

ARTICLE XX

NONCONFORMING LOTS, USES, STRUCTURES, & SITES

§ X.05 - INTENT & PURPOSE

The intent and purpose of this Article is to:

- (A) Allow for the continuation of lots, uses, structures, and sites that were lawful at the time of enactment of a zoning ordinance or amendment that is no longer permitted;
- (B) Ensure that this Ordinance complies with MCL 125.3208;
- (C) Encourage the combination of contiguous nonconforming lots of record to create lots that are more consistent with the intent of this Ordinance and the Master Plan;
- (D) Ensure lots have adequate size to accommodate structures and uses;
- (E) Limit the expansion of legally nonconforming uses;
- (F) Ensure that any expansion of a legally nonconforming structure does not have a significant negative impact on the health, safety, or welfare of surrounding properties or the community;
- (G) Provide for the maintenance of structures for legally nonconforming uses and for legally nonconforming structures in a manner that does not increase the nonconformity;
- (H) Encourage repair, maintenance, and improvements in a manner that maintains and improves the quality of the neighborhood in a manner that does not have a negative impact on health, safety, or welfare of surrounding properties or the community;
- (I) Encourage ~~the~~ gradual replacement of nonconformities;
- (J) Encourage a gradual upgrade of improvements associated with site plans; and
- (K) Establish standards for the continuation of legally nonconforming lots, uses, structures, and sites.

§ X.10 - GENERAL PROVISIONS

INTRODUCTION TEXT.

- (A) **Legal vs Illegal:** Nonconforming lots, ~~structures,~~ uses, structures, or sites existing on the effective date of this Ordinance or an amendment to this Ordinance that were established without a valid permit or approval or that cannot be proven to have existed ~~before on~~ the effective date of this Ordinance or an amendment to this Ordinance shall be declared illegal nonconforming lots, structures, uses, or sites and ~~are shall~~ not be entitled to the status and rights provided to legally-established nonconforming lots, ~~structures,~~ uses, structures, and sites.
- (B) **Burden:** It shall be the burden of the applicant or property owner to establish that a nonconforming lot, ~~structure,~~ use, structure, or site was legal or existed ~~prior to before~~ the effective date of this Ordinance or an amendment to this Ordinance, if there is any question.
- (C) **Tenancy & Ownership:** An existing legally nonconforming lot, ~~structure,~~ use, structure, or site may have a change of tenancy or ownership.

§ x.15 - LEGALLY NONCONFORMING LOTS

Previously lawful lots of record that could no longer be created under this Ordinance or an amendment to this Ordinance may continue, subject to the standards outlined below.

(A) *Use:* Legally nonconforming lots may be used for a permitted or special land use for the zoning district in which it is located, even if the lot area, lot width, and frontage standards are not met.

~~(B) *Meet Standards:* here~~

~~(C)~~(B) *Contiguous:* Two (2) or more lots of record on the effective date of this Ordinance or an amendment to this Ordinance with continuous frontage or separated by not greater than the width of a street right-of-way that are under single ownership or control shall be considered a single, indivisible lot for the purpose of this ordinance if an individual lot or lots do not meet the standards of this Ordinance, including, but not limited to, lot area, lot width, frontage, setbacks, and lot coverage.

GRAPHICS

(1) *Division:* A lot described above shall not be divided or sold in a manner that increases any nonconformity.

(2) *Permits:* If a lot described above is divided or sold in a manner that increases any nonconformity, the Township shall not issue any permits for the affected properties until the lot is made legally nonconforming.

(3) *Not Applicable:* This Section shall not apply to adjacent lots of record that both have existing dwellings. This Section shall not apply to a lot of record that was created before the effective date of this Ordinance if all of the following conditions are true:

- a. *Lot Area:* The individual lots shall meet the minimum lot area a for the zoning district in which it is located or have a lot area of at least one (1) acre, whichever is less;
- b. *Frontage or Access:* The individual lots shall meet the minimum frontage for the zoning district in which it is located or have a frontage of at least sixty-six (66) feet on a public or private street, whichever is less, or shall have an approved access easement or shared driveway; and
- c. *Width:* The individual lots shall have a lot width at least equal to the minimum lot width for the zoning district in which it is located for at least sixty (60) percent of the lot's depth; or
- d. *Transfer:* An individual lot is being sold or transferred to another adjacent nonconforming lot and the transfer does not create any nonconformities for setbacks or lot coverages.

