

03/09/20
03/23/20

VILLAGE OF TOWER LAKES

ORDINANCE NO. 2020-_____

AN ORDINANCE AMENDING
TITLE 10, "ZONING REGULATIONS," OF THE
VILLAGE OF TOWER LAKES VILLAGE CODE

(RE: Amendments to Section 10-6-2, "Nonconforming Lots, Uses and Buildings",
of Chapter 6, "General Requirements")

ADOPTED BY THE

CORPORATE AUTHORITIES

OF THE

VILLAGE OF TOWER LAKES, ILLINOIS

THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the Corporate Authorities of the Village of Tower
Lakes, Lake County, Illinois, this _____ day of _____, 2020.

AN ORDINANCE AMENDING
TITLE 10, "ZONING REGULATIONS," OF THE
VILLAGE OF TOWER LAKES VILLAGE CODE

(RE: Amendments to Section 10-6-2, "Nonconforming Lots, Uses and Buildings",
of Chapter 6, "General Requirements")

WHEREAS, the Corporate Authorities of the Village of Tower Lakes ("the Village"), have determined that it is in the best interests of the Village and its residents to amend the Village of Tower Lakes Village Code, and specifically, the Zoning Regulations of the Village, which are part thereof; and

WHEREAS, the question of the proposed amendments to Title 10, "Zoning Regulations", of the Tower Lakes Village Code was referred by the Corporate Authorities of the Village to the Plan Commission of this Village for the required public hearing; and

WHEREAS, the Plan Commission heretofore held a public hearing on May 18, 2020 at 7:30 p.m., pursuant to notice duly published in the *Lake County News-Sun*, said publication occurring not more than thirty (30) days nor less than fifteen (15) days prior to the public hearing; and

WHEREAS, the Plan Commission has issued its report and recommendation thereon to the Village Board; and

WHEREAS, the Corporate Authorities of the Village find that it is in the best interests of the Village and its residents to adopt the proposed amendments to Title 10, "Zoning Regulations", of the Village of Tower Lakes Village Code as provided for herein:

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Tower Lakes, Lake County, Illinois, as follows:

SECTION 1: The President and Board of Trustees hereby find that the recitals hereinabove set forth are true and correct and are incorporated into the text of this Ordinance as its findings of fact to the same extent as if such recitals had been set forth herein in their entirety.

SECTION 2: Section 10-6-2, “Nonconforming Uses and Buildings”, of Chapter 6, “General Requirements,” of Title 10, “Zoning Regulations”, of the Village of Tower Lakes Village Code is hereby amended to read as follows:

“10-6-2: NONCONFORMING LOTS, USES AND/OR BUILDINGS:

(A) Continuance of Nonconforming Use:

Except as otherwise expressly provided in this Section, any lawfully established or existing use of a building, other structure or land existing at the effective date of this Title (the Village of Tower Lakes Zoning Ordinance), or of amendments thereto, or on the date of annexation thereof to the Village, that does not conform to the use regulations for the zoning district in which it is located, shall be deemed to be a legal nonconforming use and may be continued provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein. A building or other structure for a nonconforming use under construction on the date of adoption of this Title or on the date of adoption of a later amendment creating the nonconformity or on the date of annexation thereof shall be completed within one year.

(B) Discontinuance of Nonconforming Use:

Whenever the use of any part of any building, other structure or land occupied is changed to or replaced by a use conforming to the provisions of this Title, such premises shall not thereafter be used or occupied by a nonconforming use. Whenever a nonconforming use of such building, other structure or land, or part thereof, has been discontinued for a period of twelve (12) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of this Zoning Title. Where no building is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment.

(C) Change of Change(s) to a Nonconforming Use:

A nonconforming use of a building, other structure or land or part thereof, may be changed to a use of the same or of a more restricted character, but may not thereafter be changed to any less restricted use, more intensive or lower class of use.

No part of any building, other structure or land occupied by a nonconforming use which is changed to or replaced by a use conforming to the provisions of this zoning title shall thereafter be used or occupied for a nonconforming use. Once changed to a conforming use, no such building, other structure or land shall be permitted to revert to a nonconforming use. A nonconforming use shall not be substituted or added to another nonconforming use.

