

ZONING

**ARTICLE IX**

**NONCONFORMING LOTS, SIGNS,  
STRUCTURES and USES**

**117.901. Intents and purposes.**

117.901.1. If, within the ZONING DISTRICTS established by this ORDINANCE or due to amendments that may later be adopted, there exist LOTS, STRUCTURES or USES of LOTS which were lawful before this ORDINANCE was passed or amended but which would be prohibited, regulated or restricted under the terms of this ORDINANCE or future amendments, it is the intent of this ORDINANCE to permit those nonconformities. Such USES are declared by this ORDINANCE to be incompatible with AUTHORIZED USES in the ZONING DISTRICTS involved. It is further the intent of this ORDINANCE that nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other SIGNS, STRUCTURES or USES prohibited elsewhere in the same ZONING DISTRICT, unless the BOARD shall interpret that the enlargement, expansion or extension is necessitated by the natural expansion and growth of trade.

117.901.2. To avoid undue hardship, nothing in this ORDINANCE shall be deemed to require a change in the PLANS, CONSTRUCTION or designated USE of any STRUCTURE on which actual CONSTRUCTION was lawfully begun prior to the effective date of adoption or amendment of this ORDINANCE and upon which actual CONSTRUCTION has been diligently commenced. "Actual CONSTRUCTION" is hereby defined to include the placing of CONSTRUCTION materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing STRUCTURE has substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual CONSTRUCTION, provided that work shall be diligently carried on until completion of the STRUCTURE involved.

**117.902. NONCONFORMING LOTS.**

117.902.1. In any ZONING DISTRICT in which SINGLE-FAMILY DWELLINGS are permitted, a SINGLE-FAMILY DWELLING and customary accessory BUILDINGS may be erected on any single NONCONFORMING LOT if the LOT is in separate ownership and not of continuous frontage with other LOTS in the same ownership (provided that YARD dimensions and other requirements not involving LOT AREA or LOT WIDTH, or both, of the LOT shall conform to the regulations for the ZONING DISTRICT in which such LOT is located). This provision shall apply even though such LOT fails to meet the requirements

FINDLAY CODE

for LOT AREA or LOT WIDTH, or both that are generally applicable in the ZONING DISTRICT. Variation of YARD requirements shall be obtained only through action of the BOARD as provided for by Article X Section 117.1006.

117.902.2. If two (2) or more NONCONFORMING LOTS or combinations of LOTS and portions of LOTS with continuous frontage are in single ownership, and if all or part of the LOTS do not meet the requirements for LOT WIDTH and LOT AREA as established by this ORDINANCE, the LOTS involved shall be considered to be an undivided LOT for the purposes of this ORDINANCE. No portion of said undivided LOT shall be used or sold which does not meet LOT WIDTH and LOT AREA requirements established by this ORDINANCE, nor shall any division of the LOT be made which leaves remaining any LOT not meeting the requirements of this ORDINANCE. Any division of said LOT containing a NONCONFORMING USE of a STRUCTURE shall conform with the minimum LOT AREA requirements for Authorized Uses in Table 117.307.1. **[Amended 2-12-92 by Ord. No. 209]**

**117.903. NONCONFORMING USES of LOTS.**

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

117.903.1. No such NONCONFORMING USE shall be enlarged or increased or extended to occupy a greater LOT AREA than was occupied at the effective date of adoption or amendment of this ORDINANCE, unless the ZONING HEARING BOARD shall interpret that the enlargement or extension is necessary by the natural expansion and growth of trade of the NONCONFORMING USE.

117.903.2. No such NONCONFORMING USE shall be moved in whole or in part to any other portion of the LOT occupied by such USE at the effective date of adoption or amendment of this ORDINANCE.

117.903.3. If any such NONCONFORMING USE of a LOT ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent USE of such LOT shall conform to the regulations specified by this ORDINANCE for the ZONING DISTRICT in which such LOT is located.

**117.904. NONCONFORMING STRUCTURES.**

Where a lawful STRUCTURE exists at the effective date of adoption or amendment of this ORDINANCE that could not be built under the requirements of this ORDINANCE, such STRUCTURE may be continued as long as it remains otherwise lawful, subject to the following provisions:

2-12-92

## ZONING

117.904.1. No such STRUCTURE may be enlarged or otherwise have any STRUCTURAL ALTERATIONS made to it in a way which increases its nonconformity, except when the BOARD may determine undue hardship and may authorize a reasonable modification of such STRUCTURE.

