

CHEBOYGAN COUNTY ZONING ORDINANCE
AMENDMENT #155

AN ORDINANCE TO AMEND CHEBOYGAN COUNTY ZONING ORDINANCE NO. 200 RELATIVE
TO NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES

Section 1. Amendment of Article 22

Article 22 of the Cheboygan County Zoning Ordinance No. 200 is hereby amended to read in its entirety as follows:

ARTICLE 22. – NONCONFORMING BUILDINGS OR STRUCTURES, PROPERTIES AND USES

SECTION 22.1 INTENT AND PURPOSE

Nonconformities are buildings or structures, lots, and land uses that do not conform to one or more of the requirements of this Ordinance or any subsequent amendment, which were lawfully established prior to the effective date of this Ordinance or any subsequent amendment. Such nonconformities are generally incompatible with the current or intended use of land in the district in which located. Accordingly, the purpose of this article is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, discontinuance and conditions under which nonconformities shall be permitted to continue.

Section 22.2 NONCONFORMING LAND USE PERMITTED; COMPLETION ALLOWED

- A. If the use of a building or structure or the use of the land was lawful at the time of enactment of this Ordinance or any subsequent amendment, then that use may be continued although the use does not conform to the provisions of this Ordinance or any subsequent amendment, under the terms and conditions of this Article.
- B. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance or any subsequent amendment.

SECTION 22.3 NONCONFORMITY REGULATIONS

The following regulations shall apply to all nonconforming uses, buildings and structures:

- A. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, windows, fixtures, wiring, or plumbing, may be performed on any nonconforming building or structure or on any structure containing a nonconforming use.
- B. A nonconforming building or structure or a building or structure that contains a nonconforming use which is unsafe or unlawful due to a lack of repairs or maintenance, as determined by the County Building Official, may be restored to a safe, habitable condition.
- C. If a nonconforming building or structure or a building or structure that contains a nonconforming use is damaged or destroyed by any means or is removed by the property owner, then such nonconforming building or structure may be restored, rebuilt, or repaired to no greater than its original configuration and on its original foundation or footprint.

- D. A nonconforming building or structure or a building or structure that contains a nonconforming use may be enlarged or altered in any way, provided such enlargement or alteration does not:
1. Create any nonconformity that did not exist prior to the enlargement or alteration.
 2. Increase the degree of new nonconformity (i.e., the enlargement or alteration is closer to the property line than the nonconforming building or structure prior to the enlargement or alteration).
 3. Increase the extent of nonconformity (i.e., a larger portion of the nonconforming building or structure is within the setback area than was present prior to the enlargement or alteration).
- E. If a nonconforming sign is damaged or destroyed by any means or is removed by the owner to the extent that the cost of necessary repairs will exceed fifty percent (50%) of the replacement cost of the sign, then such nonconforming sign shall only be repaired or reconstructed in complete conformity with the applicable provisions of this Ordinance.
- F. A non-conforming use, building or structure shall not be replaced with another non-conforming building or structure unless approved by the Zoning Board of Appeals pursuant to the requirements of this subsection.
1. The owner of a nonconforming use, building or structure who desires to replace that nonconformity with another nonconforming use, building or structure shall file an application with the Zoning Administrator and shall provide all information necessary to show compliance with the standards contained in Subsection 3, below.
 2. Upon receipt of a complete application, the Zoning Administrator shall schedule a public hearing following the requirements of Section 23.7.2 of this Ordinance.
 3. Following the public hearing the Zoning Board of Appeals shall approve the proposed new nonconforming use, building or structure if it finds that all of the following standards have been met:
 - a. The proposed new nonconforming use, building, or structure would not create any nonconformity that did not exist on the property prior to the requested replacement.
 - b. The proposed new nonconforming use, building, or structure would make the property more conforming to the zoning regulations that made the use, building, or structure nonconforming and/or to the zoning regulations applicable to the property.
 - c. The proposed new nonconforming use, building, or structure would improve the property and would not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

SECTION 22.4 NONCONFORMING LOT OF RECORD

The following regulations shall apply to all nonconforming lots of record:

If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then the owner of those lots or parcels may hold, develop, and convey those lots or parcels under one of the following options:

- A. The owner may hold, develop, and convey those nonconforming lots or parcels as separate nonconforming lots of record. Under this option, each nonconforming lot or parcel may be individually sold and, except as provided herein, may be individually developed as a nonconforming lot of record. Each individual nonconforming lot or parcel shall comply with all applicable setback regulations. Provided, however, no dimensional variance shall be granted for such lot or parcel when the desire and/or need for that dimensional variance would be eliminated by combining those contiguous lots, parcels, or portions of lots or parcels as an undivided lot or parcel for the purposes of this Ordinance under Subsection B, below.

- B. The owner may prepare and record in the Register of Deed's Office a deed restriction approved by the Zoning Administrator combining those nonconforming lots or parcels, or portions of lots or parcels, into an undivided lot or parcel for the purposes of this Ordinance. Under this option, if combining the lots or parcels, or portions of lots or parcels results in a conforming lot, then that undivided lot may be developed as authorized by the zoning district in which it is located, and all applicable setbacks shall be measured from the exterior lot lines of the undivided lot without regard to any interior lot sizes that existed prior to recording the deed restriction. If combining the lots or parcels, or portions of lots or parcels, does not result in a conforming lot, then that undivided lot may be developed as a nonconforming lot of record under Subsection A, above, including the right to seek any desired and/or needed dimensional variances.

Section 2. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared unconstitutional or invalid.

Section 3. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the County.

CHEBOYGAN COUNTY

By:
John B. Wallace
Its: Chairperson

By:
Karen L. Brewster
Its: Clerk