

## Ordinance No. 1246

An ordinance entitled, "NONCONFORMITIES"

An ordinance to AMEND the Zoning Ordinance of the City of Ypsilanti, Article VI, to Revise Nonconforming Uses, and to Allow for Certain Uses to be Resumed once Designated as "Nonconforming A" by Planning Commission.

### THE CITY OF YPSILANTI HEREBY ORDAINS:

1. THE CITY OF YPSILANTI ORDAINS that Article VI of the Ypsilanti City Code be amended as follows:

#### **ARTICLE VI. NONCONFORMING USES, BUILDINGS, STRUCTURES OR LOTS\***

\*State law reference(s)--Nonconforming uses and structures, MCL 125.583a, MSA 5.2933(1).

##### **Sec. 122-201. Description and purpose.**

~~Certain existing lots, structures, buildings and uses of lots and structures were lawful before this chapter was adopted, but have become nonconformities under the terms of this chapter and its amendments. It is the intent of this chapter to permit such nonconformities to remain until they are abandoned or removed, but not to encourage their survival or, where abandonment or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities must not be enlarged, expanded, or extended, except as provided in this chapter and must not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconformities are declared by this chapter to be incompatible with the structures and uses permitted in the various districts.~~

It is recognized that there exists within the districts established by this chapter uses of land which were lawful before this chapter was passed or amended, but which would be prohibited or restricted under the terms of this chapter.

It is the intent of this chapter to permit these nonconformities to continue until they are removed, abandoned, or brought into compliance with this chapter but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts. It is further the intent of this chapter that nonconforming buildings, structures, or lots shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited in the district.

It is further recognized that certain nonconforming uses are not necessarily contrary to the public health, safety and welfare and that such uses were lawful at the time of their inception, and that no useful purpose would be served by the strict application of the elimination of lawful nonconforming use status. Therefore, two classes of nonconforming uses are designated, being class A and class B. All nonconforming uses are classified as class B nonconforming uses unless designated class A nonconforming uses.

##### **Sec. 122-202. ~~Nonconforming lots.~~ Authority to continue class B nonconforming.**

~~Any nonconforming use, building, structure, or lot which existed lawfully at the time of the adoption of the ordinance from which this chapter derives and which remains nonconforming and any such use, building, structure or lot which must become nonconforming upon the adoption of this article, or of any subsequent amendments thereto, may be continued, subject to the regulations in this article.~~

Any class B nonconforming use which existed lawfully at the time of the adoption of the ordinance from which this chapter derives and which remains nonconforming and any such use which becomes nonconforming upon the adoption of this article, or of any subsequent amendments thereto, may be continued, subject to the regulations in this article.

## **Sec. 122-203. ~~Nonconforming use of land.~~ Nonconforming lots.**

(a) ~~A nonconforming use of land occurs when property is used for a purpose or in a manner which was lawfully in existence before this chapter was adopted, but has become nonconforming under the terms of this chapter or its amendments.~~

(b) ~~The nonconforming use of land not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, may be continued subject to the regulations which follow:~~

(1) ~~*Change.* The nonconforming use of land must not be changed to any other use except to a use permitted in the district in which the land is located.~~

(2) ~~*Expansion.* A nonconforming use of land must not be expanded or extended beyond the area it occupies.~~

(3) ~~*Moving.* No such nonconforming use must 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 chapter.~~

(4) ~~*Change in occupancy or ownership.* A change in occupancy or ownership must not constitute a change in use.~~

(5) ~~*Abandonment.* If the nonconforming use of land is abandoned for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, it must not thereafter be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use must be determined to be abandoned if the use has ceased and one (1) or more of the following conditions exist, that said condition(s) being deemed to demonstrate intent on the part of the property owner to abandon the nonconforming use:~~

(a) ~~One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;~~

(b) ~~The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;~~

(c) ~~Cessation of business operations;~~

(d) ~~Receipt of a written declaration by the property owner.~~

(e) ~~Signs or other indications of the existence of the nonconforming use have been removed;~~

(f) ~~Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;~~

(g) ~~Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;~~

(h) ~~Bank or tax foreclosure;~~

(i) ~~Operation or maintenance of a permitted use at the property; or~~

(j) ~~Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.~~

A nonconforming lot is a lot of record or a lot described in a deed or land contract existing at the effective date of the ordinance from which this chapter derives that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located. The following regulations must apply to any nonconforming lot:

(1) *Use of nonconforming lot.* Any nonconforming lot must be used only for a use permitted in the district in which it is located.

