

Recommended by SCPC	<u>7-22-2010</u>
Recommended by ZC	<u>8-2-2010</u>
Sent to B.O.T.	<u>8-4-2010</u>
B.O.T. Hearing	<u>9-1-2010</u>

ARTICLE 10 – Nonconforming Structures, Lots and Uses

10.01 Purpose

- A.** Following the adoption of this Zoning Resolution and Zoning Map, or any subsequent amendments, some structures, lots and uses may not conform to the regulations of the Zoning District in which they are located. The purpose of this Article is to provide for the continuation, in appropriate circumstances, of structures, lots and uses which, while they do not conform to this Zoning Resolution and/or Zoning Map, were lawfully established prior to the adoption of this Resolution and/or Map or any subsequent amendments. Such structures, lots and uses are hereafter referred to as Legal-Nonconforming structures, lots and uses.
- B.** Any existing nonconforming structure, lot or use that was in violation of the Zoning Resolution and/or Zoning Map in effect immediately prior to the adoption of this Zoning Resolution and Zoning Map shall not become a Legal-Nonconforming structure, lot or use. Whether a nonconforming use was in existence and/or in violation shall be determined by the Zoning Inspector, and if there is a dispute it shall be referred to the Board of Zoning Appeals for a determination.

10.02 Nonconforming Structures

- A.** Any structure lawfully erected prior to the effective date of this Resolution, or its subsequent amendments, that no longer meets the provisions of this Resolution or its subsequent amendments shall be considered a Legal-Nonconforming structure and shall be allowed to remain without being required to conform to the provisions of this Resolution or its subsequent amendments.
- B.** A Legal-Nonconforming structure may be altered, improved or reconstructed, enlarged, or extended, and will remain a Legal-Nonconforming structure, provided such changes to the structure do not exceed sixty percent (60%) of the original structural area, measured in cubic feet.
- C.** Any Legal-Nonconforming structure that is destroyed by fire, collapse, explosion, flood, or acts of nature may only be reconstructed in conformity with this Zoning Resolution. For the purpose of this subsection, “destroyed” is defined as damage equal to more than fifty

percent (50%) of the fair market value of the structure as determined by a qualified appraisal.

- D. Any Legal-Nonconforming structure that is damaged by fire, collapse, explosion, flood, or acts of nature to an extent that does not exceed fifty percent (50%) of the fair market value of the structure as determined by a qualified appraisal may be reconstructed without coming into conformity with this Zoning Resolution, provided that reconstruction commences within twelve (12) months of the date the damage occurs; that construction is carried on diligently and without interruption; and that the entire structure shall have been completed within two (2) years after the commencement of reconstruction.
- E. Nothing in this Resolution shall prohibit the completion of construction and use of a Legal-Nonconforming structure for which a zoning certificate has been issued prior to the effective date of this Resolution, or any subsequent amendments, provided that construction is commenced within ninety (90) days after the issuance of such certificate; that construction is carried on diligently and without interruption and that the entire building shall have been completed within two (2) years after the issuance of said zoning certificate.
- F. The provisions of sub-sections 10.03 C and D above shall not apply to:
 - 1. Structures that have been designated by Copley Township as historic structures.
 - 2. Lawfully non-conforming residential structures located in districts not zoned for residential use, provided that the residential structure is occupied and used for residential purposes.

10.03 Legal-Nonconforming Lots of Record

- A. Any lot that was legally established and recorded prior to the effective date of this Resolution, or its subsequent amendments, that no longer meets the lot standards in this Resolution, or its subsequent amendments, shall be considered a Legal-Nonconforming lot of record.
- B. A conforming structure, conforming accessory structures, and/or the conduct of a permitted use shall be permitted on any Legal-Nonconforming lot of record that has an area, lot width, depth, and/or frontage that is less than that required for such structure or permitted use in the Zoning Resolution. A variance shall be required from any provision of the Zoning Resolution with which the lot does not comply other than

those pertaining to minimum area, lot width, depth, and/or frontage, and shall be obtained only through action of the Board of Zoning Appeals in accordance with the provision of this Resolution. When a proposed structure or accessory structure on a Legal Non-Conforming lot of record will not be in conformity with any minimum rear yard setback requirement, the structure or accessory structure may be erected only if the Board of Zoning Appeals grants a variance from the rear yard setback.

