

**ARTICLE VIII
NONCONFORMING USES AND STRUCTURES**

Section 801 Intent

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. Any previous Class A designation authorized by formal action through the Marquette County Planning Commission shall remain in effect. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.

The zoning regulations established by this Ordinance are designated to guide the future use of land in Humboldt Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established.

This Ordinance distinguishes by class the various nonconforming uses and structures. In general, Class A nonconforming uses and structures have been found by the Planning Commission not to be contrary to the public health, safety, and general welfare, or the spirit of this Ordinance or the Township master plan or other standard in this Ordinance and as such should either be encouraged or at a minimum not be discouraged to continue. In contrast, the Class B nonconforming uses and structures are not consistent with the aforementioned, and as such, should not be encouraged to exist by the Township. Different regulations are established for each class. The degree of restriction over each class is a function of the degree to which that class of nonconformity is a nuisance or incompatible with the purposes and regulations of this Ordinance.

Any use or structure created in violation of any preceding adopted Township or County zoning ordinance remains a violation.

Section 802 Class A Nonconforming Uses and Structures

Class A nonconforming uses and structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare, or to the spirit of this Ordinance; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; that it meets the standards set out in Section 704 of this Ordinance; and 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.

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Section 803 Procedure For Obtaining Class A Designation

A written application shall be filed with the Planning Commission utilizing forms obtained from the Zoning Administrator which shall include:

- (A) Name and address of property owner and applicant if not same;
- (B) A legal description of the property or lot;
- (C) A site plan pursuant to Article VI.
- (D) An explanation describing the present nonconforming use or structure.
- (E) An explanation of any proposed addition or alteration to the uses or structures.

The Planning Commission shall, upon receipt of said application, schedule a public hearing in accordance with the procedures set out in Section 902, Administrative Standards and Procedures, of this Ordinance. Upon hearing the facts and information, the Planning Commission shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the General Standards identified in Section 704. Conditions may be attached, including any time limit, where necessary to assure that the use or structure does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this Ordinance.

Section 804 Provisions for Class A Nonconforming Uses and Structures

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (A) No such Class A Nonconforming Use or Structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except with specific approval of the Planning Commission.
- (B) No such Class A Nonconforming Use or Structure 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, except with specific approval of the Planning Commission.
- (C) No Class A Nonconforming Use or Structure shall be extended to displace a permitted (conforming) use.
- (D) A Class A Nonconforming Use or Structure shall not be changed to another nonconforming use, except with specific approval of the Planning Commission. Before granting such approval, the Planning Commission shall determine that such change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.
- (E) No Class A Nonconforming Use shall be expanded to add another nonconforming use, except with the specific approval by the Planning Commission. The proposed nonconforming use shall satisfy the General Standards as set out in Section 704.

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Section 804 Provisions for Class A Nonconforming Uses and Structures: Continued

- (F) Class A Nonconforming Structures shall not be altered or expanded without the specific approval of the Planning Commission, except that the following structural alterations may be permitted without prior approval of the Planning Commission:
1. Structural alterations or additions increasing the bulk of a structure are permitted provided all regulations contained in this Ordinance are met.
 2. Structural alterations which do not add to the bulk of structure or increase the intensity of use of the structure.

Section 805 Regulations Pertaining to Class A Nonconforming Uses and Structures

No Class A Nonconforming Use or Structure shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period. No Class A Structure shall be used, altered, or enlarged in violation of any condition imposed in its designation.

Section 806 Class B Nonconforming Uses and Structures

- (A) All nonconforming uses and structures not designated as Class A are considered as Class B. 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. No Class B Nonconforming Use shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if 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.
- (B) No Class B Nonconforming Structure shall be enlarged or structurally altered, except as may be provided under paragraph (C) below. 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 was used at the time of becoming nonconforming, except as may be provided under paragraph (C) below.
- (C) Potential exception to upgrade. There shall be a potential exception to upgrade in the direction of greater conformity as follows. The owner of a Class B nonconforming use or structure, **may apply** to the Planning Commission **to make** a nonconforming use, structure, or characteristic of use **more conforming**, provided such change is not likely, in the determination of the Planning Commission, to substantially increase the life of the nonconforming use or structure. The Planning Commission's determination shall be in writing, setting forth the rationale for its decision.
- (D) No Class B Nonconforming Use or Structure shall be permitted to continue in existence if it was unlawful at the time of its inception.

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Section 807 General Standards

The Planning Commission shall review the particular facts and circumstances of each Class A proposal in terms of the intent of this Article and the General Standards as set out in Section 704 of this Ordinance. Each individual proposal shall follow the procedure identified in Section 902, Administrative Standards and Procedures of this Ordinance.

Section 808 Revocation of Class A Nonconforming Uses and Structures

Any Class A nonconforming use or structure maintained or used in violation of this Ordinance is a nuisance per se. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation. Such notice shall be directed to each property owner of or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

All violations of Class A nonconforming uses and structures shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Planning Commission. The Planning Commission shall, upon receipt of said violation, schedule a public hearing in accordance with the procedures set out in Section 902, Administrative Standards and Procedures of this Ordinance. Upon hearing the facts and information, the Planning Commission shall make its decision to consider revocation of the Class A designation in writing and set forth the findings and reasons on which it is based.

Section 809 Appeal of Granting, Denying, or Revocation of Class A Status

Any person aggrieved by the Planning Commission's granting or failure to grant a Class A status must appeal that decision to the Circuit Court. Such an appeal must be filed within 30 days after the decision has been certified in writing, or the minutes that record the decision are approved. The Zoning Board of Appeals shall notify all affected parties and hold a public hearing on the appeal as specified in Section 902, Administrative Standards and Procedures.