

**ARTICLE XXVIII
NON-CONFORMING USES AND STRUCTURES**

Section 28.1 PURPOSE & SCOPE

A. While it is the intent of this Ordinance to prevent the establishment of new non-conforming situations within the Township, reality dictates that compatible non-conforming uses and structures, which were lawfully established prior to the adoption of this Ordinance, that do not and are likely not to significantly depress the value of nearby property, and which do not pose a threat to public health, safety and welfare of the Township, be allowed to continue under the provisions of this Article.

B. It is also the purpose of this Article to encourage over time, non-conforming uses to conform to this Ordinance. To that end, this Article establishes provisions limiting the expansion, reconstruction, discontinuation, and elimination of non-conforming uses. It also permits the use of non-conforming lots under certain circumstances.

Section 28.2 LIMITATIONS ON EXPANDING NON-CONFORMING SITUATIONS

Any structure with a non-conforming dimension or a structure devoted to a non-conforming use may be expanded horizontally provided all the conditions of Section 3.2 are met, and also may be expanded vertically up to the allowable height of the District (see Section 3.12), provided the addition does not extend outside the existing footprint of the structure, and all other requirements of this Ordinance are met.

Section 28.3 INVOLUNTARY DESTRUCTION

Any structure with a non-conforming dimension or any structure devoted to a non-conforming use which is involuntarily destroyed by an act of God, natural disaster, or action by a government or person other than the landowners, may be restored or reconstructed within the same footprint, provided the same is commenced within one (1) year and completed within the time period the permits are valid.

Section 28.4 VOLUNTARY DISCONTINUANCE

If a non-conforming use is voluntarily discontinued for one (1) year or more, it shall be deemed abandoned, and any further use must be in conformity with permitted uses in the district in which the property is located.

Section 28.5 RESTRICTION OF CHANGE

Whenever a non-conforming use has been changed to a use which is in greater conformity with the provisions of the district in which it is located, and has remained as such for one (1) year, such use shall not thereafter be changed back to the former non-conforming use or to a use less in conformity with the provisions of this Ordinance.

Section 28.6 VOLUNTARY DEMOLITION

On a lot of record, when a dimensional non-conforming structure is voluntarily demolished for purposes of rebuilding another structure on the premises, all setback requirements for the zoning district shall be met, whenever possible, however, if all such setbacks cannot be met, the provisions of Sec. 3.2 may be applied.

Section 28.7 NON-CONFORMING PARCELS OR LOTS – ASSEMBLAGE

Whenever contiguous, non-platted, undersized, non-conforming lots, whether developed or undeveloped, are under common ownership in the C-1, C/R, R-1, R-2, R-3 and RP-2.5 zoning districts, the lots shall be combined into one lot until the minimum lot size for the zoning district where located is achieved, or at least achieves a lesser degree of non-conformity.

In said zoning districts, if a developed or undeveloped lot is non-conforming due to size or width, a structure or use shall not be permitted unless contiguous land is added to make the parcel conforming except when:

1. The applicant submits documented evidence that sufficient contiguous land is not available; and
2. The parcel is large enough to accommodate a well and on-site sewage disposal system (not holding tanks) with proper isolation, as determined by the Health Department; and
3. If the parcel was created by a division which complies with the zoning ordinance in effect at the time of division, the Land Division Act, and
4. A variance is granted by the Zoning Board of Appeals.

Section 28.8 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage of this Ordinance or an amendment to it shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof

declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Section 28.9 CHANGE OF TENANCY OR OWNERSHIP

A nonconforming building, structure, use or lot may be sold or a tenant may change with the nonconforming use right intact, provided that the physical dimensions of the nonconforming lot, or the use of the nonconforming structure or lot do not result in a change contrary to the requirements of this Article.

Section 28.10 DISTRICT CHANGES

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

Section 28.11 HARDSHIP CASES

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alterations, or enlargements may be granted only with a finding by the Board of Appeals that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

Section 28.12 ILLEGAL NONCONFORMING USES

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.