

## **ARTICLE 6 NON-CONFORMING USES**

### **6.01 INTENT**

Within the Districts established by this Resolution or amendments that may be later adopted, there exists lots, structures, uses of land and structures, and characteristics of use which were lawful before this Resolution was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendments. It is the intent of this Article to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Resolution that, except as provided herein, non-conformities shall not be enlarged upon, expanded, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District. When governmental action results in acquisition of private property for public right-of-way and when such action results in the creation of or an increase in the degree of a non-conformity, the Zoning Administrator shall administratively authorize such conveyance of property by affixing her/his signature to the record plat denoting such conveyance, while acting on behalf of the Township.

### **6.02 INCOMPATIBILITY OF NON-CONFORMING USES**

Non-conforming uses are declared by this Resolution to be incompatible with permitted uses in the Districts in which such uses are located. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this Resolution by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

### **6.03 AVOIDANCE OF UNDUE HARDSHIP**

To avoid undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Resolution and upon which actual building construction has been diligently pursued toward completion.

### **6.04 SINGLE NON-CONFORMING LOTS OF RECORD**

In any District where dwellings are permitted, a single-family detached dwelling may be erected on any lot or parcel of record on the auditor's tax plats at the effective date of adoption or amendment of this Resolution, irrespective of its area, or width, or both, provided the applicable yard and other open space requirements of this Resolution are met.

## **6.05 NON-CONFORMING USES OF LAND**

Where, at the time of adoption or amendment of this Resolution, lawful uses of land exist which would not be permitted by the regulations imposed by this Resolution, the uses may be continued so long as they remain otherwise lawful, except when required to change by law or order, provided:

- A. No such non-conforming use shall in anyway be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Resolution.
- 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 uses at the effective date of adoption or amendment of this Resolution.
- C. No additional structure not conforming to the requirements of this Resolution shall be erected in connection with such non-conforming use of land.

## **6.06 NON-CONFORMING STRUCTURES**

Where a lawful structure exists at the effective date of adoption or amendment of this Resolution that could not be built under the terms of this Resolution by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, such structure 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 altered to decrease its non-conformity.
- B. Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this Resolution, and except as permitted in Section 6.09.
- C. Should such non-conforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## **6.07 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION**

If a lawful use involving individual structures or of a structure and land in combination, exists at the effective date of adoption or amendment of this Resolution that would not be allowed in the District under the terms of this Resolution, 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 Resolution 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 that were manifestly arranged or designed for such use at the time of adoption or amendment to this Resolution, but no such use shall be extended to occupy any land outside such building.
- C. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the District, and the non-conforming use may not thereafter be resumed.
- D. When a non-conforming use of a structure, or structure and land in combination is discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), the structure, or structures and land in combination, shall not thereafter be used except in conformity with the regulations of the District in which it is located.

#### **6.08 TERMINATION OF NON-CONFORMING USE BY DAMAGE OR DESTRUCTION**

In the event that any non-conforming building or structure is destroyed by any means to the extent of more than fifty (50%) percent of the cost of replacement of such structure, exclusive of foundation, it shall not be rebuilt, restored, or reoccupied for any use unless it conforms to all regulations of this Resolution. When such non-conforming structure is damaged or destroyed to the extent of fifty (50%) percent or less of the replacement cost, no repairs or rebuilding shall be permitted except in conformity with all applicable regulations of this Resolution and the following conditions:

- A. A Zoning Certificate pertaining to such restoration shall be applied for and issued within one (1) year of such destruction, and the rebuilding shall be diligently pursued to completion;
- B. Such restoration shall not cause a new non-conformity, nor shall it increase the degree of non-conformance or non-compliance existing prior to such damage or destruction;
- C. Any lawfully existing non-conforming single or multi-family dwelling, in the event of damage or destruction, including loss up to one hundred (100%) percent of the structure, may be reconstructed substantially to the same size, density, dimension and setback as existed before the loss. Reconstruction must commence within two (2) years of the loss and be completed no later than four (4) years after

the loss. If reconstruction is not commenced or completed within this time frame, current zoning regulations will then apply.

**6.09 USES UNDER CONDITIONAL USE PROVISIONS NOT NON-CONFORMING USES**

Any use that is permitted as a Conditional Use in a District under the terms of this Resolution shall not be deemed a non-conforming use in such District, but shall without further action, be considered a conforming use.