

ARTICLE 4

NON-COMFORMITIES

Rev: 5/12/25 - Yellow highlighted is from Jake Brand, Ashtabula County Planning Commission

SECTION 400: INTENT

Within the districts established by this resolution or amendments that may later be adopted there exists lots, uses of land, structures, and uses of structures and land in combination which were lawful before this resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this resolution or future amendments. **The legitimate interest of those who lawfully established these non-conformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution. Furthermore, nothing contained in this ~~Resolution~~resolution shall be construed to require any change in the layout, plans, construction, size, or use of any lot, structure, or structure and land in combination, for which a zoning permit became effective prior to the effective date of this ~~r~~Resolution, or any amendment thereto. Nevertheless, while it is the intent of this ~~r~~Resolution that such non-conformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no non-conformity may be moved, extended, altered, expanded, or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district without the approval of the Board of Zoning Appeals, except as otherwise specifically provided for in this Resolution.**

Under ORC section 519.19 of the Revised Code states that the lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of a zoning resolution or amendment thereto, may be continued, although such use does not conform with such resolution or amendment. However, if any such nonconforming use is voluntarily discontinued for two years or more, any future use of said land shall be in conformity with sections 519.02 to 519.25, inclusive, of the Revised Code.

SECTION 410: INCOMPATIBILITY OF NON-CONFORMITIES

Non-conformities are declared by this ~~r~~Resolution to be incompatible with permitted uses in the districts in which such uses are located. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ~~r~~Resolution by attachment on a building or premises of additional signs intended to be ~~seem- seen~~ from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

SECTION 420: AVOIDANCE OF UNDUE HARDSHIP

To avoid undue hardship, nothing in this ~~r~~Resolution 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 ~~r~~Resolution and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

Need to add specified criteria for hardship exemptions and the process for obtaining approvals. Check with other townships.

(Austinburg Township): To avoid undue hardship, nothing in this resolution 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 resolution and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

SECTION 424: CERTIFICATES FOR NON-CONFORMING USES

The Zoning Inspector may upon the review of written request of owner, apply for a permit for any lot, structure, use of land, use of structure, or use of land and structure in combination, that certifies that the lot, structure or use is a valid non-conforming use. The permit shall specify the reason why the use made of the property in question, the portion of the extent and kind of use made of the non-conforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the non-conforming use, and the extent that dimensional requirements are non-conforming. The purpose of this section is to protect the owners of lands or structures that are or become non-conforming. A fee maybe required for such a permit which would be set by Trustees. One (1) copy of the certificate shall be returned to the owner and one (1) copy shall be retained by the Zoning Inspector and Zoning Board of Appeals, who shall maintain as a public record in a file of all such certificates. ~~The certificate shall remain in effect for five (5) years at which time a new written request would be needed and reviewed at that time.~~ The certificate shall remain in effect until a change of ownership or change in the non-conformity use. The Zoning Inspector shall review, at a minimum, the non-conformity uses annually, or as needed.

SECTION 430: SINGLE NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this resolution, notwithstanding limitations imposed by other provisions of this resolution. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width, or both that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area, width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements listed in Article 9 and 10 of this resolution other than lot are or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Section 540 through 549.

SECTION 431: NON-CONFORMING LOTS OF RECORD IN COMBINATION

If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this resolution; and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this resolution and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this resolution, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this resolution.

SECTION 440: NON-CONFORMING USES OF LAND

Where, at the time of adoption of this resolution, lawful uses of land exist which would not be permitted by the regulations imposed by this resolution, the uses may be continued so long as they remain otherwise lawful, provided:

1. No such non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this resolution;
2. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this resolution;
3. If any such non-conforming uses of land are discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this resolution for the district in which such land is located;
4. No additional structure not conforming to the requirements of this resolution shall be erected in connection with such non-conforming use of land.

SECTION 450: NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this resolution that could not be built under the terms of this resolution by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure; such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in any way which increase its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this resolution;
3. Should such structure be moved for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. **Variances related to non-conforming uses per ORC section 519.19.**

SECTION 460: NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this resolution that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this resolution in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this resolution, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any non-conforming use of a structure or structure and land, may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this resolution.
4. Any structure, or structure and land in combination in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure, or structure and land in combination is discontinued or abandoned for more than two (2) years (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

6. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure, other than force majeure -shall eliminate the non-conforming status of the land.

SECTION 470: REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 480: USES UNDER CONDITIONAL USE PROVISIONS NOT NON-CONFORMING USES

Any use which is permitted as a conditional use in a district under terms of this resolution shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.