(2) *Single lot of record.* A principal structure and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision must 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 setback dimensions and requirements other than those applying to area or width of the lot must conform to the regulations for the district in which such lot is located. However, no more than one dwelling unit must occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.

(3) *Variance from yard or other requirements.* If the use of a legal nonconforming lot requires a variation from any yard or other requirements, other than lot area or width, then such variance must be obtained from the Zoning Board of Appeals.

(4) *Contiguous lots in same ownership.* When two or more contiguous nonconforming lots or parts of nonconforming lots are in a single ownership at the time of, or subsequent to the adoption or amendment of this chapter, such lots must be considered to be a single lot for the purposes of this

chapter, and no portion of such lot must be used, occupied, divided, or sold in any manner which would diminish compliance with minimum lot width and area requirements of this chapter.

**Sec. 122-204. Nonconforming uses of buildings or structures. Nonconforming use of land.**

The nonconforming use of a building or structure, or structure and lot in combination, may be continued subject to the following provisions:

(1) *Change in use.* The nonconforming use of a building or structure may not be changed to a different use unless the new use is permitted in that same district. Any structure, or structure and lot in combination, in or on which a nonconforming use is replaced by a permitted use, must thereafter conform to the regulations of the district in which it is located and the nonconforming use may thereafter not be resumed.

a. A building or structure used for residential purposes which is nonconforming due to the number of dwelling units contained therein may only be changed so that the number of dwelling units is decreased, or so that the use is brought into conformity with this chapter.

b. Notwithstanding the above, a nonconforming use of a building or structure may be changed to another nonconforming use so that the degree of nonconformity is lessened when authorized by the Planning Commission after a public notice and hearing in accordance with section 122-164. In considering such authorization, the Planning Commission must consider the following:

1. Whether the proposed use is equally or more appropriate than the present nonconforming zoning district in which the building, structure or land is located. No change to a less appropriate use may be authorized by the Planning Commission.

2. Whether the proposed use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this chapter.

3. The effect of the proposed use on adjoining lands and the surrounding neighborhood.

4. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

5. Where a nonconforming use of a structure, or structure and land, is hereafter changed to a more conforming use, it must not thereafter be changed to a less conforming use.

(2) *Expansion of nonconforming use.*

a. The nonconforming use of any part of a building or structure must not be expanded or extended into any other portion of such building or structure. b. No visible structural alteration must be made to the building or structure devoted to a nonconforming use, except repairs and maintenance work which are required to keep such building in sound condition or as required by law.

e. An existing structure containing a nonconforming use must not be enlarged, constructed, reconstructed, moved or structurally altered or extended, unless the use is changed to a use which is permitted in the district in which the structure is located.

(3) *Change in occupancy or ownership.* A change of occupancy or ownership must not constitute a change in use.

(4) *Removal or destruction.* If a building or structure in which a nonconforming use is being conducted is removed, destroyed, or severely damaged to the extent that the cost of restoration of the structure exceeds 100 percent of the state equalized value (SEV) or 50 percent of a higher value established by the most recent appraisal of the structure exclusive of the foundation and land, the nonconforming use must not be renewed, and any subsequent use of the premises must conform to the use regulations of the district in which the premises are located. Single family homes on individual lots that are considered a non conforming use in the Neighborhood Corridor Zoning District must be allowed to be rebuilt regardless of the amount of damage done to the structure. For the purpose of calculating a fair and equitable cost of restoration regulated by this section, the average of two bid estimates from licensed contractors must be used. All work requiring permits under state and local regulations, and materials necessary to bring the structure up to current code must be included. Clean up costs, demolition, furnishings, appliances, and site work, i.e. landscaping, fencing, paving, must not be included. The actual repair and reconstruction may be done by the owner or contractor of his or her choice.

