

**CHAPTER 590
Nonconforming Uses, Buildings, Lots and Structures**

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Sec. 590.1 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 land use 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.

Sec. 590.2 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. Nonconforming Building and Land. A building or structure occupied by a nonconforming use shall be permitted to be altered, improved, enlarged, extended or constructed one time only, provided such modification complies with the regulations of this Chapter. Any such alteration or enlargement shall

not exceed 30 percent of the square footage of the floor area of the building or structure as it existed at the effective date of this Resolution, unless the building or structure conforms to the use regulations of the district in which it is located.

If any nonconforming site condition(s) exists when a revised development plan is required pursuant to Section 720.2, then such site condition(s) must be brought into compliance with district regulations, unless the Zoning Commission determines that such conformance cannot be reasonably achieved because of existing site conditions. In such case, the Zoning Commission shall approve a development plan that reduces the existing nonconforming site condition(s) to the maximum extent practicable.

- C. Change in Principal Use of Building. The principal use of a nonconforming building may be changed to any permitted use in the district in which it is located so long as the new use complies with all corresponding regulations of this Zoning Resolution with the exception on that regulations to which the building did not conform prior to the change in use may remain nonconforming.

- D. Restoration of Damaged Building or Structure. If a nonconforming building or structure is damaged or destroyed by any cause, those portions so destroyed or damaged may be restored to the original footprint and floor area of the building or structure provided the cumulative restoration costs do not exceed 50 percent of the replacement cost of the building or structure at the time of such damage. Such restoration shall be completed within a period of two years from the date of damage or destruction. Any restoration that exceeds the original footprint and/or floor area shall comply with Subsection 590.2B.

Sec. 590.3 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, Enlargement or Reconstruction of a Building Occupied by a Nonconforming Use. A building or structure occupied by a nonconforming use shall be permitted to be altered, improved, enlarged, extended or reconstructed one time only, provided such modification complies with the regulations of this Chapter. Any such alteration or enlargement shall not exceed 30 percent of the square footage of the floor area of the building or structure as it existed at the effective date of this Resolution, unless the building or structure conforms to the use regulations of the district in which it is located.

- B. Displacement of Conforming Use. No nonconforming use shall be extended to displace a conforming use.
- C. 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 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.
- D. Discontinuance of Use. Voluntary 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. Thereafter any use of the premises shall conform to all regulations of the district in which the building or lot is located.
- E. 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 percent 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.

Sec. 590.4 NONCONFORMING PARKING FACILITIES.

A building or use existing lawfully at the time of this Zoning Resolution, or an amendment thereto, became or becomes effective, but which does not comply with the 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 in compliance with Section 590.2B.

Sec. 590.5 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 cannot be moved or altered in any way except as regards to content unless the sign is made to conform with the regulations of the district in which it is located.

Sec. 590.6 NONCONFORMING LOTS.

A legal 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 in compliance with all regulations, including lot area.

- B. Single Nonconforming Lots of Record. If a nonconforming 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 any lot within an unrecorded allotment, of which at least one-half (1/2) of said lots are of record 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 determine whether to 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 if such acreage is available.. This provision shall not apply to any previously approved residential development provided the approved general development plan and final development plan remain valid.

Sec. 590.7 NONCONFORMING USE DUE TO RECLASSIFICATION.

The provisions of this chapter shall also apply to any building, structure, land or other use hereafter becoming nonconforming as a result of amendments made to this Zoning Resolution or Zoning Map.

Sec. 590.8 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 nonconforming use shall be made, resumed or reinstated.

Sec. 590.9 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 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 730.

Sec. 590.10 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 Zoning Inspector 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.

Sec. 590.11 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 for a continuous period in excess of 30 days, and that the entire building is completed within two (2) years after the issuance of said zoning certificate.