

**PRELIMINARY DRAFT ZONING ORDINANCE FOR PUBLIC FORUM  
TUESDAY, JUNE 13, 2023**

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**CHAPTER TITLES**

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**Intent**

Upon the adoption of this Ordinance or subsequent amendments, there may exist lots, sites, structures, and uses of land and structures which were lawfully established prior to the adoption of the Ordinance, or amendment thereto, but which are not in conformance with the provisions of this Ordinance, or amendment thereto. It is the intent of this Ordinance to permit these nonconformities to continue, but

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not to encourage their prolonged existence. Because nonconformities prevent the full realization of the goals and objectives of the Cadillac Master Plan, the spirit of this Ordinance is to reduce, rather than increase, the nonconformance.

### **Nonconforming Lots**

**Existing Lot of Record** - In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where an existing lot of record which does not abut any lot or lots of record in the same ownership, fails to meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which it is located, the lot may be used for the permitted uses of the zoning district, provided that all other dimensional requirements not involving lot area, lot width, or both, of the zoning district in which the lot is located are met.

**Abutting Lots of Record Under Single Ownership** - In any zoning district, where one or more abutting lots of record in the same ownership do not, when considered individually, meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which the lots are located, the lots shall be considered as one lot for the purposes of this Ordinance. Contiguous lots so combined shall not be divided or reduced in dimensions or area so as to increase noncompliance with the minimum requirements of this Ordinance.

### **Nonconforming Structures**

Structures that do not conform to the spatial and dimensional requirements of this Ordinance, or amendment thereto, are subject to the following restrictions.

**Alteration of Nonconforming Structures** - Except as otherwise permitted in this Chapter, nonconforming structures shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conformance with the spatial and dimensional requirements of this Ordinance.

### **Reconstruction and Restoration, Not Including Nonconforming Single-Family Dwellings -**

Except for certain nonconforming single-family dwellings as outlined below, if a nonconforming structure is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds one-half (  $\frac{1}{2}$  ) the value of the structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of such structure for purposes of taxation, the structure may be reconstructed or restored only if it conforms with the provisions of this Ordinance.

**Reconstruction and Restoration - Nonconforming Single-Family Dwellings** - Residential dwellings and accessory structures serving residential dwellings damaged or destroyed more than one-half (  $\frac{1}{2}$  ) the value of the structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, may be re-established upon the same footprint and to the same dimensions provided that:

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**Dimensional Standards** - With regard to lot, setback, lot coverage, height or other requirements pertaining to the structure, the new structure shall not increase any nonconformity or result in any new nonconformity. Provided, however, notwithstanding the location of the original footprint, the new structure may be no closer than five (5) feet from any side lot line if it is the principal dwelling and no closer than three (3) feet from any side or rear lot line and no closer than ten (10) feet from the principal dwelling if it is an accessory structure.

**Basic Repairs and Maintenance of Nonconforming Structures** - Within any period of twelve (12) consecutive months, ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, mechanical equipment, or plumbing, to an extent not exceeding twenty percent (20%) of the current replacement value of the structure as based on the records of the City Assessor, are permitted, provided that the structure is not enlarged, extended, moved or structurally altered.

**Safety Improvements** - 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 public health, upon order of the official.

**Building Permits Issued Prior to Ordinance Changes** - Any structure on which actual construction was lawfully begun prior to the effective date of this Ordinance, or amendment thereto, but, which under this Ordinance, or amendment thereto, is classified as nonconforming, shall be considered existing and legally nonconforming pursuant to construction purposes and the intended use. Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or use of the structure. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction the demolition or removal shall be deemed actual construction. All construction shall be done pursuant to the issuance of a building permit by the city of Cadillac. If a permitted construction project is not completed within the time authorized by the building permit and any extensions of the permit approved by the Building Official, the completion of the building must conform to the spatial and dimensional requirements of this Ordinance.

### **Nonconforming Sites**

Unless otherwise provided for by this Ordinance, the use of nonconforming sites may be continued, and sites are not required to be upgraded to conformance with this Ordinance, so long as no site development improvements are initiated. Should sites be upgraded, conformance with all applicable site development requirements shall be complied with.