(5) *Abandonment.* If the nonconforming use of land is abandoned for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, it must not thereafter be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use must be determined to be abandoned if the use has ceased and one (1) or more of the following conditions exist, that said condition(s) being deemed to demonstrate intent on the part of the property owner to abandon the nonconforming use:

(a) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;

(b) The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;

(c) Cessation of business operations;

(d) Receipt of a written declaration by the property owner.

- (e) ~~Signs or other indications of the existence of the nonconforming use have been removed;~~
  - (f) ~~Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;~~
  - (g) ~~Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;~~
  - (h) ~~Bank or tax foreclosure;~~
  - (i) ~~Operation or maintenance of a permitted use at the property; or~~
  - (j) ~~Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.~~
- (1) A nonconforming use of land occurs when property is used for a purpose or in a manner which was lawfully in existence before this chapter was adopted, but has become nonconforming under the terms of this chapter or its amendments.
  - (2) The nonconforming use of land not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, may be continued subject to the regulations which follow:
    - (a) Change. The nonconforming use of land must not be changed to any other use except to a use permitted in the district in which the land is located.
    - (b) Expansion. A nonconforming use of land must not be expanded or extended beyond the area it occupies.
    - (c) Moving. No such nonconforming use must 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 chapter.
    - (d) Change in occupancy or ownership. A change in occupancy or ownership shall not constitute a change in use.
    - (e) Abandonment. If the nonconforming use of land is discontinued for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, such use shall not be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use may be determined to be abandoned if the use has ceased and one (1) or more of the following conditions exist, that said condition(s) demonstrating intent on the part of the property owner to abandon the nonconforming use:
      - (i.) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;
      - (ii.) The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;
      - (iii.) Cessation of business operations;
      - (iv.) Receipt of a written declaration by the property owner.
      - (v.) Signs or other indications of the existence of the nonconforming use have been removed;
      - (vi.) Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;
      - (vii.) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;
      - (viii.) Bank or tax foreclosure;
      - (ix.) Operation or maintenance of a permitted or different use at the property; or

- (x.) Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.

(3) A nonconforming use of land is not eligible for class A nonconforming designation.

**Sec. 122-205. Nonconforming buildings or structures. Class B nonconforming uses of buildings.**

(a) ~~A nonconforming building or structure is a structure which was lawful on the effective date of adoption or amendment of this chapter, but which does not conform to the new chapter regulations for building type, lot area, lot area per dwelling unit, lot width, lot coverage, floor area, height, greenbelts or screening, off-street parking, loading space, yard, or other requirements of the zoning district in which it is located.~~

~~(b) Nonconforming buildings and structures may be re-used and occupied by new owners or tenants if all requirements of this Chapter are met and the restrictions below are met.~~

~~(c) Nonconforming buildings and structures must be subject to the following restrictions:~~

~~(1) *Expansion.* Nonconforming structures may be expanded only in compliance with the following regulations:~~

~~a. All nonconforming structures, in any zoning district, may only be expanded in such a way that does not increase a non-conforming characteristic. All expansions must meet all requirements of the zoning district in which it is located, including lot coverage, heights, yard requirements, and off-street parking. A non-conforming building type may not be expanded.~~

~~(2) *Alterations.* A nonconforming structure may be altered to decrease its nonconformity.~~

~~(3) *Moving.* A nonconforming structure which is moved within a site or to another site must thereafter conform to the regulations of the district in which it is located.~~

~~(4) *Damage and removal.* A nonconforming structure which is damaged by any means may be restored to its original conditions and location prior to such damage, provided such construction is completed within 18 months of the date of damage and is diligently pursued to completion. Failure to complete reconstruction must result in the loss of legal, nonconforming status.~~

