

## ARTICLE XVII

### NONCONFORMING USES

#### **Sec. 17.01 Purpose:**

It is the purpose of this Article to provide regulations governing lots, buildings, structures and the uses thereof, which were legal before this Ordinance was adopted or amended, including legal non-conforming lots, uses, buildings and structures, that would be prohibited, regulated or restricted under the provisions of this Ordinance. It is the intent of this Article to permit these buildings and structures, herein referred to as non-conformities, to remain until the non-conformity is discontinued or removed. These non-conformities are declared by this Ordinance to be incompatible with the uses and buildings and structures lawfully permitted by this Ordinance. The regulations contained in this Article are designed to ensure that such nonconformities will be properly regulated so as to result in a minimum of disharmony in the districts in which they are located.

#### **Sec. 17.02 Nonconforming Uses:**

- A. Where, on the date of adoption or amendment of this Ordinance, a lawful principal use of a parcel or lot exists but is no longer permissible under the provisions of this Ordinance, such principal use may be continued so long as it remains otherwise lawful, subject to the provisions of this Article.
- B. Nonconforming uses shall not be changed to another nonconforming use, except after approval of the Board of Appeals. Before granting such approval, the Board of Appeals shall determine that such change in use will be more conforming to the intent of the zone district in which it is located than the existing nonconforming use.
- C. Nonconforming uses shall not be expanded or increased in such a way as to increase the nonconforming nature of the use, such as, the addition of dwelling units, additional manufacturing or selling area, or by the addition of facilities which would allow the establishment of other nonconforming uses.
- D. Nonconforming uses shall not be reestablished if abandoned for a period of greater than ninety (90) consecutive days.

#### **Sec. 17.03 Nonconforming Buildings and Structures:**

- A. Nonconforming buildings and structures may be altered or expanded without the prior approval of the Board of Appeals, provided that such structure alteration or extension shall not increase the extent of the nonconformity and shall satisfy all other site development regulations which are applicable.
- B. Nonconforming elements of buildings and structures may be structurally altered so as to increase their nonconformity provided that the Board of Appeals shall give its approval for such alteration and then only if it is determined that:
  - (1) the proposed building or structure alteration or extension complies as nearly as it is practical with the requirements of this Ordinance, and;
  - (2) the granting of the approval for the construction of the proposed structure alteration or extension will not have a negative impact on neighboring property.
- C. Reestablishment of nonconforming Uses, Buildings or Structures:
  - (1) Nonconforming uses, buildings or structures shall not be reestablished in their nonconforming condition after damage or destruction of the nonconforming building or structure if the estimated expense of reconstruction exceeds fifty percent (50%) of the appraised replacement cost, exclusive of foundations. The estimated expense of reconstruction shall be determined by the Township Building Official. Persons aggrieved by the determination of estimated replacement

cost by the Building Official may appeal such determination to the Zoning Board of Appeals.

- (2) In cases where such cost does exceed fifty percent (50%), the nonconforming building or structure shall not be replaced unless the Board of Appeals shall find:
  - (a) that such rebuilding or restoration will not substantially extend the probable duration of such nonconforming use, or;
  - (b) that circumstances are such that the land previously occupied by such nonconforming use cannot then be reasonably used for a permitted use in that zone district.

**Sec. 17.04 Nonconforming Lots of Record:**

- A. Where the owner of a single, nonconforming lot of record in existence on the effective date of this Ordinance does not own sufficient land to enable him to conform to the requirements of this Ordinance relating to minimum lot area or width, or both, such lot of record may be used as a building site, provided that the other provisions and requirements of this Ordinance are complied with, except as provided in Sec. B below. Such lot shall also be subject to the provisions of Sec. 16.20 regarding multiple lots in single ownership.
- B. The minimum side yard setback requirements for nonconforming lots of record in the FM, RR, and UR zoning districts shall be 10% of the lot width, but in no case shall the side setback be less than five (5) feet. In all other zoning districts, minimum side yard setback requirements shall be complied with.
- C. Within the Farmland District, all lots of record at the time of the adoption of this Ordinance which are less than forty (40) acres in area shall be considered legal non-conforming lots.