

## CHAPTER 14 NON-CONFORMITIES

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### **Section 14.01 Scope of Regulations**

This article governs lawfully established nonconforming uses, buildings, structures, and lots. Nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of an unlawful use, building/structure or lot.

### **Section 14.02 Continuation of Nonconforming Uses and Buildings/Structures; Eventual Termination**

Subject to the provisions of this chapter, a lawful use, building/structure, or lot which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance then on the effective date of such amendment, may be continued even though such use, building/structure, or lot does not conform with the provisions of this Ordinance or applicable amendment thereof. A change in the ownership, tenancy or occupancy of a use, building/structure, or lot shall not affect such continuation rights. As a matter of policy of the State of Michigan, and of Rutland Charter Township and the City of Hastings, all nonconforming uses and nonconforming buildings/structures are intended to eventually terminate, to facilitate the use of property and the development of buildings/structures thereon that fully conform to the requirements of this Ordinance.

### **Section 14.03 Repair and Maintenance of Nonconforming Use or Building/Structure**

Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with law, may be made provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of the building/structure.

### **Section 14.04 Reconstruction/Restoration of Nonconforming Use or Building/Structure**

If a nonconforming use or nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, the use/building/structure shall not be repaired or otherwise reconstructed or restored except in conformity with this Ordinance. Where such damage or destruction is less than 50% of the fair market value of the use/building/structure at the time of such damage or destruction, the use/building/structure may be repaired or otherwise reconstructed or restored so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction/restoration right shall be considered terminated by abandonment if reconstruction/restoration is not started within six months from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax assessing records of the municipality

with assessing jurisdiction over the subject real property on which such building/structure is located.

#### **Section 14.05 Expansion of Nonconforming Use or Building/Structure**

- A. A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless:
1. Such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this Ordinance and does not aggravate the existing nonconforming condition; or,
  2. Such expansion, extension, enlargement or alteration is authorized by the Zoning Board of Appeals pursuant to Chapter 15 and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or building/structure.

#### **Section 14.06 Substitution of Nonconforming Use**

- A. A nonconforming use shall not be substituted for or changed to any other nonconforming use except as may be authorized by the Zoning Board of Appeals pursuant to Chapter 15, and upon a finding that:
1. The proposed new use will substantially decrease the degree of nonconformity.
  2. The proposed new use will be more compatible with adjacent uses than the prior nonconforming use.
  3. No structural alterations are required to accommodate the proposed new nonconforming use.

#### **Section 14.07 Reestablishment and Discontinuation of Nonconforming Use or Nonconforming Building/Structure**

- A. A nonconforming use shall not be reestablished after it has been changed to a conforming use or a more restrictive use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming or less nonconforming building/structure.
- B. A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

**Section 14.08 Nonconformity Due to Rezoning or Text Amendment; Nonconformity Due to Special Land Use Approval Requirement**

- A. The provisions of this article shall also apply to uses, buildings/structures, and lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this Ordinance.
- B. A land use designated as a special land use by any provision of this Ordinance applicable to the district in which the land use is located, but in existence before the special land use approval requirement was in effect, may be continued pursuant to Section 14.02 herein but shall also be subject to the other provisions of this chapter unless/until special land use approval has been granted for the land use pursuant to Chapter 10.

**Section 14.09 Existing Nonconforming Lots; Combination of Lots Under Single Ownership (Zoning Lots)**

- A. Any lot of record created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zoning district may be developed for a lawful conforming use if the lot conforms in all respects to the zoning requirements in effect as of the date of such recording, and complies with all other current requirements of this Ordinance. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.
- B. Notwithstanding the foregoing subsection A, where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be combined for zoning purposes sufficient to create a single conforming buildable “zoning lot” (or, as applicable, a single less nonconforming zoning lot).