~~(5) *Restoration or repair.*~~

~~a. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but such building or structure must not be structurally altered in a way inconsistent with the description and purpose of this article.~~

~~b. If a nonconforming structure or a structure housing a nonconforming use becomes physically unsafe or unlawful or poses a threat to the public health, safety, and welfare due to a lack of repairs or maintenance, the structure must be declared by the building department to be unsafe or unlawful by reason of physical condition. Such structure must not thereafter be restored, repaired, or rebuilt except in conformity with the provisions of this chapter.~~

~~(6) *Restoration of Historic Structures.* Restoration may be permitted of a legal nonconforming structure, designated as historic by the Ypsilanti Historic District Commission, which has been destroyed or abandoned (as defined in section 122-205) provided the Planning Commission finds all of the following provisions are met:~~

~~a. The approved design of the restored building maintains the same design and historical character it had prior to the destruction or abandonment; or, in the case of a building that had been altered prior to destruction or abandonment, that the restored building more closely parallels the design of the original historic structure.~~

~~b. All reasonable attempts at eliminating or reducing the nonconforming nature of the structure have been considered and will be implemented in the restoration project.~~

All nonconforming uses of buildings not designated class A shall be class B nonconforming uses of buildings. Class B nonconforming uses of buildings shall comply with all the provisions of this article relative to nonconforming uses of buildings. The class B nonconforming use of a building, or building and lot in combination, may be continued subject to the following provisions:

(1) *Change in use.* The nonconforming use of a building may not be changed to a different use unless the new use is permitted in that same district. Any building, or building and lot in combination, in or on which a nonconforming use is replaced by a permitted use, must thereafter conform to the regulations of the district in which it is located and the nonconforming use may thereafter not be resumed.

(a) A building or structure used for residential purposes which is nonconforming due to the number of dwelling units contained therein may only be changed so that the number of dwelling units is decreased, or so that the use is brought into conformity with this chapter.

- (b) Notwithstanding the above, a nonconforming use of a building or structure may be changed to another nonconforming use so that the degree of nonconformity is lessened when authorized by the planning commission after a public notice and hearing in accordance with section 122-164. In considering such authorization, the planning commission must consider the following:
- (i.) Whether the proposed use is equally or more appropriate than the present nonconforming zoning district in which the building, structure or land is located. No change to a less appropriate use may be authorized by the planning commission.
  - (ii.) Whether the proposed use will interfere to a lesser extent with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this chapter.
  - (iii.) The effect of the proposed use on adjoining lands and the surrounding neighborhood.
  - (iv.) In permitting such change, the planning commission may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
  - (v.) Where a nonconforming use of a structure, or structure and land, is hereafter changed to a more conforming use, it must not thereafter be changed to a less conforming use.

(2) Expansion of class B nonconforming use.

- (a) The nonconforming use of any part of a building or structure must not be expanded or extended into any other portion of such building or structure.
- (b) No visible structural alteration must be made to the building or structure devoted to a nonconforming use, except repairs and maintenance work which are required to keep such building in sound condition or as required by law.
- (c) An existing structure containing a nonconforming use shall not be enlarged, constructed, reconstructed, moved or structurally altered or extended, unless the use is changed to a use which is permitted in the district in which the structure is located.

(3) Change in occupancy or ownership. A change of occupancy or ownership shall not constitute a change in use.

(4) Removal or destruction. If a building or structure in which a nonconforming use is being conducted is removed, destroyed, or severely damaged to the extent that the cost of restoration of the structure exceeds 100 percent of the state equalized value (SEV) or 50 percent of a higher value established by the most recent appraisal of the structure exclusive of the foundation and land, the nonconforming use shall not be renewed, and any subsequent use of the premises must conform to the use regulations of the district in which the premises are located. Single-family homes on individual lots that are considered a non-conforming use in the NC, Neighborhood Corridor Zoning District, shall be allowed to be rebuilt regardless of the amount of damage done to the structure so long as the rebuilt building is not enlarged or expanded.

