

**NONCONFORMITIES**

**§ 153.115 DESCRIPTION AND STATEMENT OF INTENT.**

(A) Within the districts established by this chapter, or by amendments that may later be adopted, there may exist lots, premises, structures and uses which were lawful before this chapter, or any amendment thereto, was effective, but which would be prohibited, regulated or restricted under the provisions of this chapter or future amendment. These are commonly known as nonconforming uses, structures, etc., and are herein referred to under the general term "nonconformities."

(B) Under the law, nonconformities are permitted to be continued, subject to certain conditions and restrictions. It is the intent of this chapter to permit these nonconformities to continue until they are removed (except as otherwise herein provided), but not to encourage their survival. Such nonconformities are declared by this chapter to be incompatible with the permitted structures and uses of land and structures in the district involved. It is further the intent of this chapter that such nonconformities shall not be enlarged upon, expanded or extended except as provided for herein, nor to be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

**§ 153.116 ENLARGEMENT, EXPANSION, EXTENSION NOT PERMITTED.**

A nonconforming use of land, premises or structures shall not be enlarged upon, expanded or extended after the effective date hereof by the attachment of a structure, premises or land, of additional signs intended to be seen off the premises or land, or by the addition of other uses of a nature which would be prohibited in the district involved.

Penalty, see § 153.999

**§ 153.117 WHEN RIGHTS OF CONFORMING USE OR STRUCTURE GRANTED.**

A nonconforming use or a nonconforming structure which is nonconforming only because of failure to provide required off-street parking spaces, loading berths or setbacks shall have all the rights of a conforming use or structure.

**§ 153.118 NONCONFORMING LOTS OF RECORD.**

(A) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any lot which is a lot of record on the effective date hereof. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations hereinafter provided.

(B) Yard regulations and standards for single nonconforming lots of record:

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**Mackinaw - Land Usage**

(1) *Front yard.* The front yard regulations and standards of the district in which such lot is located shall apply.

(2) *Rear yard.* The rear yard regulations and standards of the district in which such lot is located shall apply.

(3) *Side yard.*

(a) On such lot with a width of 50 feet or more, two side yards shall be provided as required by the regulations and standards of the district in which such lot is located.

(b) On such lot less than 50 feet but not less than 27 feet in width, two side yards shall be provided, each equaling 10% of the lot width.

(c) On such lot less than 27 feet but not less than 20 feet in width, the structure located on such lot shall have a width of not more than 90% of such lot width. Only one side yard need be provided, equaling in width the difference between the lot width and the maximum permitted width of the structure. No other side yard need be provided.

(d) The wall of any building facing the side of the lot on which no side yard is required shall be without openings and shall not be constructed as a common wall.  
Penalty, see § 153.999

**§ 153.119 NONCONFORMING USES OF LAND.**

Where, on the effective date hereof or amendment of this chapter, a lawful use of land exists that is no longer permissible under the regulations and standards of this chapter as adopted or amended, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

(A) No such nonconforming use of land shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this chapter.

(B) No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot or tract of land occupied on the effective date of adoption or amendment of this chapter.

(C) If any such nonconforming use of land ceases for any reason for a period of more than 30 consecutive days, any subsequent use of such land shall conform to the regulations and standards set by this chapter for the district in which such land is located.

**§ 153.120 NONCONFORMING STRUCTURES.**

Where, on the effective date hereof or amendment hereto, a lawful structure exists that could not be built under the regulations and standards of this chapter as adopted or amended, by reasons of restrictions on lot area, lot coverage, floor area ratio, height, yards, spacing between buildings or other characteristics of the structure or its location on the lot; such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

(A) No such structure may be enlarged or altered in any way which increases its nonconformity.

(B) Should the structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(C) Should any such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations and standards for the district in which it is located after it is moved.  
Penalty, see § 153.999

**§ 183.121 NONCONFORMING TRAILER COACHES.**

Where, on the effective date of adoption or an amendment of this chapter, a lawful trailer coach exists on a residential lot which could not exist there under the regulations and standards of this chapter as adopted or amended, such trailer coach may continue to exist on such a lot as long as it remains lawful subject to the following provisions:

(A) Such nonconforming trailer coaches must be removed on the sale, lease, bequest, devise, inheritance or legacy of the property.

(B) Should such trailer coach be destroyed by any means to an extent of more than 50% of its replacement cost at the time of its destruction, it shall not be replaced except in conformity with the provisions of this chapter.

**§ 183.122 NONCONFORMING USES OF STRUCTURES.**

Where, on the effective date of adoption or amendment of this chapter, a lawful use of a structure or of a premises exists that is no longer permissible under the regulations and standards of this chapter as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or altered except in changing the use of such structure to a use permitted in the district in which it is located.

(B) Any nonconforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the effective date of adoption or amendment of this chapter, but no such use shall be extended to occupy land outside of which structure.

(C) If no structural alterations are made, any nonconforming use of a structure or of any premise may be changed to another nonconforming use, provided that the Zoning Board, either by general rule or by making findings in the specific shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board may require appropriate conditions and safeguards in accord with the provisions of this chapter.

(D) Any structure, or any premises, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations and standards of the district in which such structure or premises is located, and the nonconforming use shall not be resumed.

(E) When a nonconforming use of a building or structure, or of a premise, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure or the premise shall not thereafter be used except in conformance with the regulations and standards of the district in which it is located.

(F) Where nonconforming use status applied to a premise, removal or destruction of the structure shall eliminate the nonconforming use status of the land, except as it may qualify as a nonconforming lot of record.

### **§ 153.123 NONCONFORMING SIGNS.**

Where, on the effective date of adoption or amendment of this chapter, a lawful sign exists that could not be located under the regulations and standards of this chapter as adopted or amended, by reasons of restrictions on location, sign area, height or other characteristics, such sign may be continued so long as it remains otherwise lawful subject, however, to the following limitations and provisions:

(A) No such sign may be enlarged or altered which increases its nonconformity but the substitution or interchange of poster panels or painted boards shall be permitted;

(B) Should the sign be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter;

(C) Should the sign be moved for any reason for any distance whatever, it shall hereafter conform to the regulations and standards for the district in which it is located after it is moved.  
Penalty, see § 153.999

### **§ 153.124 REPAIRS AND MAINTENANCE.**

On any structure devoted in whole or in part to any nonconforming use, or which itself is nonconforming, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not to exceed 10% of the then current replacement value of the structure; provided, that the volume of such building or the size of such structure as it existed at the effective date of adoption or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.