

## ARTICLE 9. GENERAL PROVISIONS

### Sec. 29 Nonconforming uses, structures and buildings.

(a) A building, structure, or use which is not in conformity with the provisions of the code at the effective date of its adoption may be continued in its present location provided that no subsequent alteration or addition is made which would extend said building, structure, or use for more than twenty (20) per cent of the cubical content of the building or buildings or structure or structures existing and used for the nonconforming use, or for more than twenty (20) per cent of the lot area existing and used for the nonconforming use. Any building and structure addition shall conform to the area and height regulations of the district where it is located.

(b) Whenever a nonconforming use has been discontinued for a period of one year such use shall not be reestablished, and any further use shall be in conformity with the provisions of the Code, except that when such discontinuance is on account of any cause beyond the control of the owner, or tenant, the period of abandonment shall, for the purpose of this Code, date from the termination of such cause.

(c) Nothing in this Code shall require any change in the plans, construction or designated use of any building or part thereof, the construction of which shall be lawfully in progress at the time of passage of this Code, or for which a permit shall have been issued pursuant to law, provided construction shall be promptly and diligently prosecuted.

(d) In any case where a district boundary line crosses a building which existed at the time such boundary was established, a use permitted in the less restricted of the two (2) districts may be extended, as a nonconforming use during the life of said building, into that part of the building situated within the more restricted district.

(e) When in the public interest and where loss or damage has occurred to property, to include land and/or buildings, occupied by nonconforming uses, and where such loss or damage has occurred through the action of a governmental agency, the board of adjustment, as provided in Article 8, of this Code may grant as a special exception, after a public hearing, continuance of the nonconforming use. The board of adjustment may further limit but not extend, such nonconforming use to include the size and location on the land of any reconstructed buildings, the modification of existing buildings, and the use of the property, either on the same lot or on a contiguous lot under the same ownership at the time of enactment of the Code.

(f) A nonconforming use of a building or a nonconforming use of a nonconforming building may be extended either on the same lot to a contiguous lot under the same ownership at the time of enactment of this Code if granted as a special exception by the board of adjustment, as provided in Article 8 of this Code, subject to the following special requirements.

- (1) The extension is for a use which is necessarily incident to the existing use;
- (2) The estimated cost of any extension involved does not exceed fifty (50) per cent of the replacement value, as appraised by the Kent County assessor, of the existing building to which it is incident;
- (3) Such extension shall have a floor area not to exceed twenty-five (25) per cent of the floor area of the existing building to which it is incident;
- (4) It will not impair the value of the adjoining property or adversely affect the character of the neighborhood; and
- (5) Provided only one extension shall be permitted by the board of adjustment during the life of a nonconforming use.

Sec. 30 Restoration of existing buildings.

(a) Nothing in this Code shall prevent the restoration of a building destroyed less than seventy-five (75) per cent of its current sound value, exclusive of the foundations, by fire, explosion, act of God or act of the public enemy, subsequent to the passage of the Code. Provided that the restoration shall begin within twelve (12) months from the time of such destruction.

Sec. 31 Accessory uses

Accessory uses shall be permitted only on the same lot with the building to which they are accessory. All accessory uses shall be such as do not alter the character of the premises on which they are located or impair the neighborhood.