C. Where there are two or more Legal-Nonconforming lots of record with continuous frontage and in single ownership, those lots shall be considered to be an undivided parcel for the purposes of conformity with this Zoning Resolution. If this undivided parcel is in conformity with the minimum area, lot width, depth, and/or frontage requirements of this Resolution, no portion of this undivided parcel shall be used or conveyed in any manner that will create a lot that fails to be in compliance with the minimum area, lot width, depth, and/or frontage requirements of this Resolution.

D. Where there is a Legal-Nonconforming lot of record that has:

1. continuous frontage with one or more conforming lots; and
2. all of the lots are in single ownership; and
3. it is possible to merge all of the lots and then subdivide the merged lot so that all resulting lots are in compliance with the provisions of this Resolution; then
4. the merger of said lots shall be accomplished through the process of being re-platted or combined to create one or more conforming lot(s) as a condition for the receipt of any Zoning approvals, and no Zoning approvals shall be given for said lots unless this condition precedent is met.

10.04 Nonconforming Uses of Structures and/or Lots

A. Any continuous, lawful use of structures and/or lots established prior to the effective date of this Resolution, or its subsequent amendments, that is no longer a permitted use in the district where it is located, shall be considered a Legal-Nonconforming use and may continue provided that it remains otherwise lawful, subject to the conditions below.

B. No existing structure devoted to a Legal-Nonconforming use shall be enlarged, extended, expanded, increased, constructed, reconstructed,

moved or structurally altered unless it changes the use of the structure to a use permitted in the district in which it is located.

- C. No Legal-Nonconforming use shall be extended to displace a conforming use.
- D. A Legal-Nonconforming use may be changed to another Legal-Nonconforming use provided that the Board of Zoning Appeals determines that the proposed Legal-Nonconforming use is in less conflict with the character and use of the district than the existing Legal-Nonconforming use.
- E. When a Legal-Nonconforming use of a structure or a lot is superseded by a permitted use, the use of the structure or lot shall thereafter conform to the regulations of the zoning district in which it is located and the prior Legal-Nonconforming use shall not be resumed.
- F. Whenever a Legal-Nonconforming use has been discontinued for a period of two (2) years or more, any further use shall be in conformity with the provisions of this Resolution.
- G. At the time of application for a zoning certificate regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Zoning Inspector or Board of Zoning Appeals, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time. If the evidence submitted indicates the lot, building, structure, or use was legally established and has since become nonconforming because of the establishment of or amendment to this Resolution, the Zoning Inspector shall issue a letter confirming the nonconforming use. A copy of such letter shall be kept on file in the Township Zoning Office.

10.05 Nonconforming Signs

- A. Any sign lawfully erected or displayed prior to the effective date of this Zoning Resolution, or any subsequent amendments, that is no longer in conformity with the provisions pertaining to signs contained in this Resolution shall be considered a Legal-Nonconforming sign and shall be subject to the standards below.
- B. Any Legal-Nonconforming sign that is destroyed as defined by Section 10.02 C of this Resolution shall only be replaced by a sign in conformity with the provisions pertaining to signs contained in this Resolution.

- C. All Legal-Nonconforming signs shall be brought into compliance with the provisions pertaining to signs contained in this Resolution no later than ten (10) years from the effective date of this Resolution, and shall be required to be brought into compliance in less than ten (10) years under either of the conditions below:
1. The Zoning Inspector determines that a Legal-Nonconforming sign is a nuisance or unsafe.
 2. The use of the property associated with the sign has been discontinued for a period of six (6) months.
- D. No Legal-Nonconforming sign shall be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions pertaining to signs contained in this Resolution; however, changing the message displayed on a Legal-Nonconforming sign shall not be considered an alteration within the meaning of this section.
- E. All existing Illegal-Nonconforming signs must be removed in accordance with the provisions of this Resolution.

10.06 Repairs and Maintenance

- A. The provisions below apply to Legal-Nonconforming structures, lots, uses and any combination of structures, lots, or uses.
- B. Ordinary repairs, maintenance or replacement of internal and external portions of structures, including heating, wiring, plumbing and fixtures, is permitted, provided that the square footage and cubic footage of usable space existing when the structure became a Legal-Nonconforming structure is not increased, except as otherwise provided in this Resolution.
- C. Nothing in this Resolution shall prevent the strengthening or restoring to a safe condition of any portion of a structure declared unsafe by a proper authority.
- D. A Legal-Nonconforming structure that is demolished because it has become unsafe or unlawful due to physical condition shall only be rebuilt in conformity with the provisions of this Resolution for the Zoning district in which it is located.