

## AMENDMENT FOR NON-CONFORMING LOTS, USES, & BUILDINGS

At a regular meeting of the Township Board of the Township of Wayland, Allegan County, Michigan, held in the Wayland Township Hall, 1060 129<sup>th</sup> Avenue, Bradley, Michigan within the Township, on the 6th day of July, 2020 at 6:30 p.m.

PRESENT: VanVolkinburg, McInerney, Kamyszek, Stein, Miner

ABSENT: None

The following ordinance was offered by Clerk McInerney and supported by Treasurer Kamyszek.

### AN ORDINANCE TO AMEND CHAPTER 22 OF THE ZONING ORDINANCE OF THE TOWNSHIP OF WAYLAND REGARDING NON-COMFORMITIES

**ORDINANCE NO. O-01-2020**

**Adoption – July 6, 2020**

**Publication – July 16, 2020**

**Effective – July 23, 2020**

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#### THE TOWNSHIP OF WAYLAND ORDAINS:

**SECTION 1** Chapter 22 of the Wayland Township Zoning Ordinance is hereby amended in its entirety to read as follows:

##### **SECTION 22.01 PURPOSE**

It is recognized that there exist within the districts established by this Zoning Ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this Zoning Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Zoning Ordinance or future amendments.

It is the intent of this Zoning Ordinance to permit legal non-conforming lots, structures, or uses to continue until they are removed.

##### **SECTION 22.02 GENERAL REGULATIONS**

- a) Non-conforming Uses The lawful use of any building or structure or of any lot or parcel of land which is existing and lawful on the effective date of this Ordinance or, in the case of an amendment, may be continued although such use does not conform with the provisions of this Ordinance or any Amendment.
- b) Non-Conforming Building or Structure. A building or structure which is existing and lawful on the effective date of this Ordinance or, in the case of an amendment to this Ordinance, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.
- c) Abandonment of Non-Conforming Use. In the event that any non-conforming use or building is discontinued or vacated for a period of one year and the owner has demonstrated an intent to abandon the non-conforming use or building, any subsequent use shall conform to the ordinance requirements for the district in which the premises are located. Such determination shall be made by the Zoning Administrator. Evidence of such intent may include, but is not limited to the following:

- 1) Disconnection of utilities;
- 2) Removal of building fixtures needed for the use;
- 3) Property falling into disrepair;
- 4) Elimination of newspaper or postal service;
- 5) Removal of signs.
- 6) Non-payment of property taxes.

### **SECTION 22.03 NON-CONFORMING LOTS**

All permitted principal and Special Land Uses, except for those Special Land Uses for which a minimum lot size is specified in this Zoning Ordinance, and customary accessory structures may be erected on any single lot of record after the effective date of adoption or amendment of this Zoning Ordinance. This provision shall apply even though such lot does not meet the requirements for lot area or width, or both, that are generally applicable in the district, provided that any building or structure constructed on the lot complies with all other applicable requirements of the zoning district including setbacks and lot coverage except as may be otherwise permitted herein.

### **SECTION 22.04 NON-CONFORMING BUILDINGS**

- a) A non-conforming building or structure may be changed so as to make it more closely conforming to this Zoning Ordinance, if that change does not increase the non-conformity in any other aspect.
- b) A non-conforming building or structure may be expanded provided the expansion conforms in all respects to the requirements of this Zoning Ordinance and does not increase the non-conformity of the building or structure.
- c) Where the setback of a building or structure is non-conforming by a distance equal to or less than one-half of the setback distance required by this chapter, a building may be expanded along the same plane as the existing non-conforming setback, provided that the expansion shall be no closer to the lot line than the existing building and provided that the expansion does not exceed 50 percent of the gross square footage of the building which existed prior to the adoption of this Section 22.04.
- d) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

### **SECTION 22.05 NON-CONFORMING USES**

- a) A non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Zoning Ordinance.
- b) A non-conforming use shall not 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 adoption or amendment of this Zoning Ordinance.
- c) A non-conforming use may be changed to another non-conforming use of equal or less non-conformity following a public hearing by the Zoning Board Appeals as required by Chapter 23 of this Zoning Ordinance. The Zoning Board of Appeals may approve such change only if it complies with all of the following standards:

