

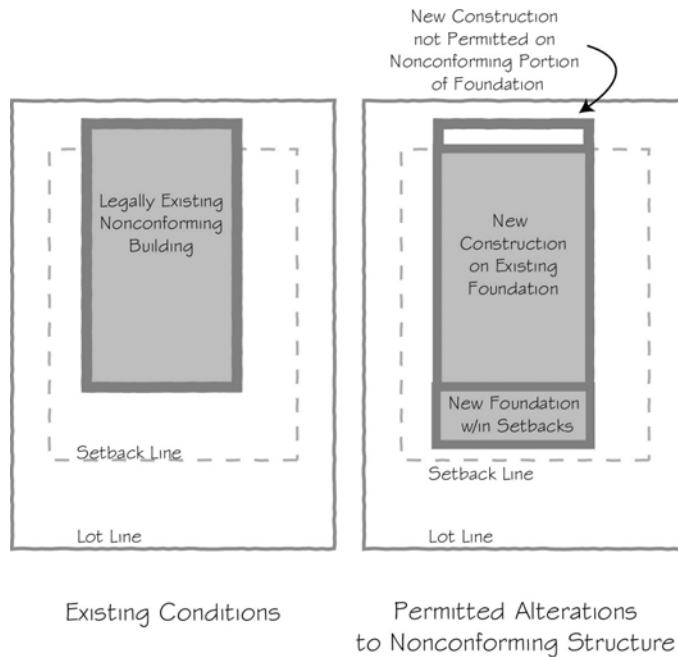
## **ARTICLE 17 NON-CONFORMITIES**

### **17.1 NONCONFORMING USES**

- A. No nonconforming use of land shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance.
- B. No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of this Ordinance.
- C. No additional structure shall be erected in connection with a nonconforming use of land.
- D. Any nonconforming use changed to a conforming use shall not thereafter revert to any nonconforming use.

### **17.2 NONCONFORMING STRUCTURES**

- A. A nonconforming structure containing a nonconforming use may be repaired as may be necessary in the interest of public safety or to secure the continued advantageous use of such building, but the right to make repairs shall not constitute a right to alter, enlarge or extend any nonconforming use.
- B. A nonconforming structure containing a conforming use may be repaired, altered or enlarged provided such changes do not further the manner in which it fails to conform. Therefore, any enlargement shall be wholly located within the setbacks for the Zoning District, shall not exceed the height limitations for the Zoning District, and shall in no way increase any nonconformity on the site.
- C. In altering a nonconforming structure, any nonconforming wall or building section removed from a nonconforming building must be reconstructed in full compliance with the provisions of this Ordinance.
- D. A nonconforming foundation and structure may be expanded only if the expansion is in conformity with the provisions of this Ordinance and where the expansion in no way increases any nonconformity on the site.



**17.3 NONCONFORMING LOTS OF RECORD**

In any Zoning District, a nonconforming lot of record may be developed, subject to the following conditions:

- a) The use is permitted in the Zoning District;
- b) All setbacks and other dimensional requirements are met;
- c) All outside agency requirements are met, including, but not limited to, the Health Department, the Mackinac County Road Commission, and the Michigan Department of Transportation;
- d) The lot is in separate ownership and not of continuous frontage with other lots in the same ownership;
- e) The nonconforming parcel was not created by division which did not comply with both:
  - 1. the Zoning Ordinance in effect at the time of such division, or
  - 2. this Ordinance.

**17.4 PRE-EXISTING SPECIAL LAND USES**

Uses that were permitted as special land uses under the previous Clark Township Zoning Ordinance and are permitted only as special land uses in this Ordinance shall be designated as "Pre-existing Special Land Uses" and shall not be considered nonconforming uses. Such uses shall not be subject to the provisions of this Article, but shall be subject to the provisions of Article 11.

### **17.5 TERMINATION OF NONCONFORMING USES**

If the nonconforming use is discontinued through vacancy or lack of operation or any other means for a continuous period of one (1) year, the right to resume such use shall terminate and no use shall be made of such building or land, except in conformity with this Ordinance. An extension of such one (1) year period may be granted by the Board of Appeals for a parcel:

- a) That is subject to probate or bankruptcy proceedings; or
- b) That is the subject of dispute with an insurer; or
- c) That is owned by a person inflicted with a temporary disability; or
- d) That is owned by a person who is the subject of a criminal investigation.

### **17.6 REPAIRS AND MAINTENANCE**

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming use, building, structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm, rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures, subject to the following conditions:

- a) The owner shall have a period of one (1) year in which to rebuild;
- b) Setbacks that formerly were nonconforming shall not change, or shall become more conforming;
- c) The structure must conform in all other ways to the requirements of the Zoning District;
- d) The repair or maintenance is not so extensive as to constitute a replacement of the building or structure. For the purposes of this section, the determination of whether proposed repair or maintenance constitutes replacement shall be made, in the first instance, by the Zoning Administrator. The determination of the Zoning Administrator shall be appealable to the Zoning Board of Appeals provided that no approval under this section shall permit the replacement of a building or structure.

### **17.7 REPLACEMENT**

Nothing in this Ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by from fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement does not increase the original usable floor area or volume of such building or structure. Alterations to nonconforming structures in accordance with Section 17.2 shall not be subject to the provisions of this section.

**17.8 COMPLETION OF PREVIOUSLY PERMITTED CONSTRUCTION**

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which has been fully permitted and commenced, has been diligently undertaken prior to the effective date of this Ordinance or any amendment thereto, and the construction of which is completed within twelve (12) months after such effective date.

**17.9 CHANGE OF TENANCY OR OWNERSHIP**

Nothing contained in this Ordinance shall be construed to prevent a change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

**17.10 NONCONFORMING USE SURVEY**

The Zoning Administrator shall survey the Township and file with the Planning Commission a written statement of the nature and extent of the nonconforming uses and Pre-existing Special Uses after the effective date of this Ordinance, or any amendments thereto, within three hundred sixty five (365) days thereafter. The determination of when a nonconforming use may be replaced, extended or substituted, or a nonconforming use parcel used, shall be determined in the first instance by the Zoning Administrator. Any determination concerning nonconforming use status may be appealed to the Board of Appeals.