

**AMENDMENTS AFTER
19 MAY 2014**

ORDINANCE NO. _____

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND THE CASCO TOWNSHIP ZONING ORDINANCE, SPECIFICALLY PERTAINING TO SWIMMING POOLS; NONCONFORMING LOTS, USES OR STRUCTURES; FENCES; AND THE EFFECTIVE DATE OF THIS ORDINANCE.

THE TOWNSHIP OF CASCO, COUNTY OF ALLEGAN, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Swimming Pools. Section 3.16.D of the Casco Township Zoning Ordinance, concerning enclosures around swimming pools, shall be restated in its entirety as follows.

- D. Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make the body of water inaccessible to small children. The enclosure, including gates therein, must be not less than four (4) feet above the underlying ground. All gates must be self-latching, and latches shall be placed four (4) feet above the ground or otherwise made inaccessible from the outside to small children. See Section 3.32 for other fence requirements. A natural barrier or other protective device may be approved by the Zoning Administrator as an alternative if the degree of protection afforded is at least equal to the protection offered by the fence or wall, and if the alternative complies with the state building code.

Section 2. Nonconforming Lots, Uses Or Structures. Section 3.28 of the Casco Township Zoning Ordinance, concerning nonconforming lots, uses, or structures, shall be restated in its entirety as follows.

SECTION 3.28 NONCONFORMING LOTS, USES OR STRUCTURES

A. Intent.

1. Within the zoning districts established by this Ordinance, or any subsequent amendments thereto, there exist lots, structures, uses of land, and structures, and characteristics of use 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 amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their expansion or continuation except in compliance with this Section.
2. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning districts involved. A nonconforming use of land or a

nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance or an amendment to this Ordinance except in compliance with this Section.

3. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

B. Nonconforming Lots of Record.

1. A single lot of record is not contiguous with another lot or lots under the same ownership. Where a single lot of record in a platted subdivision (in existence at the time of the adoption or amendment of this Ordinance) does not meet the minimum requirements for lot width, lot depth, or lot area, that single platted lot of record may be used for any purposes permitted by the zoning district in which the lot is located, provided that:
 - a. The minimum lot width shall be fifty (50) feet;
 - b. The minimum lot depth shall be one hundred (100) feet;
 - c. The maximum lot coverage for all buildings shall be twenty-five (25) percent; and
 - d. The setbacks for the main building shall be a minimum of:
 - (1) Twenty-five (25) feet for the front setback;
 - (2) Twenty (20) feet for the rear setback; and
 - (3) Ten (10) feet for each side setback.
2. Where the setbacks cannot be met on the nonconforming lot, the owner may request a variance from the Zoning Board of Appeals under Chapter 20.
3. Contiguous Nonconforming Lots in Common Ownership.

- a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they meet the following:
 - (1) Are in the same or substantially the same ownership;
 - (2) Are adjacent to each other or have continuous frontage; and
 - (3) Individually do not meet the lot width or lot area requirements of this Ordinance.

- b. In the case where several contiguous nonconforming lots in an existing platted subdivision must be combined, the resultant buildable lot or lots shall provide a:
 - (1) Minimum lot width of sixty (60) feet;
 - (2) Minimum lot depth of one hundred (100) feet;
 - (3) Maximum lot coverage for all buildings of twenty-five (25) percent;
 - (4) Front setback of twenty-five (25) feet;
 - (5) Rear setback of twenty (20) feet; and
 - (6) Side setback of ten (10) feet.

- c. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width or lot area requirements.

C. Nonconforming Uses - Change or Discontinuance.

1. Except as noted in subsection 2 below, the nonconforming use of a building or structure or of any land or premises shall not be:
 - a. Re-established after it has been changed to a conforming use; or
 - b. Re-established after being abandoned or discontinued for a continuous period of twelve (12) consecutive months, or for eighteen (18) months within any three (3) year period. A nonconforming use shall be determined to be abandoned or discontinued if one (1) or more of the

following conditions exist, and are deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:

