

ARTICLE XIX. NONCONFORMING LAND USES, BUILDINGS OR STRUCTURES

Section 1901. INTENDED PURPOSES

- A. Within the districts established by this Ordinance, or amendments that may later be adopted, there exist lots, land, structures, and uses thereof which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconforming land uses to continue until they are removed, but not to encourage their continuation. It is further the intent of this Ordinance that nonconforming land uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Nonconforming land uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land, structure or combination thereof, shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, or additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.
- C. 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 carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 1902. CONTINUANCE OF NONCONFORMING LAND USES

The lawful use of any building or structure and of any land or premises existing prior to the effective date of this Ordinance may be continued, although such use or structure does not conform to the provision of this Ordinance. A change in the ownership, tenancy or occupancy of a building or structure shall not restrict the continuance of its existing nonconforming land uses.

Section 1903. ENLARGEMENTS, MOVING, EXTENSIONS

No nonconforming use of any land or structure shall be enlarged or extended; provided that the Planning Commission may permit a nonconforming building to be expanded by

not more than fifty (50) percent of its size in existence at the time Wayne Township adopted a Zoning Ordinance, on contiguous land in the same ownership. (As long as the addition complies with the existing setback requirements, the Zoning Administrator may approve the project at his discretion.) No nonconforming building or structure shall be moved in whole or in part to another location unless such structure or use conforms to all of the regulations of this Ordinance. Buildings or uses nonconforming by reason of height, yard area or parking provisions may be extended, altered or modernized, provided that no additional encroachment of the height, area or parking provisions are occasioned thereby.

Section 1904. UNLAWFUL USE NOT AUTHORIZED

Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a Structure or premises in violation of regulations in effect immediately prior to the date of this Ordinance,

Section 1905. CHANGE OF USE

The use of a nonconforming building may be changed to another nonconforming use if the Planning Commission finds that such new use would markedly decrease the degree of non-conformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to waive the other provisions of this Article.

Section 1906. RESTORATION AND REPAIR

All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered. In the event any nonconforming building or structure is damaged by fire, wind, Act of God, or public enemy beyond repair it must meet current zoning regulations to be rebuilt. Any such restoration must be started within a period of one (1) year of the time of such damage and diligently prosecuted to completion.

Section 1907. NONCONFORMING DUE TO RECLASSIFICATION

The foregoing provisions of this Article shall also apply to buildings, land or uses which hereafter become nonconforming due to any reclassification of districts or any subsequent change in the regulations of this Ordinance,

Section 1908. NONCONFORMING USE DISCONTINUED

Whenever the nonconforming use of any building or structure, lot or parcel of land has been changed to a conforming or more conforming use, the use shall not thereafter be reverted to any less conforming use, If the nonconforming use of any building, structure, land or premises or part thereof is abandoned or discontinued for a continuous period of one (1) year, then any future use of said building, structure, land or premises shall conform in its entirety to the provisions of this Ordinance.