

## ARTICLE XIV

### Nonconforming Uses, Buildings and Structures, and Non-Conforming Lots

#### Section 1400 General

All lawful uses of land or a building, sign or other structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold or maintained even though such use, building, sign, or structure may not conform to the use, height, area, yard and other regulations of the district in which it is located, provided such nonconforming conditions shall comply with the following requirements.

#### Section 1401 Nonconforming Uses

##### a. Continuation

Any nonconforming use existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such use does not conform to the provisions of this Ordinance. Change in ownership or possession of the use of the property shall not prevent the continuance of the nonconforming use.

##### b. Expansion

A non-conforming use may be expanded by up to a cumulative increase of twenty-five (25) percent of the area occupied by the use at the time at which it became non-conforming. The expansion of the nonconforming use shall comply with the following:

- 1) The proposed expansion shall be within the lot limits that existed for the property in question at the effective date of this Ordinance.
- 2) The expansion of the nonconforming use shall not replace a conforming use.
- 3) The expansion of the nonconforming use shall conform to the requirements of the underlying zoning district, Performance Standards, and Supplemental Use Standards.
- 4) The expansion of a nonconforming use classified as a Conditional Use shall be subject to Conditional Use review and approval as required in Article XIII of this Ordinance prior to the expansion occurring.

c. Changes

- 1) A nonconforming use changed to a conforming use shall not be permitted to be changed back to a nonconforming use.
- 2) A nonconforming use shall be permitted to be changed to another nonconforming use of the same or more restricted classification. Whenever a nonconforming use has been changed to a more restricted classification such use shall not hereafter be changed to a use of less restricted classification.
- 3) The change of use shall meet other requirements of this Ordinance, including but not limited to Performance Standards, Supplemental Use Standards, and Conditional Use Standards.

d. Abandonment and Discontinuance

- 1) The ceasing of a nonconforming use in a building or structure for a period of one (1) year or more shall be considered the abandonment of the nonconforming use. Subsequent use of such building or structure shall be in strict conformity with the provisions of this Ordinance.
- 2) In the case of settling an estate, the discontinuance of the nonconforming use shall not be considered an abandonment of the use in accordance with Section 1) above until the estate is settled or a court order has been entered regarding the estate's disposition.
- 3) A nonconforming use shall be deemed abandoned in the event the Borough or County acquires an unredeemed, tax delinquent property and sells such property. Subsequent use of the land shall be in conformity with the provisions of this Ordinance.

Section 1402 Nonconforming Buildings and Structures

a. Continuation

Any nonconforming use building or structure existing on the effective date of this Ordinance or created by an amendment to this Ordinance may continue although such building or structure does not conform to the dimensional requirements of this Ordinance.

b. Restoration

A nonconforming building or structure which is damaged or destroyed by fire, explosion, windstorm, or other natural or criminal acts shall meet the following restoration requirements,

- 1) The nonconforming building or structure shall not exceed the height, area, or volume of the destroyed structure. An application for a building permit must be submitted within two (2) years from the date of destruction, or within six (6) months of insurance settlement if such settlement date exceeds the two (2) years.
- 2) In the case where the requirements of Section 1) above have not been met, the building or structure shall be rebuilt in strict conformity with the provisions of this Ordinance.

c. Demolition

In the event any nonconforming building is destroyed or partially destroyed and the owner has determined reconstruction/restoration infeasible, the owner will be responsible for the complete removal of the structure and debris as well as the filling of any excavated areas.

d. Extension or Alteration

- 1) A nonconforming building or structure may be extended or altered, providing the extension or alteration conforms to all dimensional requirements.
- 2) The following exception shall apply to side yard and rear yard setbacks. Where a structure is nonconforming as to the required side yard or rear yard setback, the established nonconforming setback may be continued, so long as the proposed extension or enlargement does not project further into any yard than the extension of the original building line.
- 3) The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.
- 4) The extension or alteration shall conform to the provisions of the Performance Standards in Article IX.

## Section 1402 Nonconforming Lots

### a. Continuation

Any nonconforming use lot, due to its lot area or width, existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such lot does not conform to the lot requirements of the district in which it is located.

### b. Development

- 1) The nonconforming lot may be developed with a use listed in the zoning district in which the nonconforming lot is located.
- 2) All nonconforming lots shall be connected to the public water and public sewer systems of the Borough.
- 3) The minimum lot coverage and other dimensional requirements can be reduced no greater than twenty (20) percent of the required coverage and dimension as required by the underlying zoning district.
- 4) Coverage and dimensional reduction(s) in excess of twenty (20) percent are necessary to develop the nonconforming lot; an application shall be submitted to the Zoning Hearing Board for a variance from the terms of this Ordinance.
- 5) Where possible, contiguous parcels under common ownership shall be replatted to create conforming lots.

## Section 1403 Documentation of the Nonconformity

- a. It shall be the right of the property owner to provide evidence of nonconformities upon adoption of this Ordinance. At the request of the property owner, the Zoning Officer shall issue a Certificate of Nonconformance which shall be for the purpose of insuring to the owner the right to continue a nonconforming building, structure, or use.
- b. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of the property.
- c. The Borough shall retain a copy of the Certificate of Nonconformance.