

# ORDINANCE #04-283 (cont.)

## SECTION 4 (of 7)

### ENFORCEMENT

#### 4.100 NONCONFORMING USES AND STRUCTURES

Nothing in this Section shall be taken to prevent restoration of a building or structure damaged to the extent of not more than seventy five (75%) percent of its reasonable value by fire, explosion or other casualty, act of God, or public enemy, provided restoration is begun within twelve (12) months and completed within three (3) years of the date of damages.

##### A. **Non-Conforming Uses.**

1. The lawful use of land existing on the date of this Ordinance, although such use does not conform to the provisions of this Ordinance, may be continued, but if the utilities for such non-conforming use is discontinued for a period of one hundred and eighty (180) days or more, and no effort has been made to continue the non-conforming use, any future use of such premises shall be in conformity with the provisions of this Ordinance.
2. If reasonable effort has been made to continue the non-conforming use, or the property has been offered for sale for the purpose of continuing the non-conforming use, then the non-conforming use may be continued.
3. The one hundred and eighty (180) day discontinuance provision does not regulate non-conforming seasonal uses. The regulation for non-conforming seasonal uses is the following: if the given use is discontinued for an entire season, any future use of such premises shall be in conformity with the provisions of this Ordinance.
4. The lawful use of any building or structure existing on the date of adoption of this Ordinance may be continued even though such use does not conform to

the provisions of this Ordinance, and such use may be extended throughout the building or structure.

5. The right of non-conforming uses to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the City Commission, be reasonably required for the protection of adjacent property.

**B. Non-Conforming Structures.**

1. Enlargement or Extension of Non-conforming structures: A non-conforming structure in which a non-conforming use is operated shall require a conditional use permit to be enlarged or extended. A non-conforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this Ordinance established for structures in the district in which the non-conforming structure is located.

**C. Non-Conforming Lot Area.**

1. On any lot or tract of land subdivided or platted before the date of adoption of this Ordinance, such lot or tract being of record at the time with the correct zoning district, a residential or non-residential use may be erected even though the lot is of less area than required by the regulations relating to area in the zoning district in which it is located.

**4.200 CREATION OF BUILDING SITE**

No permit for the construction of a building or buildings upon any tract or plat shall be issued until a building site, building tract or building lot is in compliance with the provisions of this Ordinance.

**4.210 Completion of Building**

Nothing herein contained shall require any change in the plans, construction or designated use of a building under construction at the time of the passage of this Ordinance and which entire building shall be completed within one (1) year from the date of the passage of this Ordinance.

#### **4.300 VIOLATION OF ZONING ORDINANCE**

1. It shall be a violation of this Ordinance and the Comprehensive Land Use Map for any person, firm, or corporation to neglect, refuse to comply with, or resist the enforcement of any provision or any requirements pursuant thereto, or in any way use, change, or construct a building or structure in nonconformance with this Ordinance and the Comprehensive Land Use Map.
2. Any person violating any of the provisions of this Ordinance shall receive written notification via certified mail. Such notification shall define the violation, the remedy period, and the fine schedule.
3. A one time 30 day period shall be allowed for the remedy period. Violations of this Ordinance shall be brought into compliance, abated, removed, or taken to Municipal Court for judgment.
4. If the Municipal Court rules to allow a structure to remain in nonconformance with this Ordinance, the City Commission shall issue a pro forma action permitting such use.
5. Such action shall be consistent with the court's ruling, and thereafter said use shall be considered as a legal nonconforming use and be subject to the provisions thereof.

#### **4.310 Penalty**

Any person violating any of the provisions of this Ordinance shall, upon conviction, be fined a sum not exceeding:

1. Residential - two hundred and fifty dollars (\$250.00); with an additional ten dollars (\$10.00) per day for each day until the remedy is effected.
2. Commercial – five hundred dollars (\$500.00); with an additional fifty dollars (\$50.00) per day for each day until the remedy is effected.

3. In addition to the said penalty provided for, the right is hereby conferred and extended upon any owner of property in any district, where such property owner may be affected or invaded by a violation of the terms of the Ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available by law and equity in the protection of the rights of such property owners.

#### **4.400 ENFORCEMENT PROVISIONS**

##### **4.410 Duty**

It shall be the duty of the Building Official, or his/her designee, or other officials so designated by the City Commission to enforce this Ordinance.

##### **4.420 Building Permits and Plans**

1. No building or structure shall be erected, enlarged, structurally altered or demolished until a building permit has been issued by the Building Official, or the Building Official has deemed a building permit is not required.
2. Demolition permit shall be required only if the structure is currently, or has been at any time, connected to any public utilities of water, sewer and electric.
3. Certificate of Occupancy approving a structure or use of may be provided for occupancy of a building hereafter erected.

##### **4.500 Citizen Complaint of Violations Provisions**

Anyone reporting a complaint of a property owner or property in violation of this Ordinance shall report it to the Building Official or his/her designee, using the following procedure:

1. The City shall provide a three-part form that contains the following information: date, violator's address, type of violation, compliance process, the printed name and the signature of the person reporting the complaint, and of the City of Mason employee taking the complaint:

- a. The top copy shall be given to the person reporting the violation.
- b. The Building Official shall keep the middle copy for mitigating the violation.
- c. The City Administrator shall keep the bottom copy to monitor the process.