

RECORD OF ORDINANCES

Ordinance No. 2025-1

Passed JANUARY 15, 2025

SPONSOR: PLANNING AND ZONING COMMITTEE

AN ORDINANCE AMENDING SECTION 152.018 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MOGADORE, ENTITLED “NONCONFORMING USES” CONCERNING THE RESTORATION OF NONCONFORMING ATTACHED SINGLE-FAMILY DWELLINGS WITHIN THE VILLAGE, AND DECLARING AN EMERGENCY.

WHEREAS, Section 152.018 of the Codified Ordinances of the Village of Mogadore, entitled “Nonconforming Uses” provides for zoning regulations concerning nonconforming uses within the Village; and

WHEREAS, Subsection 152.018(A) further provides for the continuation of use of nonconforming buildings, structures, or land within the Village, including Subsection 152.018(A)(1) which provides for the restoration of buildings or structures that are damaged or destroyed in certain circumstances; and

WHEREAS, Subsection 152.018(A)(6) provides that nonconforming buildings or structures that are damaged or destroyed may be reconstructed, repaired, or rebuilt, and may continue to then be used as a nonconforming building or structure, provided that the expense of such work does not exceed 50% of the replacement cost of the building or structure and that it is reconstructed, repaired or rebuilt within 12 months; and

WHEREAS, given the unique circumstances surrounding nonconforming attached single-family dwellings, in particular the very likely probability that such attached single-family dwelling is situated on a lot that would otherwise be unbuildable, this Council desires to amend Section 152.018(A)(6) to permit the reconstruction, repair, or rebuild of such dwelling regardless of the expense of the work for the same, provided that it is reconstructed, repaired or rebuilt within 12 months; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to amend Section 152.018 as set forth on Exhibit A, attached hereto and incorporated herein by reference, for the reasons set forth above.

NOW, THEREFORE BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby adopts amends Section 152.018 of the Codified Ordinances of the Village of Mogadore as set forth on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council

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and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 3: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately providing for the aforementioned exception for attached single-family dwellings before any rezoning is adopted by this Council that would make any attached single-family dwellings in the Village nonconforming uses, and, provided this Ordinance receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

 1-15-25  
President of Council Date

 1-15-25  
Mayor Date

Attest:

  
Clerk-Treasurer

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## EXHIBIT A

**§ 152.018 NONCONFORMING USES.**

- (A) Continuation of non-conforming uses. The lawful use of any building, structure, or land existing at the time of the enactment of this chapter may be continuous, although such use does not conform with the provisions of this chapter, provided the following conditions are met:
- (1) Unsafe structures. Nothing in this chapter shall prevent restoring to a safe condition any portion of a building or structure declared unsafe by a proper authority as defined by ordinance.
  - (2) Alterations. A non-conforming building or structure may be altered, improved or reconstructed but not enlarged or extended, provided such work is not to an extent exceeding in the aggregate cost 50% of the replacement value of the building or structure, unless the building or structure is changed to a conforming use.
  - (3) Extension. A non-conforming use shall not be extended but the extension of lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this chapter shall not be deemed the extension of such non-conforming use.
  - (4) Changes. A non-conforming use may be changed to another non-conforming use if the proposed non-conforming use is in less conflict with the character and use of the district than the existing non-conforming use.
  - (5) Construction approved prior to ordinance. Nothing herein shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted within 90 days of the date of the permit.
  - (6) Restoration. For all nonconforming buildings or structures other than nonconforming attached single-family dwellings, ~~Nothing~~ in this chapter shall prevent the reconstruction, repairing, rebuilding, and continued use of any non-conforming building or structure damaged by fire, collapse, explosion, or Acts of God after the date of this chapter, where the expense of such work does not exceed 50% of the replacement cost of the building or structure at the time such damage occurred and the restoration is completed within 12 months from the date of damage and in accordance with this chapter and the building code. A nonconforming attached single-family

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dwelling damaged by fire, collapse, explosion or Acts of God may be restored, repaired, rebuilt and continued to be used provided such restoration, repair or rebuilding is completed within 12 months from the date of damage and in accordance with this chapter and the building code, regardless of the expense of such restoration, repair or rebuilding.

- (7) Abandonment. A non-conforming use has been discontinued for a period of one year or more. Such discontinuance shall be considered conclusive evidence of an intention to legally abandon the non-conforming use.
- (B) Displacement. No non-conforming use shall be extended to displace a conforming use.
- (C) District changes. Whenever the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, the provisions of § 152.017 and division (A) of this section shall also apply to any non-conforming uses existing therein.
- (D) Junk yards. No person, firm or corporation shall store or permit storage for a period of more than 15 days of any partly dismantled, inoperable and unlicensed, or wrecked vehicles or their parts; second-hand building materials; junk, paper, containers, or other salvaged articles, including, without limitation, old iron, glass, garbage waste, or discarded materials, upon any lot or land situated within the boundaries of any residential, commercial or industrial area unless same is completely enclosed within a building or garage and is clearly ancillary or incidental to the permitted use or is a use specifically permitted by the applicable district regulations. Such 15-day period shall run from the date that such person, firm, or corporation is notified, in writing, by the Village Zoning and Building Inspector, the Village Council or their agent, that such storage is in violation of this section. Impound lots designated by the Safety Department of the village are permitted storage times of up to one year.