For the purpose of calculating a fair and equitable cost of restoration regulated by this section, the average of two bid estimates from licensed contractors must be used. All work requiring permits under state and local regulations, and materials necessary to bring the structure up to current code must be included. Clean up costs, demolition, furnishings, appliances, and site work, i.e. landscaping, fencing, paving, shall not be included. The actual repair and reconstruction may be done by the owner or contractor of his or her choice.

(5) Abandonment. If the nonconforming use of land is discontinued for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, it must not thereafter be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use must be determined to be abandoned if the use has ceased and one (1) or more of the following conditions exist, that

said condition(s) being deemed to demonstrate intent on the part of the property owner to abandon the nonconforming use:

- (a) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;
- (b) The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;
- (c) Cessation of business operations;
- (d) Receipt of a written declaration by the property owner.
- (e) Signs or other indications of the existence of the nonconforming use have been removed;
- (f) Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;
- (g) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;
- (h) Bank or tax foreclosure;
- (i) Operation or maintenance of a permitted use or different use at the property; or
- (j) Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.

**Sec. 122-206. Building or structure under construction on effective date of the ordinance from which this chapter is derived. Class A nonconforming uses of buildings.**

Any building or structure must be considered existing and lawful for the purposes of this article if, on the effective date of the ordinance from which this chapter is derived, a building permit has been obtained therefore, if required; or if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

Nonconforming uses of buildings shall be designated class A provided that the Planning Commission finds all of the following exists with respect to the use or structure:

- (1) The use of structure was lawful at its inception.
- (2) The decision to continue the nonconforming use, if granted, will not alter the essential character of the area or neighborhood.
- (3) Continuance of the use or structure would not be contrary to the public health, safety, or welfare or the spirit of the chapter.
- (4) No useful purpose would be served by strict application of the provisions of this chapter with which the use or structure does not conform.
- (5) Nonconforming uses of buildings are subject to the following restrictions:
  - (a) *Change in use.* The nonconforming use of a building may not be changed to a different use unless the new use is permitted in that same district. Any building, or building and lot in combination, in or on which a nonconforming use is replaced by a permitted use, must thereafter conform to the regulations of the district in which it is located and the nonconforming use may thereafter not be resumed.
  - (b) A building or structure used for residential purposes which is nonconforming due to the number of dwelling units contained therein may only be changed so that the number of dwelling units is decreased, or so that the use is brought into conformity with this chapter.
  - (c) Notwithstanding the above, a nonconforming use of a building or structure may be changed to another nonconforming use so that the degree of nonconformity is lessened when authorized by the planning commission after a public notice and hearing in accordance with section 122-164. In considering such authorization, the planning commission must consider the following:

- (i.) Whether the proposed use is equally or more appropriate than the present nonconforming zoning district in which the building, structure or land is located. No change to a less appropriate use may be authorized by the planning commission.
  - (ii.) Whether the proposed use will interfere to a lesser extent with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this chapter.
  - (iii.) The effect of the proposed use on adjoining lands and the surrounding neighborhood.
  - (iv.) In permitting such change, the planning commission may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
  - (v.) Where a nonconforming use of a structure, or structure and land, is hereafter changed to a more conforming use, it must not thereafter be changed to a less conforming use.
- (6) Removal or destruction. If a class A nonconforming structure is destroyed, or severely damaged, it may be restored in conformance with the plans submitted when the status was conferred.
- (7) This designation shall run with the land.

**Sec. 122-207. ~~Unlawful nonconformities.~~ Class A Conditions.**

~~(a) No nonconformity must be permitted to continue in existence if it was unlawful at the time it was established.~~

~~(b) The city must maintain records of nonconforming uses and structures as accurate as is feasible for determining legal nonconforming uses and structures in existence on the effective date of the ordinance from which this chapter is derived. However, failure on the part of a property owner to provide the city with necessary information to determine legal nonconforming status may result in denial of a required or requested permit.~~

The decision to grant a class A designation shall be made by the Planning Commission in writing, setting forth its findings of fact and basis for the designation. Only multiple family dwellings and/or group residence uses in R1, CN-SF, and CN-Mid shall be eligible for this designation. For changes or improvements to a class A use, site plans shall be required.

