

**AN ORDINANCE OF THE LONG BEACH TOWN COUNCIL
AMENDING AND RESTATING TITLE XV, CHAPTER 154, SECTIONS 154.125 –
154.135 (NONCONFORMING USES AND STRUCTURES) OF THE ZONING CODE
OF THE TOWN OF LONG BEACH, INDIANA**

WHEREAS, the Long Beach Town Council on June 10, 2002, adopted a Zoning Code of the Town of Long Beach, LaPorte County, Indiana, as amended, which is located at Title XV, Chapter 154 of the Long Beach Town Code; and

WHEREAS, the Long Beach Advisory Plan Commission has initiated a proposal to amend and restate Title XV, Chapter 154, Sections 154.125 – 154.135 (Nonconforming Uses and Structures) of the Zoning Code for the purposes of making certain corrections and amendments; and

WHEREAS, a public hearing has been held before the Town of Long Beach Advisory Plan Commission, which has certified its proposal to amend the text of the above-referenced sections and related appendixes of the Zoning Code to the Long Beach Town Council; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning the amendments of the subject sections of the Zoning Code; and

WHEREAS, the Advisory Plan Commission and the Town Council have paid reasonable regard to the Town's Comprehensive Plan, the current conditions and character of current structures and uses in each zoning district, the most desirable use for which the land in each zoning district is adapted, the conservation of property values throughout the jurisdiction, and responsible growth and development in the Town; and

WHEREAS, the Long Beach Town Council concurs with its Advisory Plan Commission and accepts the proposal to amend and restate Title XV, Chapter 154, Sections 154.125 - 154.135 of Zoning Code to the Zoning Code,

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Long Beach Town Council that Title XV, Chapter 154, Sections 154.125 - 154.135 of the Zoning Code shall be amended and restated as follows:

1. Title XV, Chapter 154:

NONCONFORMING USES AND STRUCTURES

§ 154.125 INTENT AND SINGLE-FAMILY AMORTIZATION EXEMPTION.

(A) Within the districts established by this Chapter or by amendment that may later be adopted, there may exist:

- (1) Nonconforming lots;
- (2) Nonconforming structures;
- (3) Nonconforming use of land;
- (4) Nonconforming use of land and structures in combination; and
- (5) Nonconforming characteristics of use.

(B) The nonconformities that were lawful before the adoption of this chapter, but which are prohibited, regulated, or restricted under the terms of this Chapter or may be under future amendments thereto are permitted to continue until they are removed. It is the intent of this chapter to permit these nonconformities to continue and to encourage their modification to become into greater conformance with the terms of this Chapter whenever possible.

(C) It is the intent of this Chapter to allow for the Building Commission to permit rebuilding or provide for the discontinuance of such nonconforming uses, where such nonconforming uses have been destroyed more than 50% of their current assessed value, as defined by the Township Assessor, except as provided by § 154.134. This Section does not prevent the refurbishment of a nonconforming single-family dwelling provided that the rebuilding or refurbishment does not expand, extend or increase the degree of nonconformity with the terms of this Chapter.

§ 154.126 NONCONFORMING USE DECLARED INCOMPATIBLE.

Nonconforming uses are declared by this Chapter to be incompatible with the permitted use in the district in which such uses are located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Chapter except as provided in this Section.

§ 154.127 RESIDENTIAL SINGLE NONCONFORMING LOT OF RECORD IN ANY DISTRICT.

In any residential district, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which became nonconforming as a result of the original adoption of this Chapter, which lot of record otherwise meets all requirements applicable to the zoning district for the subject lot.

§ 154.128 NONCONFORMING LOTS OF RECORD IN COMBINATION.

(A) If two or more vacant lots in single ownership or combined into a single tax parcel recorded for LaPorte County tax assessment purposes (including combination of lots or portions of lots) having a continuous front zoning lot line are of record at the time of the original adoption of this Chapter, each of which does not meet the minimum requirements established for a zoning lot, the land involved shall be considered to be a single lot for the purposes of this Chapter.

(B) No nonconforming lot shall be used or sold in a manner which diminishes compliance with the minimum zoning lot size requirements established by this Chapter, nor shall any nonconforming zoning lot be divided which creates a zoning lot which does not conform with the minimum zoning lot size requirements of this Chapter.

§ 154.129 NONCONFORMING USES OF LAND.

