

**CHAPTER III
NONCONFORMING USES AND STRUCTURES**

(Ord. 90-07; 6/28/90)

SECTION 3.01 BUILDINGS UNDER CONSTRUCTION. Nothing in this Ordinance shall require any change in the erection or intended use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted for 30 days preceding the date of passage of this Ordinance.

SECTION 3.02 CHANGE OF NONCONFORMING USE. Whenever a Use District shall be changed, any then legally existing nonconforming use in such changed district may be continued, provided all other regulations governing such use are complied with. Whenever a nonconforming use of a building or premises has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

SECTION 3.03 CONTINUANCE OF USE. The lawful use of any premises existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions hereof, but if such nonconforming use is discontinued, the future use of said premises shall be in conformity with the provisions of this Ordinance.

SECTION 3.04 EXPANSION.

- (a) A pre-existing legal nonconforming structure shall be allowed to be expanded by fifty (50) percent provided all the other requirements of the district are met including, but not limited to, our requirements. No expansion shall be allowed at any time or in aggregate greater than fifty (50) percent of the structure at the time it became nonconforming.
- (b) A pre-existing legal nonconforming use shall be allowed to expand in land area used for such nonconforming use by fifty (50) percent provided the land or parcel of property on which the use is to be expanded to was owned at the time such use became nonconforming by the individual conducting the use petitioned to be expanded. Provided further that all the requirements of the district in which the nonconforming use should be operated are met. No expansion shall be allowed at any time or in aggregate more than fifty (50) percent of the land area at the time it became nonconforming.
- (c) A legally existing nonconforming use may be extended throughout a building being used for a legally existing nonconforming use at the adoption of this Ordinance, provided no structural alterations are made

therein except those required by law or such as may be required for safety.

- (d) A nonconforming use or structure shall be allowed to be made less nonconforming by changing the use to a use that is more restrictive, such as industrial to commercial, commercial to residential, or residential to agricultural, or the building altered or reconstructed so as to be less nonconforming so long as the structure is not expanded save as allowed herein.
- (e) If a dwelling within the "A", "RA", "R-1", or "R-2" zoning districts is nonconforming because it does not meet the front yard requirements of the district in which it is located that dwelling may take advantage of Section 3.04(a) and construct an attached garage or addition, as permitted by Section 3.04(a) even though the front yard requirement is not met by the attached garage, addition, and existing dwelling. (Ord. No. 90-7; 6/28/90)

SECTION 3.05 NONCONFORMING USE DISCONTINUED. In the event that any nonconforming use is discontinued for a period of one year, any subsequent use shall conform to the uses permitted in the district in which the premises are located.

SECTION 3.06 RESTORATION AND REPAIR. Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound condition may be made. In the event any nonconforming building or structure shall be damaged by fire or wind or an act of God or a public enemy or other natural forces, including but not limited to wear, tear, and depreciation, it may be rebuilt or restored provided the cost thereof shall not exceed 1/2 the value of such building or structure as determined by the tax assessment rolls of the Township at the time immediately preceding the damage from said causes, except in the case where the damage is caused by wear, tear, or depreciation, it may be rebuilt or restored, provided the cost thereof shall not exceed 1/2 the value of said building or structure as determined by the tax assessment rolls of the Township at the time the repairs or restoration is intended to be made; said determination shall be made by the Building Inspector or an appeal by the Board of Appeals.

In the event any nonconforming building or structure shall be damaged by fire, wind, or an act of God or a public enemy, or other natural forces, including but not limited to, wear, tear, and depreciation, and the cost of rebuilding or restoration shall exceed one-half of the value of such building or structure as determined by the tax assessment rolls of the Township at the time immediately preceding the damage from said causes, except in the case where the damage is caused by wear, tear, and depreciation and the cost of rebuilding or restoration shall exceed one-half of the value of such building or structure as determined by the tax assessment rolls of the Township at the time when said restoration or

rebuilding is intended to be made, the same shall be permitted only with the approval of the Board of Appeals which approval shall be granted only upon a finding:

- (a) That such rebuilding or restoration will not substantially extend the probable duration of such nonconforming use, or
- (b) That circumstances are such that the land previously occupied by such nonconforming use cannot then be advantageously used for a use permitted in the zone.