

**ARTICLE XVII
NONCONFORMING LAND, BUILDING AND STRUCTURAL USES
AND DIMENSIONAL REQUIREMENTS**

Section 17.01 PURPOSE.

It is the purpose of this Article to recognize that zoning cannot be retroactive upon any nonconformity of the uses of lands, buildings and structures in respect to the provisions of this Ordinance if they legally existed at the time of their enactment. It is the further purpose of this Article to assure owners and users of existing legal nonconforming uses of land, buildings and structures that such uses can continue as legal nonconforming uses which cannot be terminated by the provisions of this Ordinance, but may have limitations placed upon their future expansion, or if terminated for extended periods of time may not be able to be reinstated and continued as a nonconforming use, but will be required to conform to the provisions of the District in which they are located.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 17.02 CONTINUANCE OF NONCONFORMING USES.

- A. A nonconforming use existing at the time this Ordinance takes effect may be continued, except that if it is discontinued for one (1) year or more, it shall be deemed abandoned and any further use must be in conformity with the uses permitted in such District.
- B. Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this Ordinance, but not completed may be completed and put to such nonconforming uses, providing it is done within one (1) year after this Ordinance takes effect.
- C. Any building or structure, existing as a nonconforming use at the time this Ordinance takes effect, which is destroyed by fire or the elements, may be reconstructed and restored providing the same is done within one (1) year from the date of said destruction.
- D. Nonconforming uses, if rebuilt, may not be expanded, but must be rebuilt to no more than the total square foot area of the original structure. Plans for the rebuilding of a nonconforming use, if destroyed, are required to be reviewed by the Planning Commission under the provisions of the Site Plan Review Procedures of Article XX.

- E. Where there are practical difficulties, unnecessary hardships or the need for interpretation of any of its provisions in the way of carrying out the strict letter of any of the provisions of this Ordinance, the Board of Appeals shall have power in passing upon appeals to interpret, vary or modify any of its rules, regulations or provisions and specifically including structural changes, alterations, modernization, enlargements, reconstruction, extension, substitution and the moving in part or whole of the nonconforming use upon the finding of facts which support the conclusion that the structural changes, alterations, modernizations, enlargements, reconstruction, extension, substitution and movement of the use is necessary to implement the spirit of the Ordinance to ensure public safety or to accomplish substantial justice. The applicant for a variance of a nonconforming use and the Board of Appeals in making its determination are subject to and governed by the provisions of Article XXII entitled "Zoning Board of Appeals."
- F. The Township Planning Commission may authorize a replacement, modernization, alteration, enlargement, or substitution of one structure for another provided that such nonconforming use is not increased, and that such replacement, modernization, alteration, enlargement, or substitution creates a structure that would be in more conformance to the Zoning Ordinance than the existing structure. Nothing herein shall be construed as permitting the Planning Commission to expand the use itself. The Township Planning Commission may prescribe appropriate conditions and safeguards in order to ensure the change will be in conformance with this Ordinance as much as reasonably possible. The violation of such conditions and safeguards, when made a part of the terms under which modification was made, shall be deemed a violation of this Ordinance and subject to the provision of Section 21.06 of this Ordinance.

(Ord. No. 1 eff. Jan. 8, 1983; amend. by Ord. No. 8 eff. Dec. 7, 1983; further amend. by Ord. No. 12 eff. Sept. 5, 1986)

Section 17.03 CONFORMANCE OF REBUILT NONCONFORMING USES.

Any nonconforming use, if totally or partially destroyed and if rebuilt, must meet all of the requirements of this Zoning Ordinance, including those prescribed for the District in which the nonconforming use is located to the extent possible.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 17.04 CHANGE TO A LESS NONCONFORMING USE.

Any legal nonconforming use existing at the time of adoption of this Ordinance may be changed to another use which is less nonconforming in relation to the permitted uses in the District in which it is located, as determined by the Zoning Board of Appeals. Such nonconforming use once changed may not revert to the original use upon commencing the less nonconforming use.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 17.05 NONCONFORMING LOTS AND PARCELS.

- A. Notwithstanding limitations imposed by other provisions of this Ordinance, any permitted use in a District and its customary, accessory uses may be erected on any lot of record subsequent to the effective date of adoption or amendment to this Ordinance. This provision shall apply even though such lot fails to meet any of the dimensional requirements for the District in which such lot is located. It is the intent to permit only minimum variances which may be granted by the Zoning Board of Appeals upon application by a property owner or a representative of the owner.

- B. If two (2) or more lots, combination of lots, or portions of lots are contiguous and have continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or parts of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Article, and no portion of said lots or parcels shall be used or occupied which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 17.06 ILLEGAL NONCONFORMING USES.

Those alleged nonconforming uses of land, buildings and structures which cannot be proved conclusively to have been existing prior to the effective date of this Ordinance, or any amendment thereto, shall be declared illegal nonconforming uses and shall be discontinued upon written notification from the Zoning Administrator.

(Ord. No. 1 eff. Jan. 8, 1983)

Section 17.07 USES AND CONSTRUCTION MADE PRIOR TO VARIANCE DETERMINATION.

Any use made of property or construction completed on any property which is in need of an interpretation or variance, but completed prior to such interpretation or granting of a variance by the Zoning Board of Appeals, shall require the owner of the property to apply for the needed interpretation or variance which shall be processed by the Zoning Board of Appeals for its decision in accordance with the provisions of this Article and other provisions of this Ordinance.

(Ord. No. 97 eff. Feb. 23, 2000)