~~(D)~~(C) *Boundary Line Adjustment:* A legally nonconforming lot may be made more nonconforming, without a variance, through a boundary line adjustment, as outlined below. **GRAPHICS**

(1) *Nonconforming Lots:* The boundary line adjustment shall be between two (2) adjacent legally nonconforming lots.

(2) *Purposes:* The boundary line adjustment shall be necessary or achieve at least one (1) of the following goals:

- a. *Lot Area:* To increase the lot area in a manner that increases the lot area of the smaller lot;
- b. *Setbacks:* To adjust the property lines in a manner that reduces a legally nonconforming setback; or
- c. *Lot Coverage:* To adjust lot area in a manner that reduces a legally nonconforming lot coverage of the lot with the higher lot coverage.

- (3) *Limitations:* The boundary line adjustment shall have the following limitations:
- a. *Lot Area:* The lot area of the giving lot shall not be reduced by more than ten (10) percent boundary line adjustment shall not;
 - b. *Width:* The width of the giving lot shall be at least seventy-five (75) percent of the minimum width for a lot in the zoning district in which it is located;
 - c. *Lot Coverage:* The lot coverage of the giving lot shall remain consistent with the standards of the zoning district in which it is located; and
 - d. *Others:* here.

§ X.20 - LEGALLY NONCONFORMING USES OF LAND

Previously lawful uses of land that are no longer allowed under this Ordinance or an amendment to this Ordinance may continue and may be altered, subject to the standards outlined below.

- (A) *Expansion:* A legally nonconforming use of land shall not be enlarged, expanded, or extended, in whole or in part, to occupy a greater area of land than was occupied by that use on the effective date of this Ordinance or an amendment to this Ordinance.
- (B) *Relocation:* A legally nonconforming nonresidential use of land shall not be relocated or moved, in whole or in part, to any portion of the land not occupied by that use on the effective date of this Ordinance or amendment to this Ordinance.
- (C) *Replacement:* A legally nonconforming use of land may be changed to or replaced with a permitted use for the zoning district in which it is located.
- (D) Substitution: A legally nonconforming use of land may be replaced with or substituted~~changed to another nonconforming use, as outlined below, with a less intense use.~~
- (1) Decision Criteria: A legally nonconforming use of land may be replaced with or changed to another nonconforming use if all of the following are true:
- a. Use & Enjoyment: The new use would have an equal or lesser impact on the use and enjoyment of the surrounding properties and community;
 - b. Health, Safety, & Welfare: The new use would have an equal or lesser impact on public health, safety, and welfare; and
 - c. Appropriate: The new use would be more appropriate for the lot and surrounding area.
- (2) Conditions: Conditions may be placed on the replacement or substitution of a legally nonconforming use of land that are necessary to secure public health, safety, and welfare and to mitigate the impacts of the use.
- a. Screening & Landscaping: Screening and landscaping shall be provided in a manner that meets the current standards of this Ordinance.
 - b. Impacts: Negative impacts to the surrounding area, including, but not limited to, lighting, sound, visual impacts, vibrations, odors, drainage, hours of operation, and traffic, shall be minimized.
- ~~(3)~~(3) Reversion: If a legally nonconforming use of land is replaced or substituted with a less-intensive use, a use that is more intensive than the new use or the original legally nonconforming use shall not be reestablished.

- ~~(D)~~(E) **Reversion:** If a legal nonconforming use of land is eliminated or replaced with a permitted or special land use for the zoning district in which it is located, the legally nonconforming use of land shall terminate and shall not be resumed.
- ~~(E)~~(F) **Cessation:** A legally nonconforming use of land that ceases for any reason for a period of one hundred eighty (180) days or three hundred sixty-five (365) days for seasonal uses, whether or not there is an intent to reestablish the use, shall not be reestablished. Subsequent use of land shall be consistent with the standards of this Ordinance for the zoning district in which the land is located.

