

**15.2500      CHAPTER 25**  
**NON-CONFORMING USES, STRUCTURES, AND LOTS**

**15.2501      SECTION    25.01    NON-CONFORMING USES OF LAND**

Where, 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:

1.      No non-conforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, unless:
  - A.      Any enlargement or increase or extension is reasonable in size but in no event is greater than, and may be lesser than, twenty-five percent (25%) of the area of the original non-conforming use; and
  - B.      The enlargement or increase or extension is approved as a special land use pursuant to the procedures provided in Chapter 19 (Special Land Uses). (amend. by ord. no. 377 eff. June 21, 2003)
2.      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.
3.      No non-conforming use shall be re-established after it has been changed to a conforming use.
4.      No non-conforming use shall be re-established after abandoned or discontinued for a continuous period of six (6) consecutive months, or for a total of eighteen (18) months within any three (3) year period. A nonconforming use shall be determined to be abandoned or discontinued if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - A.      Utilities, such as water, gas and electricity to the property, have been disconnected;
  - B.      The property, buildings, and grounds, have fallen into disrepair;
  - C.      Signs or other indications of the existence of the nonconforming use have been removed;
  - D.      Removal of equipment or fixtures which are necessary for the

operation of the nonconforming use;

- E. Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
- 5. A building, structure, or premises used for a nonconforming use may be converted to a more conforming use which is less intensive or objectionable use, as determined by the Board of Appeals.
  - 6. This Section providing for the continuation, enlargement, increase or extension of non-conforming uses shall be applied in compliance with the policy of the State of Michigan that non-conforming uses should gradually be eliminated, and that non-conforming uses should be restricted to the same area of land and level of intensity as involved at the effective date of adoption or amendment of this Ordinance. (amend. by ord. no. 377 eff. June 21, 2003)

**15.2502 SECTION 25.02 NON-CONFORMING BUILDINGS AND STRUCTURES**

Where a lawful Building or Structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on Lot area, Building Height, Yards, parking, or other characteristics of the Building or the Structure or its location on the Lot, the Building or Structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

- 1. No such Building or Structure may be enlarged or altered in a way which increases its non-conformity. However, such Building or Structure may be enlarged or altered in a way which does not increase its non-conformity.
- 2. Should such Building or Structure be destroyed by any means to an extent of more than fifty percent (50%) of its current replacement cost, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
- 3. Should such Building or 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.
- 4. This Section providing for the continuation of certain non-conforming Buildings or Structures shall be applied in compliance with the policy of the State of Michigan that non-conforming Buildings or Structures should be gradually eliminated, specifically by not allowing them to exist longer than their natural life. However, the prohibition against allowing non-conforming Buildings from existing longer than their natural life, or

prohibiting non-conforming Buildings from being reconstructed, shall not apply if all of the following circumstances are satisfied.

- A. The Lot on which the non-conforming Building is located must be unable to meet the Lot area or Lot Width requirements of the zoning district on which the Lot is located.
- B. The non-conforming Building will not be expanded through its reconstruction, but rather simply reconstructed according to its current size in its current location, or reconstructed at a reduced size in its current location.
- C. The non-conforming Building, after its reconstruction, will not violate this Ordinance to any greater extent than it did before its reconstruction.
- D. There is no location on the Lot where the non-conforming Building could be reconstructed at the requested and allowed size in compliance with this Ordinance. (amend. by ord. no. 514 eff. November 4, 2012)

**15.2503 SECTION 25.03 NON-CONFORMING USES OF STRUCTURES AND LAND**

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, which is non-conforming in the district under the terms of this Ordinance, such lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1. No existing structure devoted to a non-conforming use in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use in the district in which it is located.
- 2. 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.
- 3. If no structural alterations are made, any non-conforming use of a structure, or a structure and land in combination, may be changed to another non-conforming use of a more restricted classification provided that the Township Board of Appeals shall find that the proposed use is more appropriate to the district than the existing non-conforming use. Where a non-conforming use of a structure, or structure and land in combination, is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

4. Where a non-conforming use of a structure, or structure and land in combination, is superseded by a conforming use, the non-conforming use may not thereafter be resumed.
5. If any structure devoted in whole or in part to any non-conforming use is, within any period of twelve (12) consecutive months, the subject of ordinary repairs or non-structural alterations at an aggregate cost in excess of fifty percent (50%) of its current replacement cost, such structure shall not thereafter be used except for conforming uses in the district in which located.
6. When a non-conforming use of structure, or structure and land in combination, is discontinued, abandoned, or ceases to exist for twelve (12) consecutive months, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. A non-conforming use of a structure, or structure and land in combination shall be determined to be abandoned or discontinued if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - A. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - B. The property, buildings, and grounds, have fallen into disrepair;
  - C. Signs or other indications of the existence of the nonconforming use have been removed;
  - D. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
  - E. Other actions, which in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
7. Where non-conforming use status applies to a structure and land in combination, removal, or destruction of structure shall eliminate the non-conforming status of the land.

**15.2504 SECTION 25.04 NON-CONFORMING LOTS**

1. 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 lot of record at the effective date of adoption or amendment of this Ordinance.
2. The provisions of this Section shall apply even though such lot fails to

meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and requirements other than required area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

3. Contiguous Nonconforming Lots in Common Ownership

A. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:

- 1) are in common ownership;
- 2) are adjacent each other or have continuous frontage, and;
- 3) individually do not meet the lot width or lot area requirements of this Ordinance.

B. Such parcels shall be combined into such lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this Ordinance. If two (2) adjacent nonconforming lots are in common ownership, the lots shall be combined to reduce the nonconformity.

**15.2505 SECTION 25.05 COMPLETION OF PENDING PROJECTS**

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.

**15.2506 SECTION 25.06 SPECIAL LAND USES NOT NON-CONFORMING USES**

Any use for which a special land use is permitted, or a variance is approved, as provided in this Ordinance, shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

**15.2507 SECTION 25.07 CHANGE OF TENANCY OR OWNERSHIP**

A change of tenancy, ownership, or management of any existing non-conforming uses of land, or structure, or of structures and land in combination, shall be permitted.

**15.2508 SECTION 25.08 SINGLE FAMILY DWELLING EXCEPTION**

Notwithstanding any other provisions of this Chapter, a single-family dwelling located in a district which does not permit the same may be altered, expanded or rebuilt.