

## ARTICLE 21

### NON-CONFORMING BUILDINGS AND USES

#### **Section 2101. PURPOSE**

Within any zoning district in Lykens Township, all lawful uses of land or of a lot, building, sign, or other structures in existence on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such use may not conform to the use, height, area, yard, and other regulations of the district in which it is located. The legitimate interests of those who lawfully established these non-conformities are recognized in Article 21 by permitting such uses to continue subject to regulations for and limitations upon their restoration, reconstruction or extensions.

Lykens Township, however, recognizes that non-conformities substantially or adversely affect the development, maintenance, use and taxable value of other properties in zoning districts which are subject to regulations of this Ordinance. In order to secure eventual compliance with the standards of this Ordinance, it is necessary to regulate non-conformities and to prevent their re-establishment once they have discontinued. It is the further intent of this Ordinance to ensure that non-conformities not be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the same zoning district.

#### **Section 2102. APPLICABILITY FOR EXISTING DEVELOPMENT**

To avoid undue hardship, nothing in this Ordinance shall affect the plans, construction or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date or amendment of this Ordinance. Actual building construction represents the placing and fastening of construction materials in a permanent manner.

In the case where a demolition or removal of an existing building or structure has been substantially begun in preparation to rebuilding, such demolition or removal shall be deemed to be actual construction if a building permit has been obtained, provided that the work shall be diligently carried on until completion of the building or structure is accomplished and any applicable certificate of occupancy is issued.

#### **Section 2103. CONTINUATION**

- A. The Zoning Officer is responsible for the proper registration of premises occupied by a lawful nonconforming use, building and/or structure, and building lot existing after the effective date of this ordinance. The Zoning Officer is responsible for the issuance of a Certificate of Nonconformance; which shall be for the purpose of insuring to the owner the right to continue such nonconformity in accordance with the provisions of Article.

- B. It is the property owners' responsibility to assist the Zoning Officer in the identification and registration of nonconforming lots, uses, buildings, and structures they are accountable for. A Certificate of Nonconformance shall be required when a nonconforming use, structure or building is proposed or changed to another nonconforming use, expanded or repaired prior to the issuance of building or zoning permits.

**Section 2104. NONCONFORMING LOTS OF RECORD**

- A. In any zoning district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record in existence at the effective date of this ordinance. Such lot shall be in separate ownership and have non-contiguous frontage or be not abutting other lots in the same ownership. This provision shall apply, even though such lot fails to meet the requirements for lot area and/or lot width which are applicable in the district, provided that the yard dimensions and other district requirements shall conform to the district in which such lot is located. Any variance of yard requirements shall be obtained through proper application and authorization by the Zoning Hearing Board.

**Section 2105. NONCONFORMING BUILDINGS AND USES**

- A. Where, at the effective date of adoption of this Ordinance, a lawful use of land, building or structures exists that is no longer permissible under the terms of this Ordinance, such use may be continued so long as it remains otherwise lawful, subject to the following provisions.

- 1. Restoration/Reconstruction

- A nonconforming building, structure, or use which is damaged by fire, explosion, windstorm or other natural or criminal acts, may be reconstructed and used for the same purposes, provided that:

- a. The reconstruction and/or restoration is commenced within one (1) year from the date of occurrence of the damage and is carried to completion without undue delay. The one (1) year time may be extended if the delay is caused by insurance regulations or investigations not caused by negligence or default by the applicant.

- b. The reconstructed building or occupied area does not exceed the height, area, and volume of the original structure and occupied use.
- c. The remains of any such buildings, structures, or other improvements so destroyed shall be removed from the premises within six (6) months so that the same shall not remain as a nuisance or safety hazard.

2. Alterations

Repairs and structural alterations may be made to a nonconforming building or structure and a building occupied by a nonconforming use; providing such alterations and repairs are in conformance with the regulations set forth in this Ordinance and other applicable codes and ordinances adopted by the Township.

3. Repairs and Maintenance

On any building or structure devoted in whole or in part to a nonconforming use, work may be done as ordinary repairs, or on repair or replacement on non bearing walls, fixtures, wiring or plumbing or other infrastructure.