- 1) The proposed use is comparable to or more conforming than the existing use in terms of its operations and compatibility with the character of the area in which it is located;
  - 2) The proposed use does not increase the degree of non-conformity existing prior to such change of use;
  - 3) No structural alteration of the existing structure will be required to accommodate the new use;
  - 4) In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accordance with the purpose and intent of this Zoning Ordinance.
- d) A non-conforming use located in a conforming building or structure may be re-established if the building or structure is damaged or destroyed by fire, wind, act of God or another calamity and is subsequently repaired or rebuilt in conformity with the requirements of this Ordinance.
- e) Any non-conforming use may be extended throughout any part of a building which was clearly arranged or designed for such use, and which existed at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy and land outside such building.

**SECTION 22.06 RESTORATION OF DAMAGED NON-CONFORMING BUILDINGS AND STRUCTURES.**

- a) Reconstruction of Residential Buildings. In the event a non-conforming building or structure that is used for residential purposes, whether occupied by a conforming or non-conforming use, is damaged or destroyed by fire, wind, act of God or another calamity, it may be rebuilt or restored on the same footprint configuration as existed before the damage or destruction occurred and the use re-established.
- b) Reconstruction of Non-Residential Buildings.
- 1) In the event any non-conforming building or structure which is used for non-residential purposes is damaged or destroyed by fire, wind, act of God or another calamity, it may be rebuilt or restored in the same configuration as existed before the damage or destruction occurred if the replacement cost thereof does not exceed 50 percent of the replacement cost of the non-conforming building or structure, exclusive of the foundation, prior to its damage or destruction. The replacement cost shall be as determined by the Zoning Administrator or their agent.

For purposes of this section replacement cost means the cost to repair or replace the damaged property with construction materials or methods of construction that are functionally equivalent in condition and similar in appearance to the original construction of the damaged property, using conventional materials and construction methods which are currently available without extraordinary expense.

- 2) In the event any non-conforming building or structure which is used for non-residential purposes is damaged or destroyed by fire, wind, act of God or another calamity to the extent that the replacement cost of the non-conforming building or structure exceeds 50 percent of the replacement cost of the building or structure, exclusive of the foundation, prior to such damage or destruction, the building or structure may be rebuilt or restored only in accordance with the requirements of this Zoning Ordinance. The replacement cost shall be as determined by the Zoning Administrator or their agent.

For purposes of this section replacement cost means the cost to repair or replace the damaged property with construction materials or methods of construction that are functionally equivalent in condition and similar in appearance to the original construction of the damaged property, using conventional materials and construction methods which are currently available without extraordinary expense.

However, the Zoning Board of Appeals may approve the re-establishment of such non-conforming building or structure, after a public hearing is held in accordance with the requirements of Chapter 23 herein, but only to the extent necessary to provide the minimum reasonable use of the building or structure. In considering the approval of any such re-establishment of a non-conforming building or structure, the Zoning Board of Appeals may impose reasonable terms and conditions and shall not permit an increase in the nonconformity.

**SECTION 22.07 REPAIRS AND MAINTENANCE**

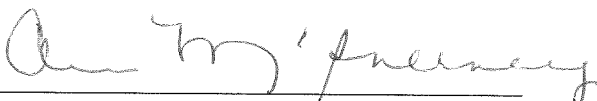
Nothing in this Zoning Ordinance shall be deemed to prevent the normal repair and maintenance of any non-conforming building or structure or prevent the strengthening or correcting of any unsafe condition of the building or structure.

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**SECTION 2** This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Members: VanVolkinburg, McInerney, Kamyszczek, Stein, and Miner

NAYS: Members: None


ORDINANCE DECLARED ADOPTED.   
Ann McInerney, Township Clerk 7-23-2020

STATE OF MICHIGAN )

) ss.

COUNTY OF ALLEGAN )

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Wayland at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

  
Ann McInerney, Township Clerk