CHAPTER 450
Nonconforming Uses, Buildings, Lots and Structures

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SECTION 450.01 PURPOSE.

The purpose of this Chapter is to recognize the existence of uses, buildings, lots and structures which lawfully existed at the time of this Resolution's enactment, or amendment thereto, but which do not conform with one or more of the regulations contained in this Resolution. Nonconforming status is considered to be incompatible with permitted uses in the zoning district in which it exists and with the Comprehensive Plan of the Township. Therefore, such nonconforming status shall be continued only in conformance with this Chapter.

A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.

SECTION 450.02 NONCONFORMING BUILDINGS OR STRUCTURES.

A nonconforming building or structure may continue to be used or occupied by a use permitted in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

A. Maintenance and Repair. A nonconforming building or structure may be maintained and repaired provided that no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

B. Additions, Alterations, and Reconstruction. A nonconforming building or structure shall be permitted to be altered, added to or enlarged, provided that the

addition conforms to the regulations of the district in which it is located. ***(Amended 3/10/20) (Amended 3/25/25)***

C. Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Resolution specified for such use except the regulations to which the building did not conform prior to the change in use.

D. Non-Conforming Structures Destroyed by Natural Disasters. Non-conforming residential or commercial uses or structures destroyed beyond the control of the owner (i.e.; flood, windstorm, fire, snow, ice, rain, earthquake, or other such disaster) may be repaired or replaced. If replaced, it shall be replaced by a structure of an equal or better condition than the original non-conforming structure or comply with the current Zoning Resolution. Such structure shall be completed within a period on one (1) year from the Date of the damage or destruction. ***(Amended 8/13/13)***

SECTION 450.03 NONCONFORMING USE OF BUILDINGS AND LAND.

A nonconforming use may continue in the district in which it is located so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

A. Alteration, Reconstruction, Expansion of Nonconforming Use of Building. A nonconforming use of a building or land shall be permitted to be altered, reconstructed, enlarged or extended one time only, provided such action complies with all the regulations of the district in which it is located. Any such enlargement or extension shall not exceed 20% of the area of the use as it existed at the effective date of this Resolution. No nonconforming use shall be physically enlarged or extended to displace a conforming use.

B. Change of Use. A nonconforming use of a building, structure or land shall not be changed or substituted to another nonconforming use unless the Board of Zoning Appeals, on appeal, decides that the proposed nonconforming use is in less conflict with the character and use of the applicable zoning district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Resolution.

C. Discontinuance of Use. Discontinuance of the nonconforming use of a building, part of a building, lot or part of a lot for a continuous period of two (2) years or

longer shall constitute voluntary abandonment of such use and thereafter any use of the premises shall conform to the use regulations of the district in which the building or lot is located.

D. Damage or Destruction. In the event a building or structure that is occupied by a nonconforming use is destroyed by any means to the extent of more than 50% of its replacement value, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the use regulations of the district in which the building or structure is located.

SECTION 450.04 NONCONFORMING PARKING FACILITIES.

A building or use existing lawfully at the time this Zoning Resolution, or an amendment thereto, became or becomes effective, but which does not comply with off-street parking regulations for the district or use in which it is located may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted in accordance with these regulations, then additional off-street parking spaces shall be provided so that the nonconforming parking condition is not increased.

SECTION 450.05 NONCONFORMING SIGNS.

A sign, lawfully existing at the time this Zoning Resolution, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign. Nonconforming signs may be maintained, and structural and electrical parts may be repaired to a safe condition. A nonconforming sign shall not, however, be altered in any other way or moved unless the sign is made to conform with the regulations of the district in which it is located.

SECTION 450.06 NONCONFORMING LOTS.

A lot of record that does not comply on the effective date of this Zoning Resolution or any amendment thereto with the lot area or width regulations of the district in which the lot is located may be used as follows:

A. Residential Lots. If occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this Zoning Resolution, with the exception of the lot area and the lot width regulations. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.

B. Single Nonconforming Lots of Record. If a non-conforming lot is in separate ownership and not of continuous frontage with other lots in the same ownership, the following provisions shall apply:

1. Any lot not meeting the minimum area requirements and being a lot of record or lot for which a land contract has been issued, or any lot within an unrecorded allotment, of which at least one-half (1/2) of said lots are of record or have been sold on land contract on the effective date of these regulations, may be developed with a single-family dwelling when the single-family dwelling unit, and uses and structures accessory thereto, can be located on the lot in compliance with the front, side, and rear yard setbacks, and all other requirements of the district except those that pertain to the lot area or lot width requirements. In such case, the Zoning Inspector shall have the authority to issue a zoning certificate.

2. The Board of Zoning Appeals shall review and approve uses, buildings and structures proposed for the following:

a) Single vacant nonconforming lots in single-family districts that do not meet the criteria set forth in Subsection 1 above.

b) Single vacant nonconforming lots in all non-single-family districts.

C. Lots in Combination. If a vacant nonconforming lot adjoins one or more lots in common ownership on the effective date of this Resolution or applicable amendment thereto, such lot shall be replatted to create conforming lots as a prerequisite for development.

SECTION 450.07 NONCONFORMING USE DUE TO RECLASSIFICATION.

The provisions of this chapter shall also apply to the buildings, structures, land or other uses hereafter becoming nonconforming as a result of amendments made to this Zoning Resolution or Zoning Map.

SECTION 450.08 CHANGE FROM NONCONFORMING USE.

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no previous nonconforming use shall be made, resumed or reinstated.

SECTION 450.09 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Zoning Resolution or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conforming conditional use. Any change, modification, enlargement or alteration of such use, site development conditions or signs, or change in ownership shall only be permitted upon review and approval by the Board of Zoning Appeals according to the procedures for conditional uses set forth in Chapter 630.

SECTION 450.10 DETERMINATION OF NONCONFORMING STATUS.

At the time of application for a zoning certificate or request for variance regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Board of Zoning Appeals to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time.

If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of or amendment to this Resolution, the Zoning Inspector shall issue a certificate of nonconforming use.

SECTION 450.11 COMPLETION OF CONSTRUCTION WITH ZONING CERTIFICATE.

Nothing in this Zoning Resolution shall prohibit the completion of the construction and use of buildings for which a zoning certificate has been issued prior to the effective date of this Zoning Resolution, or amendments thereto, provided that construction is commenced within 90 days after the issuance of such certificate, that construction is carried on diligently and without interruption and the entire building is completed within one year after the issuance of the zoning certificate.