

RILEY TOWNSHIP - ST. CLAIR COUNTY

ARTICLE IX
GENERAL PROVISIONS

SECTION 904. NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES & NONCONFORMING CHARACTERISTICS OF USE:

A. Applicability

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the approved plans, construction or designated use of any structure or land on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance and that there is likelihood that said lawful construction will be completed twelve (12) months after the effective date of this Ordinance.

Actual construction is hereby defined to include any lawful and approved physical operation on the premises which is preparatory to intended development or to the establishment of a use such as excavation, grading, fill, drainage and the like, or the placing of construction materials in permanent position and fastened in a permanent manner; except that where lawful and approved demolition or removal has begun preparatory to rebuilding, such lawful and approved demolition or removal shall be deemed to be actual construction, provided that said lawful and approved demolition and subsequent reconstruction of the building or structure involved is completed within eighteen (18) months after the effective date of this Ordinance.

The adoption of this Ordinance shall not be deemed to affect, alter or change any special approval use, interpretation, or variance previously decided or granted by the appropriate administrative or legislative body of the Township or by a court of competent jurisdiction upon review of the action of such administrative or legislative body.

B. Lawfully Existing Nonconforming Lots

1. The intent of this section is to allow reasonable development of lawfully existing nonconforming lots.
2. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance.

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 lot shall conform to the regulations for the district in which such lot is located. Yard requirement variance may be obtained through approval of the Board of Appeals. (Removal of paragraph proposed 10/02; P.H. 11/18/02; Adopted 2/3/03; Published 2/12/03)

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C. Definition and Classification of Nonconforming Uses and Structures.

Nonconforming uses and structures are those which do not conform to certain provisions or requirements of this Ordinance but were lawfully established prior to the time of its applicability. Class A nonconforming uses and structures are those which have been so designated by the Zoning Board of Appeals after application by any interested person or the Building Inspector upon findings that (1) continuance thereof would not be contrary to the public health, safety or welfare, (2) that the use or structure does not and is not likely to significantly depress the value of nearby properties, (3) that the use or structure was lawful at the time of its inception, and (4) that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

All nonconforming uses, buildings or structures not designated as Class A are Class B nonconforming uses, buildings or structures.

D. Procedure for Obtaining Class A Designation, Conditions

A written application shall be filed with the Township Clerk (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) setting forth the name and address of the applicant, giving a legal description of the property to which, the application pertains and including such other information as may be necessary to enable the Zoning Board of Appeals to make a determination of the matter. The Zoning Board of Appeals may require the furnishing of such additional information as it considers necessary. The notice and hearing procedure before the Zoning Board of Appeals shall be the same as in the case of an application for a variance. The decision shall be in writing and shall set forth the findings and reasons on which it is based.

Conditions may be attached, including any time limit, where necessary to assure that the use, building or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this Ordinance.

No vested interest shall arise out of a Class A designation.

E. Revocation of Class A Designation

Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for Class A designation.

F. Regulations Pertaining to Class A Nonconforming Uses and Structures:

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1. No Class A nonconforming use of land, building or structure shall be resumed if it has been, for any reason, discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period.
2. An individual Class A use or structure may be used, altered or enlarged provided that it does not violate any condition imposed by the Board of Appeals at the time of its designation.

G. Regulations Pertaining to Class B Nonconforming Uses and Structures:

1. Intent: It is the purpose of this Ordinance to eliminate Class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation.
2. No Class B nonconforming use shall be resumed if has been discontinued for a continuous period at least eighteen (18) months or it has been changed to a conforming use for any period or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50%) percent of the reproduction cost of such structure.
3. No Class B nonconforming structure shall be enlarged or structurally altered, nor shall it be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50%) percent of the reproduction cost of such structure.
4. No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.
5. In the case of mineral removal operations, existing holes or shafts may be worked and enlarged on the land which constituted the lot on which operations were conducted at the time of becoming nonconforming, but no new holes or shafts shall be established.
6. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.
7. No Class B nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

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8. If a Class B nonconforming structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
9. Ordinary repair and maintenance work may be done on any Class B nonconforming structure, including repair and replacement of non-bearing walls, fixtures, wiring or plumbing to an extent no exceeding fifty (50%) percent of the assessed value of the structure provided that the cubic content of the building as it existed at the time of adoption of this Ordinance shall not be increased.

H. Repairs and Maintenance

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any nonconforming structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

I. Change of Tenancy or Ownership

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided that there is no change in the nature or character of such nonconforming uses.

J. Record of Nonconformity

Within six (6) months after the adoption of this Ordinance, the Township Assessor or as designated by the Riley Township Board (P.H. 6/13/2011; Adopted 10/4/2011; Published 10/13/2011) shall prepare and complete a record of all known nonconforming uses and structures existing at the time of the adoption of this Ordinance.

Such record shall contain the names and addresses of the owners of record of such nonconforming use and of any occupant, other than the owner, the legal description of the land, and the nature and extend of us. Such record shall also contain any information regarding action by the Zoning Board of Appeals for designation of Class A status.

Such record shall be available at all times in the office of the Township Clerk.

K. Nonconforming Characteristics of Use

1. It is the intent of this Ordinance to eliminate, as nearly as it practicable with the prevailing requirements of this Ordinance, nonconforming characteristics of use and to eliminate them as rapidly as is possible without payment of compensation.

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2. Notwithstanding other provisions of this Ordinance, whenever a change in use, ownership or tenancy occurs or when structural alterations are made, or when renewal of an operating license as provided by other Township Ordinance is made, those nonconforming characteristics of use which were lawfully inadequate or totally lacking at the effective date of this Ordinance, or amendments thereto, shall be eliminated.

Such upgrading of characteristics of use shall be completed within twelve (12) months after the occurrence of a change in use, ownership or tenancy, or before the expiration date of the renewed operating license, or after issuance of building permit for structural alterations.

3. The Zoning Board of Appeals may grant an extension of time to remedy those deficient characteristics of use found to exist. In granting such extension of time, the Zoning Board of Appeals shall base their written decision upon findings that (a) the applicant can document conclusively that personal hardship exists presently but there is likelihood that the improvements can be completed if the initial time allotment is extended, and (b) that the reasons of personal hardship justify granting an extension of time so as to make possible the reasonable use of land or structure concurrent with the upgrading of those deficient characteristics of use found to exist.