

DELANCO TOWNSHIP

ORDINANCE 2011-14

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF DELANCO, SPECIFICALLY
CHAPTER 110 ENTITLED "ZONING" SECTION 110-9 PERTAINING TO NONCONFORMING USES
OR STRUCTURES**

WHEREAS, the Planning Board adopted a comprehensive revision to the Master Plan in February 2009;

WHEREAS the Township Committee of the Township of Delanco ("Township") seeks to implement certain recommendations in that Master Plan related to amending the Subdivision, Site Plan and Zoning Chapters of the Land Development Regulations to improve the appearance of the Township and for the betterment of the community;

NOW, WHEREFORE, IT IS HEREBY ORDAINED by the Township Committee of the Township of Delanco as follows:

SECTION I.

Add the word "abandonment" in alphabetical order in §110-6 entitled Definitions.

ABANDONMENT – The relinquishment of property, or a cessation of the use of the property, by the owner or lessee, without any intention of transferring those use rights belonging to the property to another owner or lessee or with any intention of resuming the use of the property.

SECTION II.

Section 110-9, entitled Nonconforming uses, buildings and structures, paragraph D is hereby deleted in its entirety and replaced with the following language:

- D. A non-conforming use of a building or land, which has been abandoned, shall not thereafter be revived. A rebuttable presumption of intention to abandon a non-conforming use shall arise whenever any of the following circumstances are found to exist:
- (1) The owner has made representations in any public forum that the (non-conforming) use of the property has been abandoned; or
 - (2) The intent to abandon is manifested by the conduct and/or statements of the owner AND is evidenced by an external act or omissions to act, which is consistent with such intent and contrary to any interest in preserving or continuing the non-conformance; or
 - (3) The property is vacant and is not the subject of any current development approvals and has been vacant and substantially unused and inactive for a period of twelve (12) months or more; AND the cessation of operation or occupancy of any non-conforming use shall be deemed to begin with the date of lapse of a municipal business license issued per Chapter 205 or a comparable event; or

- (4) The characteristic equipment and furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within ninety (90) days, unless other facts show intention to resume the non-conforming use; or
- (5) Such non-conforming use has been replaced by a conforming use.

SECTION III.

A new Paragraph G shall be added to Section 110-9, entitled Nonconforming uses, buildings and structures, as follows:

- G. Expansion of Nonconforming Buildings. Residential structures on lots shown on the Township of Delanco Tax Map on the adoption date of this ordinance which have become non-conforming by virtue of the adoption of more stringent area, setback, yard or height limitations, may be enlarged, expanded or modified without the need for variance relief under the following circumstances:
 - (1) The lot owner owns no adjacent lots which can be used to expand the lot area, in the case where insufficient lot area has been provided.
 - (2) Residences are a permitted principal use in the zone.
 - (3) The modification, expansion or addition does not increase the non-conformity of the structure.
- H. Certificate of nonconformity. The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the administrative officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the board of adjustment. (see N.J.S.A. 40:55D-68)

SECTION IV.

At §50-10 add the letter "O" and the following:

- O. To hear and issue a certificate of nonconformity in cases where a prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a nonconforming use or structure exists applies in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof.

SECTION V.

At §50-25 add the letter "G" and the following:

- G. Applicants applying for a certificate of nonconformity shall complete and submit a Land Development Application outlining the request to the Board Secretary, and shall provide documentation to support the request. It shall be the applicant's burden to provide documentation that is sufficient to prove the applicant's case, and it should include a current survey of the property.

NOTICE

The above entitled ordinance was passed on first reading at a meeting of the Township Committee of the Township of Delanco on March 21, 2011. It will be further considered for final passage after a public hearing at the regularly scheduled meeting to be held on April 18, 2011 at the Municipal Building, 770 Coopertown Road, Delanco, New Jersey at 7:30PM at which time and place any persons desiring to be heard upon the same will be given the opportunity to be heard. Copies of this ordinance will be made available at the Municipal Clerk's office to members of the general public who shall request them.

Janice M. Lohr, RMC
Municipal Clerk