§ X.25 - LEGALLY NONCONFORMING USES OF STRUCTURES

Previously lawful uses of structures that are no longer allowed under this Ordinance or an amendment to this Ordinance may continue and may be altered, subject to the standards outlined below.

- (A) **Expansion:** A Legally-legally nonconforming use of a structure may be expanded throughout the structure, but the structure shall not be expanded beyond the building envelope or the **square footage** that existed on the effective date of this Ordinance or an amendment to this Ordinance.
- (B) **Replacement:** A legally nonconforming use of a structure may be changed to or replaced with a permitted use for the zoning district in which it is located.
- (C) **Removal:** Destruction of a structure housing a legally nonconforming use shall eliminate that use, and all future use of the land and structures shall conform with this Ordinance.
- (D) **Substitution:** A Legally nonconforming use of a structure may be replaced with or changed to another similar nonconforming use, as outlined below, of the same or greater restrictions, provided the structure shall not be expanded... Whenever a legally nonconforming use of land has been changed to a more restrictive use, it shall not be changed to a less restrictive nonconforming use.
- (1) Decision Criteria: A legally nonconforming use of a structure may be replaced or substituted with another nonconforming use if all of the following are true:
- a. Use & Enjoyment: The new use would have an equal or lesser impact on the use and enjoyment of the surrounding properties and community;
 - b. Health, Safety, & Welfare: The new use would have an equal or lesser impact on public health, safety, and welfare;
 - c. Appropriate: The new use would be more appropriate for the lot and surrounding area; and
 - d. Structure Expansion: The structure shall not be enlarged or expanded.
- (2) Conditions: Conditions may be placed on the replacement or substitution of a legally nonconforming use of a structure that are necessary to secure public health, safety, and welfare and to mitigate the impacts of the use.
- a. Screening & Landscaping: Screening and landscaping shall be provided in a manner that meets the current standards of this Ordinance.
 - b. Impacts: Negative impacts to the surrounding area, including, but not limited to, lighting, sound, visual impacts, vibrations, odors, drainage, hours of operation, and traffic, shall be minimized.
- ~~(1)~~(3) **Reversion:** If a legally nonconforming use of a structure is replaced or substituted with a less-intensive use, a use that is more intensive than the new use or the original legally nonconforming use shall not be reestablished.

(E) **Repairs & Maintenance:** Structures used for a legally nonconforming use may be repaired and maintained, but the structure shall not be expanded or enlarged ~~beyond what existed in any manner.~~

~~(F)~~ **Reversion:** If a legal nonconforming use of a structure is eliminated or replaced with a permitted or special land use for the zoning district in which it is located, the legally nonconforming use of a structure shall terminate and shall not be resumed.

~~(F)~~~~(G)~~ **Cessation:** Legally nonconforming use of a structure that ceases for any reason for a period of three hundred sixty-five (365) days, whether or not there is an intent to reestablish the use, shall not be reestablished. Any future use of the structure shall be consistent with the standards of this Ordinance for the district in which the land is located.

§ X.30 - LEGALLY NONCONFORMING STRUCTURES

Structures that exist and are lawful on the effective date of this Ordinance or an amendment to this Ordinance, may continue and may be altered, even though they do not conform with the dimensional or other standards of this Ordinance, subject to the standards outlined below.

(A) **Replacement:** A legally nonconforming structure that has been destroyed, damaged, or removed by any means, may be reconstructed, repaired, renovated, replaced, or altered, as outlined below.

~~(1)~~ **Period for Current Structures:** Such reconstruction, repair, renovation, replacement or alteration of structures that were destroyed, damaged, or removed before the effective date of this Ordinance shall commence within twenty-four (24) months of the effective date of this Ordinance.~~the structure was destroyed, damaged, or removed.~~

~~(1)~~~~(2)~~ **Period:** Such reconstruction, repair, renovation, replacement, or alteration shall commence within eighteen (18) months of the date the structure was destroyed, damaged, or removed. This period may be extended by up to six (6) months by the Director of Planning and Zoning if the additional delay is necessary due to government action or insurance processing.

~~(2)~~~~(1)~~ **Period for Current Structures:** Such reconstruction, repair, renovation, replacement or alteration of structures that were destroyed, damaged, or removed before the effective date of this Ordinance shall commence within twenty-four (24) months of the effective date of this Ordinance.