### **Nonconforming Uses of Land**

Nonconforming land uses lawfully established on or prior to the effective date of this Ordinance, or amendment thereto, may be continued, even though the use does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:

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**General Changes** - There may be a change of tenancy, ownership or management of any existing non-conforming use of land, structures and premises, however, there shall be no change in the nature or character of the non-conforming use without approval of the Zoning Board of Appeals.

**Extending and Relocating Uses Within Structures and Buildings** - Within structures and buildings any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the effective date of this Ordinance, or amendment thereto, but no such use shall be extended to occupy any portion of a building which was not manifestly arranged or designed for the use at the effective date of this Ordinance, or amendment thereto, nor shall the use be extended to occupy any land outside the building.

**Extending and Relocating Uses Not Involving Structure and Buildings** - No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance, or amendment thereto. No nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by the use on the effective date of this Ordinance, or amendment thereto.

### **Reestablishment of Nonconforming Use**

If a nonconforming use of any structure is terminated and replaced by a permitted use, a nonconforming use shall not be later reestablished

### **Abandonment of a Nonconforming Use**

**Within Structures and Buildings** - When a nonconforming use of a structure is discontinued or ceases to exist for twelve (12) consecutive months, with an intent to abandon the use, the structure shall no longer be used except in conformance with the regulations of the district in which it is located.

**Not Involving Structure and Buildings** - If any nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of the land shall conform to the requirements of this Ordinance.

**Determination of Abandonment** - Maintenance of the land or buildings or structures, including the provision of maintaining utility service or postal service, shall not constitute a continuation of the use of land. A determination that a nonconforming use has ceased, with an intent to abandon the use, shall be made by the city based upon any one or more of the following:

**Records and Field Reports** - City or county government records, such as inspection reports, dated photographs/aerial photographs or notarized statements that provide clear evidence that the nonconforming use has ceased.

**Phone Records and Business Listings** - Changes to listings in telephone directories and business listing venues providing clear evidence that the nonconforming use has ceased.

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**Utility Records** - Changes to utility records providing clear evidence that the nonconforming use has ceased.

**Advertising** - Dated advertising or other information published in a newspaper, magazine, or website, such as a going out of business sale, moving sale, or grand opening at a new location providing clear evidence that the nonconforming use has ceased.

**Lack of Maintenance** – Visible evidence of the lack of site and building maintenance.

**Lack of Ownership Response** – Lack of response from the property owner following the issuance of certified correspondence from the city to the property owner seeking clarification regarding the abandonment of the site use.

### **Change in Use (Substitution)**

A nonconforming use may be changed to another nonconforming use, subject to prior approval of the Zoning Board of Appeals. The Board may approve this change provided it complies with all of the following standards:

**No Increase in the Degree of Nonconformity** - The proposed use does not increase the degree of nonconformity existing prior to the change of use. Pursuant to this standard, the proposed use shall not create or result in, impacts which are considered more objectionable than the use to be replaced. These impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation, noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage, and other such factors.

**No Structural Alteration of the Existing Structure** - No structural alteration of the existing structure will be required to accommodate the new use unless the alteration will render the structure more conforming to the underlying zone district standards.

In approving a change in use, the Zoning Board of Appeals may require reasonable conditions in order to increase the degree of conformity. These conditions shall include, but are not limited to, buffers, landscaping, off-street parking, access controls, hours of operation, and other conditions to bring about a greater degree of conformity.

### **Errors and Violations**

The issuance or granting of a permit or approval of plans or specifications shall not be considered as approval for any violation of any provision in this Ordinance. No permit presuming to give the authority to violate or cancel any provision of this Ordinance shall be valid.

### **Illegal Nonconformity**

Any lot, use, building or structure established in violation of the provisions of this Ordinance or any prior Ordinance or amendment shall not be considered a legal nonconformity and shall not be entitled to the provisions, remedies, and safeguards of this article.

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