

**GRATTAN TOWNSHIP
KENT COUNTY, MICHIGAN
(Ordinance No.002-2018)**

At a regular meeting of the Township Board for Grattan Township held at the Township offices within the Township on October 15, 2018, at 7:00 p.m., the following Ordinance/ordinance amendment was offered for adoption by Township Board Member Michelle Alberts and was seconded by Township Board Member Sabrina Freeman:

**AMENDMENTS TO THE GRATTAN TOWNSHIP ZONING
ORDINANCE TO REPLACE ARTICLE 4 WHICH INVOLVES
NONCONFORMING USES, STRUCTURES AND LOTS.**

THE TOWNSHIP OF GRATTAN (the "Township") ORDAINS;

Article 1. Existing Article 4 of the Grattan Township Zoning Ordinance is hereby amended and replaced in its entirety to state in full as follows:

**ARTICLE 4
NONCONFORMING USES, STRUCTURES, AND LOTS**

4.01 PURPOSE AND SCOPE

This article regulates nonconforming uses, structures, and lots to protect the public health, safety, and welfare. Nonconforming uses, structures, and lots may be used, continued, resumed, restored, reconstructed, extended, enlarged, or substituted only as expressly provided by this article. The terms below shall be defined as follows:

A. **Nonconforming Use.** A use of land, a building, or a structure that was lawful prior to the effective date of this Ordinance or of any amendment to this Ordinance but that is no longer a permissible use under the terms of this

Ordinance as enacted or amended. Such uses are also sometimes called a "lawful non-conforming use."

Nonconforming Structure. A building or structure that was lawful prior to the effective date of this Ordinance or of any amendment to this Ordinance but that, under the terms of this Ordinance as enacted or amended, is no longer a permitted building or structure because it does not comply with the requirements of this Ordinance regarding the height, required front, rear or side yard building setback(s), minimum building or structure floor area, maximum building or structure height, maximum area of a lot occupied by buildings or structures, required building or structure location on a lot, or other required dimensions or characteristics of the building or structure. Such structures are also sometimes referred to as a "lawful nonconforming structure."

Nonconforming Lot.

1. A lot that was platted or otherwise lawfully of record prior to the effective date of this Ordinance or of any amendment to this Ordinance but that, under the terms of this Ordinance as enacted or amended, does not comply with the minimum lot area, minimum lot width, maximum lot width-to-depth ratio, minimum required street frontage, minimum water body frontage, minimum lot access requirements or other minimum lot requirements of the zoning district in which the lot is located. Such lots are also sometimes referred to as a "lawful nonconforming lot."
2. If a nonconforming lot is combined with another lot, the nonconforming lot shall no longer be a lawful nonconforming lot unless the newly created lot has a lot area of at least 7,500 square feet. If a nonconforming lot is divided, split or otherwise reduced in area, the lot shall no longer be a lawful nonconforming lot and shall be deemed unlawful and unusable.

D. An illegal use, structure or lot shall not be deemed or considered to be nonconforming or lawfully nonconforming, and cannot be used.

4.02 NONCONFORMING USES

Except where specifically provided to the contrary and subject to the provisions of this article, a nonconforming use may be continued even though such use does not conform to the provisions of this Ordinance or any amendments thereto.

A nonconforming use shall not be enlarged, expanded, increased, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Ordinance. A nonconforming use shall not be increased in intensity or scope.

A nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Ordinance.

A nonconforming use may be extended throughout any parts of a building designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

A nonconforming use that occupies multiple buildings or structures shall not be expanded by the construction of additional buildings or structures.

An existing building or structure that is devoted to a nonconforming use shall not be enlarged or expanded.

Parking and loading areas that serve a nonconforming use may be improved but may not be extended or enlarged.

A nonconforming use may be changed to another nonconforming use as a special land use by the Planning Commission pursuant to the general standards and procedures specified in Article 13. In making its determination, the planning commission shall also find that the new use would decrease the degree of nonconformance and would not adversely affect adjacent property owners of the public health, safety, or welfare. Whenever a nonconforming use is changed to a more conforming use, such use shall not thereafter revert to the prior nonconforming use.