117.904.2. Should such STRUCTURE be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ORDINANCE. In the event that such damage or destruction is fifty percent (50%) or less than the replacement cost of the STRUCTURE, repairs or reconstruction may be undertaken, provided that such restoration is started within twelve (12) months of the date of damage.

117.904.3. Should such STRUCTURE be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of the ZONING DISTRICT in which it is located.

117.904.4. In addition to the requirements of Section 117.507 and TOWNSHIP Floodplain Ordinance 182, STRUCTURES existing in any identified FLOODPLAIN AREA prior to March 5, 1984, may continue, provided that no expansion or enlargement of any existing STRUCTURE shall be allowed within any identified FLOODWAY ZONING DISTRICT that would cause any increase in FLOOD heights.

### **117.905. NONCONFORMING USE of STRUCTURES.**

If a lawful USE of a STRUCTURE or of a STRUCTURE and LOT in combination exists at the effective date of adoption or amendment of this ORDINANCE that would not be allowed in the ZONING DISTRICT under the terms of this ORDINANCE, the lawful USE may be continued, subject to the following provisions:

117.905.1. No existing STRUCTURE devoted to a USE not permitted by this ORDINANCE in the ZONING DISTRICT in which it is located shall be enlarged, extended, constructed, reconstructed, moved or otherwise have any STRUCTURAL ALTERATIONS made to it except in changing the USE of the STRUCTURE to an AUTHORIZED USE in the ZONING DISTRICT in which it is located, unless the ZONING HEARING BOARD shall interpret that the enlargement, extension, CONSTRUCTION, reconstruction or STRUCTURAL ALTERATION is necessitated by the natural expansion and growth of trade of the NONCONFORMING USE.

117.905.2. Any NONCONFORMING USE may be extended throughout any part of a STRUCTURE which was manifestly arranged or designed for such USE at the time of adoption or amendment of this ORDINANCE, but no such USE shall be extended to occupy any LOT or portion of a LOT outside such STRUCTURE, except on a LOT or portion of a LOT owned

FINDLAY CODE

at the time the USE became nonconforming.

117.905.3. Any STRUCTURE or STRUCTURE and LOT in combination in or on which a NONCONFORMING USE is superseded by an AUTHORIZED USE shall thereafter conform to the regulations for the ZONING DISTRICT in which such STRUCTURE is located, and the NONCONFORMING USE may not thereafter be resumed.

117.905.4. When a NONCONFORMING USE of a STRUCTURE or STRUCTURE and LOT in combination is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three-year period, the STRUCTURE or STRUCTURE and LOT in combination shall not thereafter be used, except in conformance with the regulations of the ZONING DISTRICT in which it is located.

117.905.5. Where nonconforming status applies to both the USE and the STRUCTURE on the LOT, removal or destruction of the NONCONFORMING STRUCTURE shall eliminate the NONCONFORMING USE on the LOT.

117.905.6. Nonconforming SIGNS may be repaired or reconstructed, provided that no STRUCTURAL ALTERATIONS are made which increase the GROSS SURFACE AREA OF SIGN.

117.905.7. Nonconforming SIGNS may not be enlarged, added to or replaced by another nonconforming SIGN, USE or STRUCTURE, except that interchange of poster panels shall be permitted.

**117.906. Repairs and Maintenance.**

Nothing in this ORDINANCE shall be deemed to prevent the strengthening or restoring to a safe condition of any STRUCTURE or part thereof declared to be unsafe by any official charged with protecting the safety of the populace.

**117.907. USES approved under CONDITIONAL USE provisions.**

Any USE for which a CONDITIONAL USE, USE BY SPECIAL EXCEPTION or PLANNED DEVELOPMENT is approved in accordance with Articles VI, VII or VIII, of this ORDINANCE, shall not be deemed a NONCONFORMING USE but shall, without further action, be deemed a conforming USE in such ZONING DISTRICT.

**117.908. Prior Illegal Accessory STRUCTURES Deemed Nonconforming**

In the event the following STRUCTURES, to wit: swimming pools accessory to a single family house, STORAGE SHEDS, decks or patios attached to a single family house or GARAGE and CARPORTS,

9-30-95

ZONING

accessory to a single family house, were in existence before September 27, 1990; and such STRUCTURES do not conform to this CHAPTER, or evidence that such STRUCTURES are legal NONCONFORMING STRUCTURES is not available; such STRUCTURES shall nevertheless be deemed NONCONFORMING STURCTURES as set forth in Section 117.904 of this CHAPTER. **[Added 4-25-94 by Ord. No. 233]**

4-25-94

FINDLAY CODE

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