

## **Article 15**

### **Nonconforming Land, Building, and Structural Uses**

#### **Section 15.01 - Purpose**

It is the intent of this Ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this Ordinance, although such use of land or structure may not conform with the provisions of this Ordinance. Further, it is the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same districts. The continuance of all nonconforming uses and structures within Hillsdale Township shall be subject to the conditions and requirements set forth in this section.

#### **Section 15.02 - Continuance of Nonconforming Uses**

- A. **Structural Changes:** The building that is nonconforming shall not be structurally changed, or enlarged unless the resultant changed, altered, or enlarged building conforms to the provisions of this Ordinance for the district in which it is located except as provided below.
- B. **Repairs:** Any lawful nonconforming building may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation, and wear, provided that such repair does not exceed an aggregate cost of 60 percent of the state equalized value of the building unless the subject building is changed by such repair to a conforming building or structure.
- C. **Alterations and Improvements:** Nothing in this Ordinance shall prohibit the alteration, improvement, or modernizing of a lawful nonconforming building, provided that such alteration does not increase the height, area, bulk, or use of the building and provided that such improvements do not exceed an aggregate cost of 60 percent of the state equalized value of the building unless the subject building is changed by such improvement to a conforming structure.
  - D. **Prior Construction Approval:** Nothing in this Ordinance shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this Ordinance, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed according to the plans filed with the permit application within two (2) years after the issuance of the building permit.

#### **Section 15.03 - Restoration of Damage**

Any lawful nonconforming use damaged by fire, explosion, or an act of God, or by other causes may be restored, rebuilt, or repaired, provided that the structure housing the nonconforming use has not been more than 50% destroyed as measured by the usable cubic space previously existing in said structure.

#### **Section 15.04 - Discontinuance or Abandonment**

Whenever a nonconforming use has been discontinued for one (1) year, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance.

### **Section 15.05 - Reversion to a Nonconforming Use**

If a nonconforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a nonconforming use.

### **Section 15.06 - Displacement of a Conforming Use**

No conforming use shall be extended to displace a conforming use.

### **Section 15.07 - Change to Another Lesser Nonconforming Use**

The township Board of Appeals may authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced.

### **Section 15.08 - Termination of a Nonconforming Use**

The nonconforming uses of land, where no building is located, existing at the effective date of this Ordinance may be continued, provided that the nonconforming land use shall be terminated and converted to conform with the provisions of this Ordinance within one (1) year after the effective date of this Ordinance, and provided further that the nonconforming land use shall not in any way be expanded or extended during this one (1) year interval, either on the same property or on adjoining property.

### **Section 15.09 - Illegal Nonconforming Uses**

Those alleged nonconforming uses which cannot be proved conclusively to have been existing prior to the effective date of this Ordinance shall be declared illegal nonconforming uses and shall be discontinued following the effective date of this Ordinance.

### **Section 15.10 - Changes in Zoning District**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another classification, the foregoing provisions shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

### **Section 15.11 - Elimination of Nonconforming Uses**

The Township Board may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or structures.

The resultant property may be leased or sold for a conforming use or may be used by the assessed against a benefit district, or may be paid from other sources of revenue.

### **Section 15.12 - Nonconforming Lots and Parcels**

- A. Notwithstanding limitations imposed by other provisions of this Ordinance, any permitted use in a district and its customary accessory uses may be erected on any lot of record subsequent to the effective date of adoption or amendment to this Ordinance. This provision shall apply even though such lot fails to meet any of the dimensional requirements for the District in which such lot is located. It is the intent to permit only minimum variances by a property owner or a representative of the owner.
- B. If two (2) or more lots, combination of lots, or portions of lots are contiguous and have continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an individual parcel for the purposes of this Article, and no portion of said lots or parcels shall be used or occupied which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.