If a nonconforming use is discontinued for a period of one year or more, it may not thereafter be continued. A nonconforming use, if changed to a use permitted in the zoning district in which it is located, shall not revert to the prior nonconforming use.

4.03 NONCONFORMING STRUCTURES

Except where specifically provided to the contrary and subject to the provisions of this article, a nonconforming structure may be maintained and continued even though such structure does not conform to the provisions of this Ordinance or any amendments thereto.

A. A nonconforming structure may not be expanded, enlarged or altered in a manner or to an extent that increases its nonconformity; provided, however:

1. That the Planning Commission may approve as a special land use, pursuant to the general standards and procedures specified in Article 13, the expansion, enlargement or alteration of a nonconforming structure that is used for a conforming use, where the expansion, enlargement or alteration of the structure increases its nonconformity, if in approving the special land use, the Planning Commission finds the following:

There is no practical possibility of obtaining more land so as to more fully accommodate the expansion, enlargement or alteration of the nonconforming structure.

The proposed expansion, enlargement or alteration cannot reasonably be located on the lot such that further nonconformity would be avoided.

The proposed expansion, enlargement or alteration of the nonconforming structure would not adversely affect adjacent properties or the character of the neighborhood.

The nonconforming structure that is proposed to be expanded, enlarged or altered is used for a conforming use, and the portion thereof that is to be expanded, enlarged or altered would be used for a conforming use as well.

2. The special land use authorized in subsection A. 1 of this section may include, but is not limited to, the expansion, enlargement or alteration of a nonconforming structure that increases the nonconformity of the structure as to any one or more of the following:

- (a) The depth of the required front yard building setback.
- (b) The depth of the required rear yard building setback.

The width of a required side yard building setback, or the widths of both required side yard building setbacks.

The minimum required floor area of a building.

The maximum permitted height of a building or structure.

- (t) The maximum area of a lot or parcel of land that may be occupied by buildings, structures and impervious surfaces.

Should a nonconforming structure be moved, for any reason, it shall thereafter fully conform to the regulations for the zoning district in which it is located after it is moved.

Repairs and maintenance work that are required to keep a nonconforming structure in sound condition may be made. Structural changes may not be made.

A nonconforming structure that is damaged by the elements, public enemy, or other casualty may be rebuilt or restored to its size prior to such damage if the cost of such restoration and repair does not exceed 50 percent of the replacement cost of the structure that was damaged. The Zoning Administrator shall make such determination regarding the degree of damage.

4.04 NONCONFORMING LOTS

A nonconforming lot may be used for all principal uses and accessory uses permitted in the zoning district in which it is located, without authorization from the Planning Commission, if all of the following conditions are met:

If the minimum lot area is 7,500 square feet,

If, in the case of a nonconforming lot on which there is a principal building or structure, the front yard building and structure setback is at least 30 feet.

If, in the case of a nonconforming lot on which there is a principal building or structure, each side yard building and structure setback is at least 10 feet.

If, in the case of a nonconforming lot on which there is a principal building or structure, the rear yard building and structure setback is at least 20 feet.

If all off-street parking requirements are complied with.

If the maximum lot coverage of all structures is not greater than 30 percent of the lot area.

A nonconforming lot that does not comply with all of the conditions stated in subsection A may nevertheless be used for all principal uses and accessory uses

permitted in the zoning district in which it is located, if authorized by the Planning Commission as a special land use, pursuant to the general standards and procedures specified in Article 13. In approving the special land use, the Planning Commission shall find that:

There is no practical possibility of obtaining more land.

The proposed use cannot reasonably be located on the lot such that the minimum requirements are complied with.

The proposed use will not adversely affect adjacent properties or the character of the neighborhood.

In the case of a nonconforming lot on which there is, or is proposed to be, a principal building or structure, the width (either currently or proposed) of both side yard building setbacks, taken together, shall be at least 15 feet, with one side yard being at least five feet wide (either currently or as proposed).

The Planning Commission may limit the height of a building on such a lot.