4. Moving

No such nonconforming use of land, building or structure shall be moved in whole or in part to any other position on the property occupied by such use at the effective date of adoption or amendment of this Ordinance.

- B. Nothing in Section 2105.A shall be deemed to prevent the strengthening or restoring to a safe condition any structure or part thereof declared to be unsafe by an owner, a building inspector, or by order of such inspector.

**Section 2106. CHANGES IN NONCONFORMING USES**

- A. A lawful nonconforming use may be changed to another nonconforming use of the same or more restricted classification. Whenever a nonconforming use has been changed to a more restricted classification or to a conforming use, such use shall not hereafter be changed to a use of less restricted classification.

**Section 2107. DISCONTINUANCE OR ABANDONMENT**

- A. A nonconforming use of land or building which has been abandoned or ceases operations shall conform to this Ordinance and not thereafter be returned to such nonconforming use, except when the abandonment or discontinuance is due to a death and administration of the decedent's estate, in which event the discontinuance shall not be presumed to start until estate administration is terminated or a court order concerning the disposition of the estate has been entered.

For the purpose of administration of the Zoning Ordinance, a nonconforming use shall be considered abandoned or discontinued when:

1. The building or use has been abandoned or discontinued for a period of eighteen (18) months; or
2. The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within eighteen (18) months.

**Section 2108. REPLACEMENT OF NONCONFORMING BUILDINGS AND USES**

- A. Any land, building, or structure which is superseded by a permitted use, building or structure shall thereafter conform to the regulations for the zoning district in which such use, structure or building is located and the nonconforming use may not thereafter resume.

**Section 2109. EXTENSIONS, ENLARGEMENTS, EXPANSIONS**

- A. The types of extensions, enlargements or expansions listed below are permitted for nonconforming uses and buildings existing on the effective date of this Ordinance:
  1. The extension of a nonconforming use of land upon a lot occupied by such use.
  2. The extension, enlargement or expansion of a conforming building occupied by a nonconforming use.
  3. The extension, enlargement or expansion of a nonconforming building occupied by a nonconforming use.
  4. The extension, enlargement or expansion of a nonconforming building occupied by a conforming use.
- B. Requirements for Extensions, Enlargements or Expansions

The foregoing extensions, enlargements or expansions of such nonconforming buildings, structures, or uses shall be subject to the following requirements:

1. The extension, enlargement or expansion shall conform to the height, area, yard, and coverage regulations of the district in which it is located.
2. Where a structure is nonconforming as to a required front, side or rear yard setback, the established nonconforming setback shall not be continued with any proposed extension, enlargement or expansion. Any extension, enlargement or expansion of a nonconforming building shall meet the requirements of the zoning district in which it is located.
3. Any extension, enlargement or expansion shall not exceed twenty-five (25%) percent of the existing floor area or area occupied by the nonconforming use;
4. The entire building or use shall be provided with off-street parking and loading spaces as required by Article 17, Parking Requirements, herein;
5. The extension, enlargement or expansion of a nonconforming use does not replace a conforming use;
6. Where vacant parcels have been recorded separately or acquired following the effective date of this Ordinance, any extension, enlargement or expansion of a non-conforming building, structure, or nonconforming use shall not be permitted to extend into the adjacent vacant parcel of land existing and occupied on the effective date of this Ordinance.

#### **Section 2110. NONCONFORMING SIGNS**

- A. Signs in existence at the effective date of this Ordinance or amendments thereto, may be continued subject to the regulations contained in Article 18, Sign Requirements, herein.

#### **Section 2111. ZONING DISTRICT CHANGES**

- A. Whenever the boundaries or uses of a district shall be changed the foregoing provisions shall also apply to any non-conforming lots, uses, structures or buildings existing therein or created thereby.

#### **Section 2112. ACCESSORY STRUCTURE**

- A. No accessory structure or building which does not conform to the requirements of this Ordinance shall be erected in connection with such nonconforming use of

land, building or structure. Any existing accessory structure shall be permitted to expand in accordance with the requirements of Section 2109 of this Ordinance.

**Section 2113. UNSAFE STRUCTURE**

- A. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a structure or building declared unsafe by proper authority.