- (1) Application. An application for class A nonconforming status shall be filed with the city planner's office by the record owner of the property in question or by a person authorized to act on the record owner's behalf. The application shall consist of a completed application form, fee, and the following information:
- (a) Name, address, and telephone number of the applicant and property owner; and the interest of the applicant in the property.
  - (b) Legal description, address, and tax parcel number of the subject property.
  - (c) An accurate, scaled drawing of the property, showing all property lines and dimensions correlated with the legal description; the location and dimensions of all existing and proposed structures and uses on the property; any roads, alleys, easements, drains, or waterways which traverse or abut the property; and the lot area and setback dimensions necessary to show compliance with the regulations of this chapter. In most cases, a site plan or survey will meet this requirement.
  - (d) The applicant shall show compliance with all applicable conditions of the City of Ypsilanti Code of Ordinances, and all applicable conditions of the International Property Maintenance Code, as adopted under Chapter 18 of the City of Ypsilanti Code of Ordinances.
  - (e) Other reasonable information deemed necessary by the Planning Commission in order to make a proper decision.
  - (f) No application for Class A designation shall be accepted after such time as the building has been destroyed as described in §122-205(4) or the use abandoned as described in §122-205(5).
- (2) Conditions. The Planning Commission may condition its approval on the following:

- (a) Screening and landscaping in keeping with community standards to ensure compatibility with adjacent uses.
  - (b) Restrictions on lighting, noise, odor, or visual impact.
  - (c) Signage must comply with current zoning district requirements. Existing nonconforming signs may be required to be eliminated or reduced in size and number.
  - (d) Replacement of a building must not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.
  - (e) Other reasonable safeguards and improvements may be imposed by the Planning Commission to protect conforming uses in the surrounding area.
- (3) Procedure. By the following procedure, the Planning Commission shall assure the public health, safety and welfare, and the spirit and purpose of this chapter:
- (a) A class A designation shall be deemed temporary until the Planning Commission has received written verification from the building official that the party requesting the class A designation has complied with all of the conditions set forth by the Planning Commission.
  - (b) Once the Planning Commission has received written verification from the building director that the party requesting the class A designation has complied with said conditions, the class A designation shall become final, subject to other provisions of this chapter as hereafter prescribed.
  - (c) No class A nonconforming use shall be resumed if it has been abandoned as defined in section §122-205(5). No class A nonconforming use shall be used, altered, or enlarged in violation of any conditions imposed in its designation.
  - (d) A temporary class A nonconforming use designation shall be void after six months if any conditions imposed by the designation remain outstanding, unless the Planning Commission grants a written request for an extension of six months. No more than two extensions may be granted.
- (4) Revocation. Approval of a Class A designation may be revoked by the Planning Commission if the use and building is not in conformance with the approved plans, or if compliance with conditions has not been consistently demonstrated. In such case, the issue must be placed on the agenda of the Planning Commission for consideration. Written notice must be given to the applicant not less than ten days prior to the meeting. The applicant must be given the opportunity to present information to the Planning Commission and answer questions. The Planning Commission may revoke the Class A designation if it finds that a violation of the conditions set forth by the Planning Commission in their initial decision exists and has not been remedied prior to the meeting.

**Sec. 122-208. Acquisition of nonconformities. Nonconforming structures.**

The city may acquire private property to remove a nonconformity, as provided in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

- (8) A nonconforming building or structure is a structure which was lawful on the effective date of adoption or amendment of this chapter, but which does not conform to the new chapter regulations for building type, lot area, lot area per dwelling unit, lot width, lot coverage, floor area, height, screening, off-street parking, loading space, yard, or other requirements of the zoning district in which it is located.
- (9) Nonconforming buildings and structures may be re-used and occupied by new owners or tenants if all requirements of this Chapter are met and the restrictions below are met.
- (10) Nonconforming buildings and structures are subject to the following restrictions:
  - a. Expansion. Nonconforming structures may be expanded only in compliance with the following regulations:
    - i. All nonconforming structures, in any zoning district, may only be expanded in such a way that does not increase a non-conforming characteristic.