Where, at the time of adoption of this chapter, lawful uses of land exist which would not be permitted by the regulations imposed by this Chapter, the uses may continue so long as they remain otherwise lawful, provided:

- (A) No such nonconforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of this Chapter.
- (B) No such nonconforming uses shall be moved in whole or in part to any portion of the zoning lot other than that occupied by such uses at the effective date of the adoption of this Chapter unless the plan includes an overall decrease in the nonconformity of the use.
- (C) If any such nonconforming uses of land are discontinued or abandoned for more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which such land is located.
- (D) No additional buildings or structures not conforming to the requirements of this Chapter shall be erected in connection with such nonconforming use of land.

§ 154.130 NONCONFORMING BUILDINGS AND STRUCTURES.

Where a lawful building or structure exists at the effective date of adoption of this Chapter that could not now be built under the terms of this Chapter by reason of restriction on area, zoning lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the building or structure, such building or structure may be continued and altered so long as the nonconforming building or structure remains otherwise lawful. However, no such nonconforming building or structure may be altered, enlarged, or moved in a way that increases any aspect of any nonconformity as defined or otherwise identified under this Chapter or increases volume for a nonconforming encroachment into a setback, but any building or structure may be altered to decrease any nonconformity.

§ 154.131 NONCONFORMING USES OF BUILDINGS/STRUCTURES AND LAND IN COMBINATION.

If a lawful use involving individual buildings and structures, or if a building or structure and land in combination, exists at the effective date of adoption of this Chapter that would not now be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing building or structure devoted to a use not permitted by the terms of this Chapter in the district in which it is located shall be enlarged, extended, or constructed, except in changing the use of the building or structure to a use permitted in the district in which it is located, except as provided in §§ 154.132 through 154.134.
- (B) A nonconforming use may be extended throughout any part of a building or structure which was manifestly arranged or designed for such use at the time of adoption of this Chapter, but no such use shall be extended to occupy any land outside such building or structure.

(C) For any building or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use and thereafter conforms to the regulations for the district, any nonconforming use may not thereafter be resumed.

(D) When a nonconforming use of building or structure, or a building or structure and land in combination is discontinued or abandoned for more than six (6) months, the building and structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located, except as provided in § 154.132 through 154.134.

§ 154.132 REPAIR/MAINTENANCE; NONCONFORMING BUILDING, STRUCTURES AND LAND USES.

The Building Commission shall issue a location improvement or building permit for any nonconforming building or structure or portion of a building or structure containing a nonconforming use, for repair and maintenance work to be done provided that any such repair and maintenance work does not enlarge or extend the nonconformance.

§ 154.133 EXPANSION OF NONCONFORMING BUILDING/STRUCTURES AND LAND USES.

The Board of Zoning Appeals is empowered to grant a special use/exception permit and so order the Building Commission to issue a location improvement or building permit for the purpose of expanding a nonconforming building, structure or building/structure and use of land in combination when such special use/exemption complies with the spirit and intent of the specific district after public hearing, and affirmative findings based on the standards cited in § 154.153(A)(5) and where such expansion is deemed to be the minimum expansion required for the specific use and/or occupancy of the building and/or structure and/or use of land requested by the applicant.

§ 154.134 RESTORATION OF NONCONFORMING USES IN RESIDENTIAL DISTRICTS.

A nonconforming use, building or structure, located in a residential district, damaged by fire, casualty, or act of God may be restored, reconstructed, and used as before any such fire, casualty, or act of God.

This Ordinance shall take effect, and be in full force and effect, from and after its passage and adoption by the Town Council of the Town of Long Beach, LaPorte County, Indiana, and publication, if any, all in conformance with applicable law.

The Sections of this Ordinance shall be codified and made part of the Town Code of Ordinances and all sections and subsections may be renumbered or re-lettered as necessary to achieve such purpose.

It is the intent of the Town Council that if any section, subsection, sentence, clause or phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

ALL OF WHICH IS PASSED AND ADOPTED by the Town Council of the Town of Long Beach, LaPorte County, Indiana, this 8th day of August, 2022.

LONG BEACH TOWN COUNCIL

By:



Bob LeMay, President



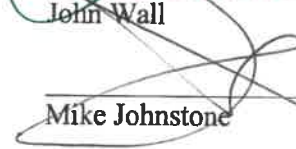
John Kocher



Mary Lou McFadden



John Wall



Mike Johnstone

ATTEST:



Tim Perry, Clerk-Treasurer