- (1) Utilities, such as water, sanitary sewer, gas, and electricity to the property, have been disconnected;
 - (2) The property, buildings, and grounds have fallen into disrepair;
 - (3) Signs or other indications of the existence of the nonconforming use have been removed;
 - (4) Equipment or fixtures which are necessary for the operation of the nonconforming use have been removed; or
 - (5) Other actions have been taken which, in the opinion of the Zoning Administrator, constitute an intention of the part of the property owner to abandon the nonconforming use.
2. The Zoning Administrator may permit a nonconforming use to be converted to a more conforming use which is less intensive or objectionable. In considering this permission, the Zoning Administrator shall use the following standards in making the decision.
- a. The building or premises may be changed to a permitted use for the zoning district in which the existing nonconforming use is located. The new use must meet all applicable Ordinance requirements.
 - b. The use of the building or premises may be changed to another nonresidential use which would be permitted by right in a more restrictive zoning district than that in which it is located.
3. The Zoning Administrator must document the rationale for permitting the conversion of a nonconforming use and place that documentation in the records of the Township. This documentation shall also be provided to the Planning Commission.

D. Nonconforming Buildings or Structures.

1. Where a lawful building or structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the building or structure, the building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

- a. No nonconforming building or structure may be enlarged or altered in a way which increases its nonconformity, but it may be altered to decrease its nonconformity.
- b. Should a nonconforming building or structure be destroyed by any means, it may only be rebuilt as permitted in Section 3.28.E.2.
- c. Should a nonconforming building or structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located.

E. Repairs and Maintenance.

1. Except as provided by Section 3.28.E.2, all repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life, except for repairs necessary to maintain public safety.
2. Nonconforming buildings or structures damaged by fire, wind, explosion, act of God, or public enemy may be restored or repaired if the cost does not exceed fifty (50) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction. If the cost of restoration or repair would exceed fifty (50) percent of the true cash value of the nonconforming building or structure prior to its damage or destruction, the restoration or repair shall be permitted only if it complies with the requirements of this Ordinance.
3. Residential nonconforming dwellings damaged by fire, wind, explosion, Act of God, or public enemy may be restored or repaired provided that the reconstruction takes place within the confines of the original nonconforming building height and footprint.
4. If a nonconforming building or structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored or repaired, except in conformity with this Ordinance.

F. Any buildings, structures, or uses which fail to conform to the predecessor of this Ordinance, were not constructed or used legally, were not permissible nonconforming buildings or structures or uses thereunder, or which violated the predecessor of this Ordinance, shall not be considered nonconforming buildings or structures under this

Ordinance. The buildings, structures, or uses shall be considered illegal and subject to the enforcement provisions of this Ordinance.

- G. Structures, buildings, or uses nonconforming because of height, area, or parking and loading space only may be extended, enlarged, altered, remodeled, or modernized provided there is compliance with all height, area, and parking and loading sections with respect to the extension, enlargement, alteration, remodeling, or modernization, and the Zoning Administrator determines that the extension, enlargement, alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure. Any use of a building or structure which is nonconforming because of parking and loading sections and which is thereafter made conforming or less nonconforming by the addition of parking or loading space shall not thereafter be permitted to use such additionally acquired parking or loading space to meet requirements for any extension, enlargement, alteration, remodeling, modernization, or change of use which requires greater areas for parking or loading space.
- H. No nonconforming use of any building or structure or of any lot or parcel which is nonconforming for reasons other than height, area, or parking and loading space shall be extended or enlarged unless all extensions or enlargements do not exceed fifty (50) percent of the area of the original nonconforming use and unless such extension or enlargement is authorized by the Zoning Board of Appeals as a matter for decision pursuant to Section 20 of the Zoning Act (MCL 125.290). In considering such authorization, the Zoning Board of Appeals shall consider the following standards:
1. Whether the extension or enlargement will substantially extend the probable duration of the nonconforming use; and
 2. Whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with this Ordinance.

Section 3. Fences. Section 3.32.B and E of the Casco Township Zoning Ordinance, concerning fences, shall be restated in their entirety as follows (the remaining subsections of Section 3.32 shall remain unchanged).

- B. Unless provided for elsewhere in this Ordinance, a fence may not exceed a height of three (3) feet within any required front yard setback area, or a height of seven (7) feet in any other area. For waterfront lots, a fence may not exceed a height of three (3) feet within any front or rear yard setback area, or a height of seven (7) feet in any other area.

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- E. In the case of a double frontage (through) lot in any Residential District, a fence up to seven (7) feet in height may be erected in the rear yard, as determined by the Zoning Administrator, but shall not block clear vision for area driveways or roadways.

Section 4. Effective Date. The foregoing amendment to the Casco Township Zoning Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan on _____, 2016, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on _____, 2016, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Allan Overhiser,
Township Supervisor

Cheri Brenner,
Township Clerk