- ii. All expansions must meet all requirements of the zoning district in which it is located, including lot coverage, heights, yard requirements, and off-street parking.
      - iii. A non-conforming building type may not be expanded.
    - b. Alterations. A nonconforming structure may be altered to decrease its nonconformity.
    - c. Moving. A nonconforming structure which is moved within a site or to another site must conform to the regulations of the district in which it is located.
    - d. Damage and removal. A nonconforming structure which is damaged by any means may be restored to its original conditions and location prior to such damage, provided such construction is completed within 18 months of the date of damage and is diligently pursued to completion. Failure to complete reconstruction must result in the loss of legal, nonconforming status.
    - e. Restoration or repair.
      - i. All repairs and maintenance work required to keep a nonconforming building in sound condition may be made, but such structure must not be structurally altered in a way inconsistent with the description and purpose of this article.
      - ii. If a nonconforming structure or a structure housing a nonconforming use becomes physically unsafe or unlawful or poses a threat to the public health, safety, and welfare due to a lack of repairs or maintenance, the structure must be declared by the building department to be unsafe or unlawful by reason of physical condition. Such structure must not thereafter be restored, repaired, or rebuilt except in conformity with the provisions of this chapter.
- (11) Restoration of Historic Structures. Restoration may be permitted of a legal nonconforming structure, designated as historic by the Ypsilanti Historic District Commission, which has been destroyed or abandoned (as defined in §122-205) provided the Planning Commission finds all of the following provisions are met:
- a. The approved design of the restored building maintains the same design and historical character it had prior to the destruction or abandonment; or, in the case of a building that had been altered prior to destruction or abandonment, that the restored building more closely parallels the design of the original historic structure.
  - b. All reasonable attempts at eliminating or reducing the nonconforming nature of the structure have been considered and are implemented in the restoration project.

~~Secs. 122-210–122-230. Reserved.~~

**Sec. 122-209. Acquisition of nonconformities.**

The city may acquire private property to remove a nonconformity, as provided in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

**Sec. 122-210. Building or structure under construction on effective date of the ordinance from which this chapter is derived.**

Any building or structure must be considered existing and lawful for the purposes of this article if, on the effective date of the ordinance from which this chapter is derived, a building permit has been obtained therefore, if required; or if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

**Sec. 122-211. Unlawful nonconformities.**

(1) No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

(2) The city shall maintain records of nonconforming uses and structures as accurate as is feasible for determining legal nonconforming uses and structures in existence on the effective date of the ordinance from which this chapter is derived. However, failure on the part of a property owner to provide the city with necessary information to determine legal nonconforming status may result in denial of a required or requested permit.

**Secs. 122-212--122-230. Reserved.**

- 2. Severability.** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.
- 3. Repeal.** All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, repealed.
- 4. Saving Clause.** The balance of the Code of Ordinances, City of Ypsilanti, Michigan, except as amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date of this ordinance.
- 5. Copies to be available.** Copies of the Ordinance are available at the office of the City Clerk for inspection by, and distribution to, the public during normal office hours.
- 6. Publication and Effective Date.** The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published by printing the same in the newspaper of record. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED, AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS 7th DAY OF May, 2015

\_\_\_\_\_  
FRANCES MCMULLAN, City Clerk

Attest

I do hereby confirm that the above Ordinance No. 1246 was published in Washtenaw Now on the 21st day of May, 2015.

\_\_\_\_\_  
FRANCES MCMULLAN, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the 7th day of May, 2015.

\_\_\_\_\_  
FRANCES MCMULLAN, City Clerk

Notice Published: March 26, 2015  
First Reading: April 21, 2015  
Second Reading: May 7, 2015  
Published: May 21, 2015  
Effective Date: June 7, 2015