

ARTICLE 27

NONCONFORMING USES, BUILDINGS/STRUCTURES AND LOTS

- 27.1 SCOPE OF REGULATIONS: This Article governs lawfully established nonconforming uses, buildings, structures, and lots, and nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of an unlawful use, building/structure or lot.
- 27.2 CONTINUATION OF NONCONFORMING USES AND BUILDINGS/STRUCTURES: Except where specifically provided to the contrary, and subject to the provisions of this Article, a lawful use, building/structure or lot 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 even though such use, building/structure or lot does not conform with the provisions of this ordinance or applicable amendment thereof. A change in the ownership, tenancy or occupancy of a use, building/structure or lot shall not affect such continuation rights.
- 27.3 EXPANSION OF NONCONFORMING USE OR BUILDING/STRUCTURE: A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this ordinance and does not aggravate the existing nonconforming condition; or, except as may be authorized by the Zoning Board of Appeals pursuant to Article 28 of this Ordinance and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or building/structure.
- 27.4 REPAIR, MAINTENANCE AND RESTORATION OF NONCONFORMING USE OR BUILDING/STRUCTURE: Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with law, may be made provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of the building/structure. If a nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, said building/structure shall not be repaired or otherwise restored or reconstructed except in conformity with this ordinance. Where such damage or destruction is less than 50% of the fair market value of the building/structure at the time of such damage or destruction, the building/structure may be repaired or otherwise restored and reconstructed so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction right shall be considered terminated by abandonment if reconstruction is not started within six months and completed within one year from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax

assessing records of the Township.

1. **Special Rule for Nonconforming Single Family Dwellings.** Notwithstanding the foregoing, a single family dwelling situated in a zoning district where a single family dwelling is an allowed use, which is damaged or destroyed to the extent of 50% or more of its fair market value at the time of damage or destruction may be reconstructed at the same location in such a manner as to comply with the minimum gross floor area requirement for a single family dwelling in the R-1 Medium Density Residential District. Any such reconstruction right shall be considered terminated by abandonment if reconstruction is not started within six months and completed within one year from the time of the damage or destruction.

27.5 **CHANGE OF NONCONFORMING USE:** A nonconforming use shall not be changed to any other nonconforming use except as may be authorized by the Zoning Board of Appeals pursuant to Article 28 of this Ordinance, and upon a finding that the proposed new use will substantially decrease the degree of nonconformity and be more compatible with adjacent uses than the prior nonconforming use.

27.6 **DISCONTINUATION AND REESTABLISHMENT OF NONCONFORMING USES AND BUILDINGS/STRUCTURES:**

1. **Reestablishment:** A nonconforming use shall not be reestablished after it has been changed to a conforming use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming building/structure.
2. **Discontinuation:** A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

27.7 **NONCONFORMITY DUE TO REZONING OR TEXT AMENDMENT:** The provisions of this Article shall also apply to uses, buildings/structures or lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this ordinance.

27.8 **BUILDING UPON NONCONFORMING LOTS:**

1. **Preexisting Platted Lots:** a platted lot of record created by an instrument recorded prior to May 20, 1992 shall be considered a buildable lot for a single family dwelling notwithstanding non-conformance with the minimum lot frontage/lot width and minimum lot area requirements set forth in the Schedule of Lot, Yard and Area Requirements of this Ordinance, if the lot conforms with the lot frontage/lot width and lot area requirements as originally established in such plat, and conforms with all other current requirements of this Ordinance.
2. **Preexisting Unplatted Lots:** A metes and bounds (unplatted) lot created before May 20, 1992 which does not conform with the minimum lot frontage/lot width and/or minimum lot area requirements set forth in the Schedule of Lot, Yard and

Area Requirements of this Ordinance shall be considered a buildable lot if:

- A. the lot is a lot of record created by an instrument recorded with the Kalamazoo County Register of Deeds before May 20, 1992, or was recognized as a separately established lot in the official records of the Township before July 18, 1975; and
- B. the lot conforms in all respects to the requirements of the Schoolcraft Township Zoning Ordinance in effect as of the date of such recording or recognition; and
- C. the lot complies with all other current requirements of this Ordinance.

Except as otherwise provided herein, a metes and bounds lot created prior to May 20, 1992 which does not conform with the current lot frontage/lot width, lot area, and all other current requirements of this Ordinance shall be buildable only pursuant to a variance approved by the Zoning Board of Appeals.

3. Special Rule for Parcels with Frontage on a Designated Private Road:

Notwithstanding the provisions of Subsections 1 and 2 herein, a lot with conforming or nonconforming lot frontage/lot width upon any one of the below-designated private roads and/or with conforming or nonconforming lot area shall be considered a buildable lot for a single family dwelling if:

- A. the lot was a lot of record created by an instrument recorded with the Kalamazoo County Register of Deeds before July 18, 1975, or was recognized as a separately established lot in the official records of the Township before July 18, 1975; and
- B. the lot otherwise conforms with the current requirements of this Ordinance.

In addition, a lot with frontage upon any one of the below-designated private roads with a right-of-way width of 66 feet or more shall be considered a buildable lot for a single family dwelling, regardless of when the lot was created, if the lot has the minimum lot frontage/lot width upon the private road as required for the zoning district in which the building site is situated, and the lot otherwise conforms with all other current requirements of this Ordinance.

The following are the designated private roads referenced above:

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| 1. Pine View Lane | 9. Rawson Lane |
| 2. Mission Drive | 10. Reed's Lane |
| 3. Morley Drive | 11. Baur (Bauer) Lane |
| 4. Fishing Pole Lane | 12. Fisherman Lane |
| 5. Poplar Lane | 13. Hildebrand Drive |
| 6. East Kimble | 14. Gourdneck Lake Drive |
| 7. West Kimble | 15. Redd Oakes |
| 8. Railton Lane | 16. Hager Road |
| | 17. Rustic Lane |
| | 18. North Barton Lake Drive
(southerly of intersection with
Barton Road) |

4. Combination of Lots under Single Ownership: Notwithstanding any of the foregoing, two or more undeveloped contiguous lots or portions of lots in single ownership on May 20, 1992 or at the date of building permit application shall be required to be considered as an undivided "zoning lot" to create a conforming or less nonconforming lot for purposes of this ordinance, regardless of when such lots were created.