

## **Article 4 – Non-Conforming Uses**

### **4.1 Purpose**

Non-conforming uses are incompatible with permitted uses in the zoning districts in which they are located. Accordingly, non-conforming uses of land, structures and buildings, either singly or in combination, shall not be extended or enlarged after the effective date of this Ordinance, except in compliance with the provisions of this Article.

### **4.2 Non-Conforming Buildings and Structures**

Existing buildings and structures that could not be built under the provisions of this Ordinance due to their noncompliance with floor area, height, setback, or other regulations may be added to, extended, reconstructed, or altered subject to the following provisions:

- a. A non-conforming structure may be enlarged or altered so long as the alteration does not increase its non-conformity.
- b. Should any such non-conforming structure or non-conforming portion of such structure be destroyed by any means, it may be reconstructed to a character similar to the original structure, so long as there is no increase in non-conformity.
- c. Should any such structure be moved for any reason, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

### **4.3 Non-Conforming Uses of Land**

Where at the time of passage of this Ordinance the lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except for single family dwellings as provided in Section 4.3.b.
- b. A single family dwelling that is non-conforming as described in Section 4.3.a may be expanded, increased, or enlarged to an area not to exceed fifty (50) percent of its land area at the effective date of this Ordinance.
- c. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel other than that occupied by the use at the effective date of this Ordinance or its subsequent amendment.
- d. If any such non-conforming use of land ceases for any reason for a period of twelve (12) consecutive months or more, or if it is discontinued for a period of eighteen (18) months or more in any three (3) year period, the land shall be made to conform to the regulations specified by this Ordinance for the district in which the land is located.

- e. No additional structure which does not conform to the requirements of this Ordinance shall be erected in connection with a non-conforming use of land.

#### **4.4 Non-Conforming Uses of Structures**

The non-conforming use of a building or structure, and the land on which it is located, which would not be permitted by the regulations imposed by this Ordinance may be continued as long as it remains otherwise lawful, subject to the following provisions:

- a. A lawful non-conforming use of a structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to change the use of the structure to a use permitted in the district in which it is located.
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this Ordinance, but no such non-conforming use shall be extended to occupy any land outside such a building.
- c. If no structural alterations are made, any non-conforming use of a structure, or structures, and land may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the zoning district than the existing non-conforming use.
- d. Whenever a non-conforming use is changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
- e. Any non-conforming single family residential structure may be expanded or increased in floor area up to fifty (50) percent of the size of the structure at the effective date of this Ordinance.
- f. When a non-conforming use of a structure, or a structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months or more, or if it is discontinued or abandoned for eighteen (18) months or more in any three (3) year period, the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.
- g. Where non-conforming use status applies to a structure and land in combination, the removal or destruction of the structure shall eliminate the non-conforming status of the land. For the purpose of this Ordinance, “destruction” is defined as damage to an extent greater than one hundred (100) percent of the State Equalized Value at the time of destruction.

#### **4.5 Repairs and Maintenance**

For any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not greater than fifty (50) percent of the current State Equalized Valuation of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the total space in cubic feet that existed within the structure when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful by reason of its physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part of a building declared to be unsafe by the Zoning Administrator or Building Official.

#### **4.6 Damage of Non-Conforming Use or Building**

Any non-conforming use or non-conforming building which has been destroyed or damaged by fire, explosion, act of God, or public enemy may be reconstructed to a character similar to the original structure without increasing any non-conformity or changing the original use, unless to a conforming use.

The restoration shall be commenced within six (6) months of the date of the destruction and shall be diligently carried on to completion.

#### **4.7 Change in Tenancy or Ownership**

There may be a change in tenancy, ownership, or management of an existing non-conforming use, provided that there is no change in the nature or character of the non-conforming use.

#### **4.8 Non-Conforming Lots of Record (Substandard Lots)**

Lots of record that existed before the effective date of this Ordinance that do not comply with the lot area, width, or other dimensional requirements established by the applicable zoning district regulations may be used, provided that:

- a. The minimum lot width shall be fifty (50) feet.
- b. The front yard setback requirements shall not be reduced.
- c. No side yard setback shall be less than three (3) feet.

#### **4.9 Elimination of Non-Conforming Uses**

The Township may acquire private property by purchase, condemnation, or other means for the removal of non-conforming uses. The cost of acquiring the private property may be paid from general funds or assessed to a special district, as provided in the Township Rural Zoning Act (Act 184 of 1943, as amended). The elimination of non-conforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The Township Board may institute proceedings for condemnation of non-conforming uses and structures under the power of eminent domain in accordance with the applicable Michigan statutes.