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## Article 5

### Nonconformities

#### Section 501 Non-Conforming Uses

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.

#### Section 502 Continuation

Any non-conforming use of buildings or open land except those specified in Section 507 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. Any enlargement, alteration, extension, reconstruction, or restoration shall comply with the following:
  - a. It 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 applying to the district in which said modification is located;
  - c. The total of all such expansions or alterations of use shall not exceed an additional thirty-five percent (35%) of the area of those buildings or structures or land devoted to the nonconforming use as they existed on the date on which the use of such buildings, structures or land first became nonconformities. The applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created;
  - d. Appearance shall be harmonious with surrounding properties; this feature includes but is not limited to landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces;

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- e. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces;
  - f. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities;
  - g. No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in the Floodplain Overlay District; and
  - h. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in the Floodplain Overlay District shall be permitted when either elevated above the base flood elevation. In no case, shall any modification, alteration, repair, reconstruction or improvement cause increases in flood height, velocities or frequencies.
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 for a continuous period of one (1) year or more, or has been changed to, or replaced by, a conforming use. For the purposes of This Ordinance, abandonment shall commence when reasonable efforts to re-establish (such as lease, rental, sale, etc.) a non-conforming use have ceased. The 18-month period may be extended by Special Exception from the Zoning Hearing Board.
  5. Shall not be restored for other than 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.
  6. The Board of Supervisors may require the removal of any abandoned non-conforming use or structure upon proper notice to the owner of the property on which an abandoned non-conforming 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 three 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.

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### **Section 503 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.

### **Section 504 Non-Complying Buildings**

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. 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.

### **Section 505 Non-Conforming Lots Of Record**

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, providing 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 506 Previously Expanded Nonconforming Uses And Structures**

It is the express intent and purpose of this Ordinance that if a building, structure, sign or land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said building, structure, sign, or land shall be authorized. In the event a nonconforming building, structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion if permitted by This Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

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## Section 507 Special Requirements In Floodplain Overlay District

All uses or buildings which are deemed to be non-conforming under the provisions of This Ordinance and which are located in the Floodplain Overlay District may be continued, maintained, repaired and floodproofed, except as provided hereinafter:

- 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 Floodplain than was occupied by it on the effective date of This Ordinance.
- B. **Replacement and Rebuilding**
1. 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.
  2. 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 Carroll 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 purpose and intents of This Ordinance.
  3. 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 that may be necessary to arrive at a

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fair and impartial determination. Appeals of the decision of the Zoning Officer shall be made to the Zoning Hearing Board.

- C. 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 any floodplain area 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 modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.