

ARTICLE XV

NON-CONFORMING USES, NON-COMPLYING BUILDINGS AND NON-CONFORMING LOTS

SECTION 15.01 - NON-CONFORMING USES

- A. A non-conforming use is any use, whether of a building or lot or both, existing on the effective date of This Ordinance which does not conform to the use regulations of the District in which it is located.
- B. The following provisions shall apply to all buildings and uses existing on the effective date of This Ordinance which do not conform to the requirements set forth in This Ordinance and to all buildings and uses that become non-conforming by reason of any subsequent amendment to This Ordinance.
- C. Any non-conforming use of buildings or open land, except those specified in Section 10.6 below, may be continued indefinitely, provided that any such use:
 - 1. Shall not be enlarged, altered, extended, reconstructed, restored, or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of This Ordinance, without a Special Exception from the Zoning Hearing Board.
 - a. Any modification shall take place only on the lot or contiguous lots held in the same ownership as that existing at the time the uses became non-conforming.
 - b. Any modification shall conform with the area, building height, parking, sign and other requirements of the district in which said modification is located.
 - c. The proposed alteration shall not exceed 25 percent of the gross floor area occupied by the nonconforming use at the time of the enactment of this Ordinance.
 - d. The proposed alteration will not cause an increased detrimental effect on the surrounding neighborhood.
 - 2. Shall not be moved to another location where such use would be non-conforming.
 - 3. Shall not be changed to another non-conforming use without approval by the Zoning Hearing Board and then only to a use which, in the opinion of the Zoning Hearing Board is of the same or of a more restricted nature.

4. Shall not be re-established if such use has been abandoned for any reason. Nonconforming uses or structures which have been discontinued or vacated for one year shall be considered abandoned. Vacation of land or structures or the nonoperative status of the use normally carried on shall be evidence of discontinuance. No abandoned use or structure may be re-established, repaired, or reoccupied. The Board of Supervisors may require the removal of any abandoned nonconforming use or structure upon proper notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed nine (9) months, the Board of Supervisors shall have the authority to itself cause the removal to be accomplished, the costs of such removal to be paid by the property owner.
5. Shall not be restored for other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage; if the restoration of such building is not completed within the said one year period, the non-conforming use of such building shall not be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged portion of such building.

A non-conforming use or structure may be replaced, repaired, or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than fifty percent of its fair market value at the time of its damage or destruction. In such a case, however, the non-conformity of the new use or structure with respect to requirements as expressed in provisions of This Ordinance shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this Section.

A non-conforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of fifty percent or more of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed, improved, or rebuilt in any way other than in complete conformity and full compliance with all provisions of This Ordinance, and all other ordinances of Middlesex Township. The Zoning Hearing Board may waive, as a special exception, the requirements of this paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to the appellant in the efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary, and the least modification possible of the provisions of this Section, while respecting and maintaining the purposes and intents of This Ordinance.

The Zoning Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Zoning Officer may be made to the Zoning Hearing Board.

6. Notwithstanding any of the above regulations, nothing in this Article shall be deemed to prevent normal maintenance and repair or any use of building, or the carrying out upon the issuance of a building permit of major structural alterations or demolitions necessary in the interest of public safety.

SECTION 15.02 - CONSTRUCTION APPROVED PRIOR TO ORDINANCE. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has heretofore been issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of issue of said permit and ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit and which entire building shall be completed according to such plans as filed within one (1) year from the date of this Ordinance.

SECTION 15.03 - REGISTRATION OF NON-CONFORMING USES. All lawful uses existing at the effective date of This Ordinance which do not conform to the requirements set forth in This Ordinance or any amendments thereto, shall be identified and recorded by the Township Zoning Officer within 90 days of the effective date of This Ordinance, or pertinent amendments thereto.

SECTION 15.04 - NON-COMPLYING BUILDINGS.

