

PLEASANTON ZONING ORDINANCE ARTICLE 80: NONCONFORMITIES

8001.-PURPOSE:

Within the district established by this Ordinance or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings, and structures, which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated or restricted under this Ordinance. These uses are referred to as nonconformities and may continue until they are discontinued, damaged or removed but are not encouraged to survive. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein nor to be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same district.

8002. - EXTENSIONS:

A nonconforming structure, use, and parcel may not be added to, extended, reconstructed or structurally altered, expanded during its life except for any one or combination of the following and subject to the respective one or combination of the following restrictions:

- A. If the nonconformity is a use, which is not otherwise allowed in the zoning district; then the use and structures upon which the use is associated shall not be expanded. Hours of operation or level of service, or any other extension than what exists at the time of adoption of this ordinance or the effective date of any amendments. Under no condition shall the parcel be expanded or the use be expanded to a contiguous parcel.
- B. If the nonconformity of the parcel is too small, then the structures shall not be expanded.

8003. - REPAIRS AND MAINTENANCE:

Nothing in this Ordinance shall prevent the repair, reinforcements, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance or the effective date of any amendments, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the Building Code of Michigan, relative to the maintenance of buildings or structures,

8004. - BUILDING DAMAGE:

- A. No building damaged by fire, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except in conformity with the provisions of this Ordinance. Such reconstruction, repair or restoration shall be completed within one (1) year following the damage and resumption of use takes place within ninety (90) days of completion. The one (1) year may be extended by the Appeals Board if it finds one of the following conditions to exist:
 1. The delay was unavoidable due to weather;
 2. The delay was a result of a criminal investigation; and
 3. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance.

8005. - COMPLETION:

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption or amendment.

8006.-NON-USE:

Any building, structure or land that has been used for nonconforming purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this Ordinance. The Appeals Board for the following reasons may grant an extension:

- A. Property held in Probate;
- B. Insurance settlement in dispute **or**
- C. Criminal investigation.

8007. - SUBSTITUTION:

- A. For the purpose of this section, the permitted uses in the land use districts listed shall be considered in ascending order, as higher uses with District R-1 containing the highest uses and District RA-2 containing the least highest uses:
 - 1. Residential
 - 2. Wilderness
 - 3. Residential Agricultural 1
 - 4. Residential Agricultural 2
- B. With the approval of the Zoning Administrator, a nonconforming use, building or structure may be replaced by or substituted with a higher use even though such replacement or substitution does not change the nonconforming status of such use, building or structure in the land use district in which it is located.

8008. - CHANGE OF TENANCY OR OWNERSHIP:

There may be changes of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

8009. - NOTIFICATION:

Within thirty (30) days after the effective date of the adoption of this Ordinance of any amendment thereto, any nonconforming user shall file with the Zoning Administrator a written statement of the nature and extent of his/her or its nonconforming use.

8010. - NONCONFORMING SPECIAL USES:

- A. There are uses which were permitted by right under the Pleasanton Township Zoning Ordinance in effect immediately prior to this Ordinance which are not permitted uses under this Ordinance. Of those uses, there are some, which are listed as potential special uses in this Ordinance. Those existing uses, which were permitted uses, and are listed as special uses in this Ordinance, shall not be considered nonconforming uses.

- B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this Ordinance, and are listed, as special uses in this Ordinance shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this Ordinance. Parts of uses, which are nonconforming immediately prior to the adoption of this Ordinance, shall continue to be nonconforming under this Ordinance. A permit in existence pursuant to this subsection shall be known as an unwritten special use permit.

- C. An owner of an unwritten special use permit may, at no charge to the owner, obtain from the Commission a certification of a site plan reflecting how the use exists at the time of adoption of this Ordinance with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this Ordinance, aerial photographs, flown to the same or greater standards for mapping a the county's photos, taken after the County photos but before the adoption of this Ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above-mentioned photo(s) may be accepted as the site plan for the unwritten special use permit.

- D. When a special use owner applies to amend the unwritten special use permit for expansion or change, a written special use permit amendment application for expansion or change, the commission shall only review and act on the expansion or change portion of the special use permit. If the application for amendment of the special use permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the unwritten special use permit.