

ARTICLE 14
NON-CONFORMING USES AND NON-CONFORMING BUILDINGS

SECTION 14.01 NON-CONFORMING USES, GENERAL PROVISIONS

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

SECTION 14.02 NON-CONFORMING LOTS

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single plotted lot or parcel or lot of record at the effective date of adoption or amendment to this Ordinance. This provision shall apply even though such lot or parcel fails to meet the requirements for area or width, or both that are generally applicable in the respective district. Minimum yard or setback dimensions and other requirements not involving area or width, or both, of the parcel or lot shall conform to the regulations for the respective zoning district. In instances where vacant non-conforming lots or parcels of record are located adjacent or proximate to existing residential development, the Township Supervisor, or Supervisor's designated party, shall review and grant or deny approval of the placement of the dwelling and accessory buildings on the site to insure compatibility with the existing development. Variances of yard and setback requirements may also be requested from the Zoning Board of Appeals. (See Article 18, Zoning Board of Appeals).

Amended 9/6/2007, Effective 9/19/2007

SECTION 14.03 NON-CONFORMING USES OF LAND

When, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance, as enacted or amended, such 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.
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. If such non-conforming use of land ceases for any reason for a period of more than sixty (60) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

SECTION 14.04 NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance such structure may be continued so long as it remains otherwise lawful, subject to the following conditions:

- A. No such structure may be enlarged or altered in a way which increases its non-conformity.
- B. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 14.05 NON-CONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may continue so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of such 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 such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. In a C or MI district, if no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use of the

same or more restricted classification provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this section. Where a non-conforming use of a structure, land, or structure and land in combination, is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.

Amended 9/6/2007, Effective 9/19/2007

- D. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- E. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
- F. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

SECTION 14.06 REPAIRS AND MAINTENANCE.

On any building devoted in whole or in part to any 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 exceeding fifty percent (50%) of the market value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 14.07 USES SUBJECT TO SPECIAL USE PERMIT

Any existing use which would be permissible only by special use permit within the district in which it is located shall not be deemed a non-conforming use, even though all required conditions under this Ordinance may not be met, but shall, without further action, be deemed a conforming use in such district.

SECTION 14.08 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, structures and premises provided there is no change in the nature or character of such non-conforming uses.

Adopted 02/18/82