

ARTICLE V: NONCONFORMING USES AND STRUCTURES

Section 501 Intent

- A. **Nonconforming uses and structures** are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect the orderly development and the value of nearby property are not permitted to continue without restriction.
- B. The zoning regulations established by the Ordinance are designed to guide the future **use** of and in the City of Munising by encouraging appropriate groupings of **compatible** and related **uses** to promote and protect the public health, safety and general welfare.
- C. The continued existence of nonconformities is frequently inconsistent with the purpose for which these regulations were established. It is the purpose of this Ordinance to eliminate **nonconforming uses and structures** as permitted by law without payment of compensation, but not to create an undue hardship to the property owner.
- D. Any **use or structure** created in violation of any preceding City of Munising Zoning Ordinance remains a violation unless the **use or structure** is in compliance with the present zoning ordinance.
- E. Where, at the effective date of adoption of this Ordinance, a lawful **use** of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such **use** may be continued, so long as it remains otherwise lawful, subject to the provisions of this Article.

Section 502 Provisions for Continued Use of a Non Conforming Structure or Use

- A. A **nonconforming structure** may be enlarged to occupy an area no greater than 110% of its gross **floor area** at the effective date of adoption of this Ordinance or amendment without the approval of the **Planning Commission**.
- B. If a **nonconforming structure** is damaged by fire or other casualty and such damage is less than the State Equalized Value of such property, reconstruction or repair may proceed without the approval of the **Planning Commission**.
- C. If damage caused by fire or other casualty to a **nonconforming structure** equals or exceeds the State Equalized Value of such property, reconstruction or repair to the **structure** is not permitted unless the **Planning Commission** authorizes the continuation of the **nonconforming structure**. A written application for such authorization must be filed with the **Planning Commission** within six months of the occurrence of the damage.

- D. Structural alterations to the interior of a **nonconforming structure** are permitted without the approval of the **Planning Commission**.
- E. Structural **alterations** to the exterior of a **nonconforming structure** as required by local, state or federal laws or regulations are permitted without the approval of the **Planning Commission**.
- F. A **nonconforming use** or **structure** may be moved in whole or in part to any other portion of the **lot** or parcel **occupied** by such **use** or **structure** subject to the specific approval of the **Planning Commission**.
- G. A **nonconforming use** or **structure** may be changed to another **nonconforming use** subject to specific approval of the **Planning Commission**. Before granting the approval, the **Planning Commission** shall determine that such change in **use** will have a less harmful effect on neighboring properties than the existing nonconforming **use**.
- H. No **nonconforming use** or **structure** shall be resumed if it has been discontinued for a continuous period of 12 months, unless caused by casualty or fire. Reconstruction or repair activities due to casualty or fire must be completed within a stipulated 18 month time period of such damage, unless extended by the **Planning Commission**.
- I. A **nonconforming use** or **structure** shall not be resumed if it has been changed to a conforming **use** or **structure**.
- J. In the situation where two or more nonconforming dwellings are located on the same **lot** and one dwelling sustains damage by fire or other casualty, to the extent that the cost of reconstruction or repair exceeds the State Equalized Value of the **structure**, the damaged **structure** shall be removed, unless the damaged dwelling is closer to the **street** or faces a **street**. In such case it may be rebuilt with the approval of the **Planning Commission**.

Section 503 Procedure For Approval by Planning Commission

- A. A written application shall be filed with the **Planning Commission** utilizing forms obtained from the **Zoning Administrator** which shall include:
 - 1. Name and address of property owner and applicant, if not same;
 - 2. A legal description of the property or **lot**;
 - 3. A **site plan** pursuant to Article VI;
 - 4. An explanation describing the present **nonconforming use** or **structure**;
 - 5. An explanation of any proposed addition or alteration to the **uses** or structures;
 - 6. Time frame for completion of the project; and,
 - 7. Comparison of the proposed activity to the existing **structure** or **use**.
- B. The **Planning Commission** shall, upon receipt of the application, schedule a public hearing in accordance with the procedures of Section 1103. The applicant must

demonstrate undue hardship and a necessity for the continuation or expansion of the **nonconforming use or structure**. Upon hearing the facts and information, the **Planning Commission** shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the standards identified in Section 1104. Conditions may be attached, including any time limit, where necessary, to assure that the **use or structure** does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this Ordinance.

Section 504 Standards for Review and Approval

- A. In granting its approval, the **Planning Commission** shall review the particular facts and circumstances of each request in terms of the following standards and shall find adequate evidence showing that:
1. The continuance of the **use or structure** would not be contrary to the public health, safety and welfare or the spirit of this Ordinance;
 2. The **use or structure** does not, and is not likely to significantly decrease the value of nearby properties;
 3. No useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the **use or structure** does not conform;
 4. The **use or structure** will be harmonious with and in accordance with the general policies or specific objectives of development plans adopted by the City of Munising;
 5. The **use or structure** will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area;
 6. The **use or structure** will not be hazardous or disturbing to existing or foreseeable neighboring **uses**;
 7. The **use or structure** will not diminish the value of land, **buildings**, or structures in the **district**;
 8. The **use or structure** will be served adequately by essential public facilities and services; and,
 9. The **use or structure** will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.