The maximum building height of a building that is located on a nonconforming lot shall be 24 feet, or such greater height as may be determined on the basis of two feet of additional building height for each one foot of one existing side yard building setback in excess of ten feet, up to a maximum building height of 35 feet (but if the existing side yard building setbacks are each in excess of 10 feet, then the narrowest side yard building setback shall be used in the above-stated calculation); provided, however, that the Planning Commission may permit a building height of up to 35 feet, without regard to the above-stated formula, as a special land use, if the Planning Commission determines that the proposed building height would not adversely affect adjacent properties or land uses or the character of the neighborhood; and provided further, that the calculation under the above-stated formula shall utilize the method of measurement of a side yard building setback as stated in Section 3.10.

Except in the case of platted lots that comply with subsection A, in all zoning districts, if two or more lots or combination of lots or portions of lots are located adjacent to each other or have contiguous frontage and are held or owned in the same or single ownership of record, and if all or part of such lots do not satisfy the minimum requirements for lot width, lot area, street frontage, water frontage, or other dimensions, such lots shall be automatically combined for zoning purposes so as to create one conforming lot or so as to create one nonconforming lot that is more conforming than the individual, smaller nonconforming lots. Once nonconforming lots or parcels of land are combined pursuant to this Section D or by deed, land contract or other written instrument, they shall not thereafter be split, re-divided or otherwise reduced in area unless all of the resulting lots or parcels of land comply with the lot area requirements of the zoning district in which such lots or parcels of land are located,

No lot shall be created which does not comply with the minimum lot width, lot area, street frontage, water frontage, lot width-to-depth ratio maximums or other area or dimensional requirements of the zoning district in which the lot is located.

Notwithstanding such prohibition, a lot that does not satisfy the minimum lot width, lot area, street frontage, water frontage, lot width-to-depth ratio maximum or other area or dimensional requirements may be created by deed, land contract or other legal instrument if such lot is authorized by the Planning Commission as a special land use pursuant to the general standards and requirements of Article 13 and if all of the following additional requirements are satisfied:

Such lot shall not be improved or developed but may be used for passive use purposes such as agriculture, hunting, passive recreation uses, open space, conservation of natural areas and the like. No buildings shall be constructed or used on such lot, nor shall there be other structures or development inconsistent with the passive use purposes described in this subsection.

Such lot shall not be so situated as to provide access to a lake or other body of water.

Draft: April 26, 2018
Approved: October 15, 2018

Deed restrictions, restrictive covenants or other appropriate documents shall be recorded with the Register of Deeds with respect to any special land use approved for such a lot, so as to give notice to all future owners or parties in interest that the lot may be used only in compliance with this subsection and any conditions of special land use approval imposed by the Planning Commission, unless the lot is otherwise brought into full compliance with the Zoning Ordinance. Such document shall be in a form or with language approved by the Township.

F. Subsections A and B, above, shall not apply to commercial or business uses within the C-1 and C-2 Commercial Districts, but Section 3.47.B shall apply to such uses.

Article 3. The Remainder of the Grattan Township Zoning Ordinance is Unaffected. Except as expressly amended by this Ordinance/ordinance amendment, the rest of Grattan Township Zoning Ordinance remains unchanged and in full force and effect.

Article 4. Severability. Should a court of competent jurisdiction determine that any portion of this Ordinance/ordinance amendment (or any portion thereof) is invalid or unconstitutional, that shall not affect the balance of this Ordinance/ordinance amendment, which shall remain in full force and effect.

Article 5. Effective Date. This Ordinance/ordinance amendment shall become effective upon the expiration of seven (7) days after this Ordinance/ordinance amendment or a summary thereof appears in the newspaper as provided by law.

The vote to adopt this Ordinance/ordinance amendment was as follows:

YEAS: Franklin Force, Michelle Alberts, Sabrina Freeman.

NAYS: NA

ABSENT: Paul Knoerl, Dennis Heffron.


THE ORDINANCE/ORDINANCE AMENDMENT IS DECLARED TO BE DULY
ADOPTED.

Draft: April 26, 2018
Approved: October 15, 2018

CERTIFICATION

I hereby certify the above is a true copy of the Ordinance/ordinance amendment adopted by the Township Board for Grattan Township as of the date, time and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

By 
Michelle Alberts Grattan
Township Clerk