~~(3)~~ **Limits:** The reconstruction, repair, renovation, replacement, or alteration shall be within the building envelope of the structure as it existed before being destroyed, damaged, or removed, except as outlined below.

~~a.~~ **Current Standards:** However, the A legally nonconforming structure may be expanded or added to if the expansion meets the current standards of this Ordinance or has received a variance ~~or administrative adjustment.~~

~~b.~~ **Energy Standards:** A legally nonconforming building may be expanded vertically by up to one (1) foot from the existing building envelope if the expansion is necessary to meet the energy standards of the Building Code.

~~a-c.~~ **Administrative Adjustment:** A legally nonconforming structure may be expanded or added to if it has received an administrative adjustment.

(B) **Modification or Alteration:** Legally nonconforming structures may be modified as outlined below.

(1) **Reduction:** Legally nonconforming structures may be modified or altered in a manner that eliminates, removes, or lessens any or all of the nonconforming characteristics. The nonconforming characteristics shall not be reestablished or increased.

(2) *Here:* here

- (C) **Expansion:** A legally nonconforming structure may be expanded if the expansion will meet the required setbacks and other developmental standards of this Ordinance at the time of expansion. Additional height above a nonconforming portion of the structure shall not be permitted.
- (D) **Relocation:** A legally nonconforming structure that is moved or relocated any distance for any reason or reconstructed outside of the footprint of the structure as it existed before reconstruction shall conform with the standards of the zoning district in which it is located.
- (E) **Repairs & Maintenance:** Legally nonconforming structures may be repaired and maintained.
- (F) **Unsafe:** If a legally nonconforming structure or portion of a legally nonconforming structure becomes physically unsafe or unlawful due to a lack of repairs or maintenance and is declared to be unsafe or unlawful because of its physical condition by the Building Inspector or other duly-authorized official, it shall not be restored, repaired, or rebuilt except in full compliance with this Ordinance.

§ X.35 - LEGALLY NONCONFORMING SITES

Legally nonconforming sites may be improved and modified without coming into full compliance with all of the site plan standards of this Ordinance, as outlined below.

- (A) **Proportional:** Site improvements of the overall site ~~are shall be~~ proportional to the scale and construction cost of the structure improvements or expansion.
- (B) **Safety:** Site improvements shall address safety-related issues ~~on the overall of the~~ site.
- (C) **Landscaping:** Landscaping shall be improved as outlined in the Landscaping Article.
- (D) **Lighting:** Lighting shall be improved as outlined in the Lighting Article.
- (E) **Noncompliance:** Site improvements ~~will shall~~ reduce the amount of noncompliance.
- (F) **Driveways:** Driveways that do not comply with the access standards of this Ordinance shall be eliminated or improved to meet the access standards of this Ordinance to the greatest extent possible.

§ X.40 - RIGHT-OF-WAY EXPANSIONS

When a nonconforming front-yard setback has been created as the result of ~~an expansion of the a~~ street right-of-way expansion, the existing setback shall be the minimum front-yard setback if all of the following conditions are met:

- (A) **Met Previously:** The structure ~~complied with met~~ the front-yard setback before the expansion of the street right-of-way. This ~~does shall~~ not apply to structures that received a variance for a reduced front-yard setback;
- (B) **No Reduction:** The expansion of the structure, vertically or horizontally, shall not reduce the depth of the front-yard setback; and
- (C) **Other Standards:** The expansion of the structure meets the other developmental standards of this Ordinance.
- (D) **Not Removed:** The structure shall not be removed or destroyed except as part of construction or reconstruction.

§ x.45 - COMPLETION

Any structure which has received a valid approval before the effective date of this Ordinance or an amendment to this Ordinance shall be considered as existing and lawful. The design or use of such structure shall not need to be modified to comply with this Ordinance or an amendment to this Ordinance.

§ x.50 - SPECIAL LAND USE

Any use existing at the effective date of this Ordinance or an amendment to this Ordinance that is permitted as a special land use, or previously as a conditional use, in a zoning district under the terms of this Ordinance shall be considered a conforming use.

End of Article xx.

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