- A. A non-complying building is any building which does contain a use permitted in the District in which it is located, but does not conform to the District regulations for: lot area, width or depth; front, side or rear yards; maximum height; lot coverage; or minimum livable floor area per dwelling unit.
- B. Nothing in this Article shall be deemed to prevent normal maintenance and repair, structural alteration in, moving, reconstruction, or enlargement of a non-complying building provided that such action does not increase the degree of or create any new non-conformity with regards to the regulations pertaining to such buildings.

- C. If any non-conforming building shall be destroyed by reason of windstorm, fire, explosion or other Act of God or the public enemy to an extent of more than 75 percent of the building, then such destruction shall be deemed complete destruction and the structure may not be rebuilt, restored or repaired except in conformity with the regulations of this Ordinance. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Building Inspector.

SECTION 15.05 - NON-CONFORMING LOTS OF RECORD

- A. In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of This Ordinance irrespective of its area or width or depth, provided that the necessary approvals have been obtained for water supply, sewage disposal and driveway connection to a public road. When the lot does not meet the minimum lot area, depth or width for the district in which it is located, the following modifications may be applied:
1. The sum of the side yard widths of any such lot or plot need not exceed thirty percent of the width of the lot, but in no case shall any one side yard be less than ten percent of the width of the lot.
 2. The depth of the rear yard of any such lot need not exceed twenty percent of the depth of the lot, but in no case shall it be less than ten feet.

SECTION 15.06 - SPECIAL REQUIREMENTS IN FLOODPLAIN CONSERVATION DISTRICTS. All existing uses or structures which are deemed to be non-conforming under the provisions of This Ordinance and which are located in the (FP) Floodplain Conservation District shall in addition to the provisions herein, also comply with the requirements of Section 13.06 of This Ordinance.

- A. A non-conforming use or structure may not be expanded or modified in any manner which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of This Ordinance. No non-conforming use or structure shall be expanded, enlarged, or altered in any way which increases its non-conformity with respect to height, area, yard, and other requirements established in other Sections of This Ordinance, nor in any way which causes it to occupy more space within the (FP) Floodplain Conservation District than was occupied by it on the effective date of This Ordinance.
- B. Structures and buildings existing in any identified floodplain area prior the effective date of This Ordinance which are not in compliance with the provisions of This Ordinance, may continue to remain subject to the following:

1. Existing structures and buildings located in the floodway shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
2. Any modifications, alteration, reconstruction or improvement of any kind to such existing structure or building, to an extent or amount of fifty percent (50%) or more of its market value, shall be undertaken only in full compliance with the provisions of This Ordinance.

C. Special Requirements for Mobile Homes in Floodplain Areas

1. All mobilehomes, existing at the effective date of This Ordinance, and any additions thereto, shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards Institute as specified in the Standard for the Installation of Mobile Homes Including Mobile Home Park Requirements (NFPA No. 501A-1974) (ANSI A119.3-1975), as amended, for Mobile Homes in Hurricane Zones or other Appropriate Standards such as the following:
 - (a) Over-the-top ties shall be provided at each of the four (4) corners of the mobilehome, with two (2) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and one (1) additional tie per side for units less than fifty (50) feet in length.
 - (b) Frame ties shall be provided at each corner of the mobilehome, with five (5) additional ties per side at intermediate locations for units fifty (50) feet or more in length, and four (4) additional ties per side for units less than fifty (50) feet in length.
 - (c) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
2. Replacement of or additions to existing mobilehomes will be permitted provided the mobilehome and any addition shall be placed on a permanent foundation and elevated in accordance with the following requirements:
 - (a) The stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobilehome will be at or above Regulatory Flood Elevation.
 - (b) Adequate surface drainage is provided.
 - (c) Adequate access for a hauler is provided.

- (d) Where pilings are used for elevations, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten (10) feet apart; reinforcement shall be provided for pilings that will extend for six (6) feet or more above the ground level.
- 3. No mobilehome park shall be expanded into an identified floodplain area except that recreation areas may be added within the "general floodplain" area. However, no buildings or structures shall be added to such areas.
- 4. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Board of Supervisors for mobilehome parks and mobilehome subdivisions where appropriate.
- 5. Any mobilehome located in a "floodway" area which is damaged by flood or other cause may not be replaced in any "floodway" area.