

## **Non-Conformities**

### **SECTION 1301. INTENT**

It is the intent of this Section to permit the continuation of any lawful use of a building or land existing as of the effective date of this Ordinance. However, it is hereby declared that nonconformance with the provisions of this Ordinance is contrary to the best interests of the citizens of the Township and ought to be discontinued as circumstances permit.

### **SECTION 1302. AUTHORITY TO CONTINUE**

Except as otherwise provided in this article, any nonconforming lot, use, sign or structure lawfully existing on the effective date of this Ordinance or subsequent amendment thereto may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conformity wherever possible and shall be required to convert to conformity status as required by this chapter. The burden of establishing that any nonconformity is a legal nonconformity as defined by this article shall in all cases be upon the owner of such nonconformity and not upon the Township of Lake.

### **SECTION 1303. NONCONFORMING LOTS OF RECORD**

Where a lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that any building or structure meets ~~at least eighty percent (80%)~~ all of the applicable required setbacks for that district. *Amended 8.06.2015*

**SECTION 1304. CONTIGUOUS NONCONFORMING LOTS IN COMMON OWNERSHIP**

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:

- A. Are in common ownership;
- B. Adjacent to each other or have continuous frontage, and;
- C. Individually do not meet the lot width or lot area requirements of this Ordinance.

Such parcels shall be combined into such lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of such parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this Ordinance.

Platted lots held in common ownership may be divided upon request if they can individually meet a minimum width of sixty-five (65') feet and a lot area of not less than twelve thousand (12,000) square feet. These standards have been established by the State of Michigan Subdivision Control Act as minimum standards for newly created parcels where public infrastructure is not available. Lake Township feels it is necessary to uphold these minimum standards for existing nonconforming parcels in common ownership in order to maintain isolation between wells and septic.

**SECTION 1305. NONCONFORMING USES**

No nonconforming use shall be enlarged or increased, moved, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase or greater area:

- A. Shall not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots;
- B. Shall comply with all parking, sign or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase or greater area;

- C. Shall comply with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase or greater area will not prove detrimental to adjacent properties, the neighborhood or the community.

### **SECTION 1306. ABANDONMENT**

If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists and shall be deemed to constitute intent on the part of the property owner to abandon the nonconforming use:

- A. Utilities, such as water, gas and electricity to the property, have been disconnected;
- B. The property, buildings and grounds have fallen into disrepair;
- C. Signs or other indications of the existence of the nonconforming use have been removed;
- D. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
- E. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

### **SECTION 1307. CHANGING USES**

A nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:

- A. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use;
- B. The proposed nonconforming use shall not be enlarged or increased nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise be permitted by this section;
- C. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

**SECTION 1308. MORE THAN ONE (1) RESIDENTIAL BUILDING ON A LOT IN THE R-1 AND R-2 DISTRICTS**

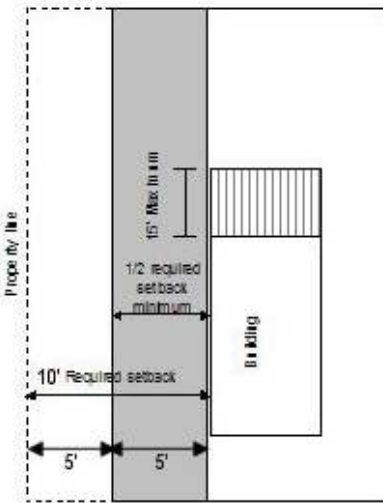
The intent of this section is to allow recognized nonconforming uses to exist and continue within the following parameters. Such uses may be enlarged, increased or extended not to exceed the following:

- A. Ground floor area shall not exceed seven hundred twenty (720) square feet;
- B. The floor area of a second story shall not exceed three hundred sixty (360) square feet.
- C. The total height shall not exceed twenty (20') feet to the ridge as measured from the average grade.
- D. Side yard setback shall be 6 feet or follow the requirements of Section 1310.
- E. Distance between buildings shall be no less than twelve (12') feet;
- F. No new structures will be permitted;
- G. Existing buildings to be altered or enlarged shall have a review done by the Huron County Health Department for septic requirements or a certified septic field inspector.
- H. Maximum lot coverage not to exceed twenty-five (25%) percent in ground floor area for all buildings and structures.

**SECTION 1309. NONCONFORMING BUILDINGS AND STRUCTURES**

Where a lawful building or structure exists at the effective date of this Ordinance, or an amendment thereto, that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height or yards, such building or structure may be continued so long as it remains otherwise lawful.

**SECTION 1310. EXTENSIONS OF NONCONFORMING BUILDINGS AND STRUCTURES**



No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except where the nonconforming *setback* of a building or structure is not less than one-half (1/2) of the distance required by this Ordinance. In such case, the nonconforming setback may be extended along the same plane up to fifteen (15') feet in length. In no case shall the setback be further reduced. Only one nonconforming extension of up to fifteen (15') feet is permitted.

**~~SECTION 1310.1 DEMOLITION OF STRUCTURES~~**

~~Structures can be torn down to the foundation upon inspection by Lake Township Building Inspector. If a foundation is unsafe, it can be repaired in the same footprint without a variance. No permits will be given to properties that are in the right of way. *Amondment 4.18.2011 Amended to remove Section 1310.1 5.20.2013*~~

**SECTION 1311. RECONSTRUCTION AND RESTORATION**

None of the following provisions are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.

In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, and the cost of rebuilding or restoration exceeds one-half (1/2) the floor area of the building or structure after rebuilding or restoration is complete, then such rebuilding or restoration shall only be permitted when first authorized by the Zoning Board of Appeals. In considering such authorization, the Zoning Board of Appeals shall consider the following standards:

- A. Whether such rebuilding or restoration will substantially extend the probable duration of the nonconforming use.
- B. Whether or not the land previously occupied by the nonconforming use can be advantageously used for a use permitted in the applicable Zoning District.

**LAKE TOWNSHIP ZONING ORDINANCE**

A building or structure on an existing lot of record in the district which is nonconforming by reason of height, lot area, width, yard requirements and/or parking and loading space provisions which is damaged by fire, wind, Act of God, or public enemy, may be rebuilt or restored as a matter of right, regardless of the value of the building or structure after rebuilding or restoration is complete.