

Ordinance 2023-08 Frequently Asked Questions (FAQs)

What is the proposed ordinance change?

Ordinance 2023-08 removes warehousing, shipping, and receiving from the definition of an industrial or office park and removes warehousing, shipping, and receiving as a principal permitted use in the I-1, I-2, & I-3 Light Industrial Districts, GI General Industrial District, and LI Light Industrial District. To see the location of the zones throughout the Township, please see the [Hillsborough Township Zoning Map](#).

Is warehousing still permitted as an accessory use?

Generally speaking, principal permitted uses that are proposed in the I-1, I-2, & I-3 Light Industrial Districts, GI General Industrial District, and Light Industrial District LI District will be permitted to have warehousing as an accessory use if it is customarily associated with the permitted use.

Why doesn't this ordinance include TECD, the Transitional Economic Development District?

The Township Committee already adopted [Ordinance 2023-04](#), which removes warehousing, shipping, and receiving located completely within an enclosed building as a principal permitted use; and removes the parking standards associated with warehousing in the TECD Transitional Economic District.

What effect will adoption of Ordinance 2023-08 have on existing warehousing, shipping and receiving facilities located within these Districts?

The adoption of [Ordinance 2023-08](#) will render existing warehousing, shipping and receiving facilities as pre-existing nonconforming uses within these Districts. The Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-10.5 defines a nonconforming use as a use or activity which was lawful prior to the adoption, revision, or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Is a nonconforming use allowed to continue after the proposed ordinance becomes law?

Yes, a nonconforming use can continue, including through tenant changes subject to the requirements of the MLUL, but ceases upon destruction or abandonment. A nonconforming use cannot be expanded without the granting of a 'd' use variance from the Board of Adjustment.

Can I rebuild my nonconforming use if it is destroyed?

[Section 188-66B](#) of the Hillsborough Development Regulations Ordinance states:

Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof. A pre-existing nonconforming use may be repaired or maintained, so long as the repair or maintenance does not result in total destruction. The total destruction of a nonconforming use or structure whether by design or accident

terminates the use. The test of whether a nonconforming use or structure may be restored or repaired is whether there has been some quantity of destruction that surpasses mere partial destruction. At a minimum, the foundation and at least two walls must remain and not require repair or replacement or the destruction shall be deemed total. However, the mere fact that the foundation and at least two walls remain and do not require repair or replacement shall not be conclusive or determinative as to whether the destruction is only partial. The Construction Official in consultation with the Zoning Officer shall determine whether the destruction is partial.

What is considered abandonment of nonconforming use or structure?

[Section 188-66A](#) of the Hillsborough Development Regulations Ordinance states:

A nonconforming use shall be considered abandoned if it is terminated by the owner, or if a nonconforming use involving a structure is discontinued for 12 consecutive months, or if a nonconforming use of land ceases for a period of six months. The subsequent use of the abandoned building, structure, and/or land shall be in conformity with this chapter.

What happens if I replace my nonconforming use with a principal permitted use?

This would constitute an act of abandonment of a nonconforming use and could not be changed back once it is terminated without a 'd' use variance from the Board of Adjustment.

What is a Certificate of Nonconformity?

The Municipal Land Use Law (MLUL) pursuant to N.J.S.A. 40:55D-68 states the following:

Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof.

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. The administrative officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R.S. 54:5-14 and R.S. 54:5-15. The fees collected by the official shall be paid by him to the municipality. Denial by the administrative officer shall be appealable to the board of adjustment. Sections 59 through 62 of P.L. 1979, c. 291 (C. 40:55D-72 to C. 40:55D-75) shall apply to applications or appeals to the board of adjustment.

How do I apply for a Certificate of Nonconformity?

Please contact the Planning & Zoning Department for the application and the associated fee.