

**ORONOKO CHARTER TOWNSHIP  
BERRIEN COUNTY, MI  
ORDINANCE NO. 93**

AN ORDINANCE TO AMEND THE ORONOKO CHARTER TOWNSHIP ZONING  
ORDINANCE, TO AMEND ARTICLE IV OF THE ORONOKO CHARTER  
TOWNSHIP ZONING ORDINANCE

ORONOKO CHARTER TOWNSHIP, BERRIEN COUNTY, MICHIGAN ORDAINS:

**Section 1. Amendment of Article IV.** Article IV of the Oronoko Charter Township Zoning Ordinance is amended to read as follows:

**Article IV – Nonconformities**

**4.01 Purpose and Intent**

It is recognized that within the zoning districts established by this Ordinance or amendments thereto, there exist uses, buildings, structures and/or parcels and characteristics of use 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 an amendment thereto. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed.

Except where specifically provided to the contrary, and subject to the provisions of this Article, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this Article, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

**4.02 General Provisions for Nonconformities**

1. Any lot, use of land, building or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, building or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
2. An existing lot, use of land, building or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided that such lot, use of land, building or structure is in compliance with this Article.

3. A lawful use of land, building or structure which is under construction at the time of adoption of this Ordinance shall be permitted to continue as a nonconformity, subject to the provisions of this Article.
4. On any nonconforming building or structure, or on any building or structure located on a nonconforming lot or devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of walls, fixtures, wiring or plumbing, provided that the building or structure as it existed on the effective date or amendment of this Ordinance, shall not be altered, other than nonstructural incidental alterations, or increased except in compliance with this Article.
5. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
6. A change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted.

#### **4.03 Nonconforming Uses**

1. No part of any nonconforming use shall be moved unless the movement does not increase the degree of the nonconformity.
2. If a nonconforming use is abandoned for any reason for a period of more than six (6) months, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined by the Zoning Administrator to be abandoned if one (1) or more of the following conditions exists:
  - a. Utilities, such as water, gas and electricity to the property, have been disconnected.
  - b. The property, grounds, buildings or structures, have fallen into disrepair.
  - c. Signs or other indications of the existence of the nonconforming use have been removed.
  - d. Equipment or fixtures necessary for the operation of the nonconforming use have been removed.
  - e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the property owner or lessee to abandon the nonconforming use.
3. A nonconforming use shall not be changed to another use that is also nonconforming. Once a conforming use is established, the prior nonconforming use may not be reestablished.
4. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Planning Commission or Zoning Administrator upon reaching a determination that the proposed enlargement, increase, or greater area:
  - a. Is not larger than fifty percent (50%) of the original nonconforming area.
  - b. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.

- c. Complies with all height, area, and/or parking and loading provisions with respect to such proposed extension, enlargement, or greater area.
- d. Complies with any reasonable conditions imposed that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.
- e. Does not enlarge or increase the area of a nonconforming building except as elsewhere permitted by this Ordinance.

#### **4.04 Nonconforming Buildings and Structures**

1. The expansion of a nonconforming building or structure shall be permitted provided that the addition complies with all other provisions of this Ordinance and does not increase the degree of nonconformance.
2. Except as elsewhere provided in this Ordinance, in the event a nonconforming building or structure is damaged by fire, wind or an act of God or the public enemy, it may be rebuilt or restored provided:
  - a. The cost of restoration does not exceed sixty percent (60%) of the replacement value as determined by the Building Inspector.
  - b. If the cost of restoration exceeds sixty percent (60%) of the replacement value as determined by the Building Inspector, then the building or structure shall only be rebuilt in conformance with all provisions of this Ordinance.
  - c. If the cost of restoration of a principal structure in an (R) Residential District, exceeds sixty percent (60%) of the replacement value as determined by the Building Inspector, and the principal building or structure was damaged or destroyed along with neighboring principal buildings or structures, as the result of a catastrophic event, the principal building or structure may be rebuilt or restored.

In determining the replacement value of a nonconforming building or structure, the Building Inspector shall be guided by the schedule of fees adopted by the Township Board, the value of the building as determined by the Township Assessor, or other applicable factors.

3. A nonconforming building or structure shall not be moved in whole or in part unless the movement eliminates or reduces the nonconformity.

#### **4.05 Nonconforming Lots**

A nonconforming lot may be used for the purposes permitted in the zoning district in which it is located, subject to the following requirements:

1. If the lot area or lot width is already less than the minimum requirements of this Ordinance, the lot shall not be divided or reduced in dimensions or area so as to increase the degree of nonconformance with the minimum requirements of this Ordinance.
2. Any principal building on a nonconforming lot shall be located so that all of the setback requirements of the District in which the lot is located are met.

3. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
  - a. Are in common ownership.
  - b. Are adjacent to each other or have continuous frontage.
  - c. Individually do not meet the lot width or lot area requirements of this Ordinance.

Parcels meeting the provisions of subsection (3), above, may be combined into a lot or lots complying as nearly as possible with the lot width and lot area requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

**Section 2. Severability and Captions.** This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

**Section 3. Repeal.** Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

**Section 4. Effective Date.** This Ordinance is ordered to take effect seven (7) days following publication of adoption in the Journal Era, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

**MOTION TO ADOPT ORDINANCE:**

Proposed by Board Member: Treasurer Lawrence Schalk

Supported by Board Member: Trustee Robert Palmer

Roll Call:

Ayes: Trustee Richard Albers, Trustee Marc Kerlikowske, Trustee Robert Palmer, Treasurer Lawrence Schalk, Trustee Don Damron, Clerk Suzanne Renton, Supervisor Mike Hildebrand.

Nays: None.

Abstain: None.

Absent: None.

**ORDINANCE DECLARED ENACTED**

The foregoing Ordinance was enacted by the Oronoko Charter Township Board of Trustees, Berrien County, State of Michigan on the 9th day of May 2017 and approved by its Supervisor and Clerk on said date.

ORONOKO CHARTER TOWNSHIP

By: \_\_\_\_\_

Michael Hildebrand, Supervisor

And

By: \_\_\_\_\_

Suzanne Renton, Clerk

First Reading: April 11, 2017

Second Reading: May 9, 2017

Publication of Notice: May 17, 2017