of record, provided the owner or builder presents his plan and specifications to the Zoning Administrator and provided the following requirements are complied with:
- (1) the lot complies with front and rear yard requirements.
 - (2) no side yard is less than ten (10) feet.
 - (3) the lot has a width of no less than seventy-five (75) percent of the zoning district requirement.
 - (4) the lot has a minimum lot area of six thousand (6,000) square feet.

- (B) In the event the Zoning Administrator believes that the plan for construction on said lot does not comply with the requirements as set forth above, he shall submit the plans and specifications to the Board of Appeals for review.
- (C) The Board of Appeals, at its next regular meeting, shall review the plans and specifications and may reduce any or all of the area requirements, not including use regulations, it reasonably believes are necessary so as to allow construction of a single family residence on said lot; provided only that such construction is not detrimental to the public health, safety, and general welfare of the Township, and further that the Board of Appeals shall have the right to require conditions for said structure or construction as will secure substantial compliance with the intent of this Ordinance, provided that such conditions are not unreasonable or confiscatory.
- (D) If two or more contiguous lots are under the same ownership, no waiver of the district requirements shall be granted. Such lots shall be combined to create one or more conforming lots.

Sec. 27.6 *NON-CONFORMING LOTS OF RECORD IN NON-RESIDENTIAL DISTRICTS.*

- (A) Where a non-conforming lot of record, located in a zoning district in which single family dwellings are not permitted, has an area or lot width of not less than ninety (90) percent of its zoning requirements, said lot may be used for the permitted uses of that zoning district, provided that construction on such lot complies with all district regulations not involving lot area or lot width.
- (B) Where a non-conforming lot of record located in a zoning district in which single family dwellings are not permitted has less than ninety (90) percent of its area and lot width requirements, or cannot provide the front and side yard requirements of its zone, the Board of Appeals shall grant such use as is permitted in its zone and reduce the side yard, lot width, and area requirements as the Board deems reasonable and necessary, taking into account the character of the neighborhood, provided such construction is not detrimental to the public health, safety, and general welfare of the Township, and provided further that the Board of Appeals may require conditions as will secure substantial compliance with the intent of this Ordinance, provided that such conditions are not unreasonable or confiscatory.

Sec. 27.7 *NON-CONFORMING STRUCTURES.*

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, it may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (A) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be enlarged or altered if such alteration conforms to the requirements of the zoning district or if such alteration will decrease its non-conformity.
- (B) Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 27.8 NON-CONFORMING USES OF LAND.

Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with an assessed value exceeding five hundred dollars (\$500), the use may be continued so long as it remains otherwise lawful provided:

- (A) No such non-conforming 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) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- (C) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

Sec. 27.9 NON-CONFORMING USES OF STRUCTURES.

If lawful use involving individual structures with an assessed value of five hundred dollars (\$500) or more or of structure and premises in combination, exists at the effective date of adoption of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (B) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- (C) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use as determined by the Board of Appeals. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a non-conforming use.
- (D) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

Sec. 27.10 REPAIRS AND MAINTENANCE.

- (A) Any lawful non-conforming structures may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation and wear, PROVIDED that such repair does not exceed an aggregate cost of twenty-five (25) percent of the fair valuation of the building unless the subject building is changed by such repair to a conforming building or structure.
- (B) If a non-conforming structure or portion of a structure containing a non-conforming use become physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not hereafter be restored, repaired, or rebuilt except in conformity with the regulation of the district in which it is located.

Sec. 27.11 *DISTRICT BOUNDARY CHANGES.*

When district boundaries shall hereinafter be changed, any non-conforming use may be continued but subject to all other provisions of this Ordinance.

Sec. 27.12 *EXPANSION, ENLARGEMENT, AND ERECTION PROVISION.*

- (A) Notwithstanding the above restrictions, the Zoning Board of Appeals may permit the expansion or enlargement of an existing structure, or the erection of an additional structure replacing an existing nonconforming structure or open air use provided said Board finds that containment of said use is necessary and/or in the public interest pursuant to eliminating or reducing impacts considered detrimental to the Township's environmental or aesthetic quality. In approving the expansion or enlargement of an existing structure, or the erection of a new structure, the Board shall find:
- (1) The expansion or enlargement of an existing structure, or erection of a new structure, shall not result in an increase in the area occupied by the non-conforming use, nor result in the expansion or enlargement of the non-conforming use.
 - (2) The expansion, enlargement, or erection as detailed above shall be solely for the mitigation of an environmental or aesthetic concern, and not for the prolongation of a non-conforming use.
 - (3) The expansion, enlargement, or erection as detailed above shall be in the public interest and in keeping with the spirit and intent of the Ordinance.

In approving the expansion or enlargement of an existing structure, or the erection of a new structure, the Board may place conditions on said approval governing building and site design, access and vehicular circulation, and like factors. Moreover, the Board may require the applicant to remedy other public concerns associated with all aspects of the existing non-conformity.(revised 4-23-2001)