

ARTICLE XIII
NONCONFORMANCE

Section 13.1 Purpose

The Zoning Districts established by this ordinance are designed to guide future use of land in the Borough by encouraging the development of desirable residential, commercial and industrial areas, with appropriate groupings of compatible and related uses, to the end of promoting and protecting the public health, safety, comfort, prosperity and other aspects of the general welfare.

- 13.1.1 Lawful existing uses which would be prohibited or restricted under the terms of this ordinance, or future amendments, and which do not conform to the character and regulations of the zoning district in which they are located, are subject to certain limitations. The regulations set forth herein are intended to provide a gradual remedy for the inconsistent conditions resulting from indiscriminate mixing of uses, and to afford a means whereby non-conforming uses can be gradually eliminated and re-established in more suitable locations within the Borough.
- 13.1.2 Buildings or other structures which do not comply with one or more of the applicable district requirements as to lot width, minimum lot area and yard spaces, width of lot, coverage, or height, and signs which do not comply with requirements as to size, area, height, location, or lighting, are deemed to be non-conforming.
- 13.1.3 Non-conforming uses and structures will be permitted to remain; the purpose of regulating them is to restrict any further investment in uses or structures which are inappropriate to their locations.
- 13.1.4 To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in plans, construction, or intended use of any building for which a building permit was applied, prior to the effective date, or amendment, of this ordinance.

Section 13.2 Lots of Record Not Meeting Lot Area Requirements

Nothing in the zoning district regulations shall be held to prohibit the erection of a principal building or other accessory structures located on the same lot as a principal building in a zoning district, upon a lot or record whose size is inadequate to meet the lot area regulations set for the district, provided that it has the right of direct access to a public street, and its use complies with all other zoning regulations and lot area, yard and height regulations.

Section 13.3 Restoration

A non-conforming building which has been damaged or destroyed by fire, or other cause, or a non-conforming building which has been legally condemned, may be reconstructed and used for the same non-conforming use, PROVIDED that:

- 13.3.1 The reconstructed building shall not exceed in height, area, and volume, the building destroyed or condemned;

13.3.2 Building reconstruction shall be commenced within one (1) year from the date the building was destroyed or condemned, and shall be carried on without interruption.

Section 13.4 Discontinuance of Use

If an owner of a building or land which is occupied by a non-conforming use desires to discontinue such use for an extended period of time but intends to resume such use at a later date, he shall apply to the Borough Council in writing for a Certificate of Continuance, stating the reasons for and duration of the discontinuance and the date upon which such use will be resumed. Certificates shall be granted for periods of six (6) months or more and if no certificate has been granted, subsequent use of such building or land shall be in conformity with the provisions of this ordinance, unless the Borough Council shall authorize as a conditional use the resumption of the discontinued use. If a certificate and renewal are granted and non-conforming use is not resumed, the subsequent use shall be in conformity.

Section 13.5 Abandonment

Any non-conforming structure which remains in a state of abandonment for a period of two (2) years must be removed by the property owner at his own expense. Upon due notice, if the owner fails to do so within an additional six (6) months, the Borough shall order the work done and take legal action to secure payment for the demolition from the property owner.

Section 13.6 Continuation of Non-Conforming Use

Any non-conforming use, which for a period of not less than three (3) years prior to the adoption of this ordinance has been carried on continuously, openly, and known to the general public in a manner which did not comply with the then applicable provisions of the Zoning Ordinance, as amended, may be continued.