(D) Repairs, Alterations:

Normal maintenance of a building, other structure or land containing a nonconforming use may be performed, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

No structural alterations shall be made in such a building, other structure, or land containing a nonconforming use except as hereinafter provided or except in the following situations:

1. When the alteration is required by law.
2. When the alteration will actually result in eliminating the nonconforming use, i.e., the entire building, other structure or land shall thereafter be devoted to a conforming use, and will be in compliance with and conforming to all the regulations applicable to the zoning district in which it is located.
3. The entire area of such structural alteration, enlargement, extension, or remodeling shall be in compliance with and conform to the requirements of the regulations applicable to the zoning district in which the building or other structure is located.
4. The building or other structure is remodeled structurally but without enlarging or extending the existing nonconforming building's exterior dimensions and without enlarging, extending, or increasing the degree of the nonconforming use in any manner.

(E) Damage, Destruction, and/or Demolition:

If a building or other structure containing a nonconforming use is damaged, destroyed, and/or demolished by any means in the aggregate to the extent of fifty percent (50%) or more of its replacement value at that time, the building or other structure may be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of this Title, or in compliance with any zoning variation previously granted for the building or structure. In the event the damage, destruction, and/or demolition is in the aggregate less than fifty percent (50%) of its replacement value, based upon prevailing construction costs, the building may then be restored to its original condition and the occupancy or use of such building may be continued to that which existed at the time of such partial destruction. In either event, restoration or repair of the building or other structure must be started within a period of one year and diligently prosecuted to completion.

(F) Nonconforming Lots of Record; Contiguous Nonconforming Lots of Record:

- (1) No vacant contiguous nonconforming lot of record, nor any combination of two (2) or more vacant nonconforming lots of record, or portions thereof, held in common ownership which does not or do not, taken as a whole, meet the minimum required lot area for the Zoning District in which such subject property is located shall not hereafter be improved with a new single-family residence (excluding tents or trailers) unless a variation has first been granted by a specific ordinance of the Village for such lot of record or for such combination of two (2) or more contiguous nonconforming lots of record held in common ownership to allow the construction of a new single-family residence on the subject property, provided, however, notwithstanding the foregoing, this paragraph shall not serve as a limitation or restriction on any lot of record, or any combination of two (2) or more nonconforming and contiguous lots of record, which is or are improved with an existing single-family residence as specifically provided, and to the extent allowed in Paragraphs E, F, and/or G of this Section as set forth below.
- (1 2) If two (2) or more contiguous lots (or combinations of lots or portions of lots) in single ownership are of record at the time of passage hereof, and if all or part of the lots do not meet the minimum requirements for lot width or lot area as established by this Title, the land shall be considered an undivided parcel for the purpose of this Title, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Title, nor shall any division of the parcel be made which leaves remaining any lot or lots with width or area below the requirements stated herein, although the entire parcel may be used as one nonconforming use. Nothing herein shall prevent the conveyance of any parcel or any portion of any parcel to an adjoining owner, if after said conveyance, the portion of said parcel not so conveyed (in the event of a conveyance of a portion of a parcel) meets the width and area requirements of this Title. For the purpose of this Section, single ownership of separate lots includes ownership by a spouse or child or by land trust of which there is a common beneficial owner, or a land trust as to which a child or spouse is a beneficial owner.
- (2 3) Notwithstanding anything contained in this Title to the contrary:
 - (a) If any single lot or a combination of lots is nonconforming in that it does not meet the minimum requirements for lot area for the zoning district in which the subject property is located as established by this Title; and
 - (b) Such lot or lots is or are improved with an existing single-family residence which existing residence is being proposed to be modified by alteration, enlargement, extension, and/or remodeling, but not to the extent of 50% or more of its replacement value at that time; and
 - (c) The entire area of such alteration, enlargement, extension, and/or remodeling of such residence shall be in compliance with and conform to the requirements of the regulations applicable to the zoning district in which the existing single-family residence subject property is located,

such alteration, enlargement, extension, and/or remodeling may occur without the necessity of the approval by the Board of Trustees of a variation relative to such nonconforming lot area, even though the lot or combination of lots does not otherwise meet the lot area requirements of this Title.”

SECTION 3: The Corporate Authorities of the Village intend that this Ordinance will be made part of the Village Code and that sections of this Ordinance can be renumbered or relettered and the word “Ordinance” can be changed to “Section”, “Article”, “Chapter”, or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical and/or scrivener’s errors can be corrected with the authorization of the Village Attorney, or his or her designee.

SECTION 4: All parts of the Tower Lakes Village Code in conflict with the terms or provisions of this Ordinance shall be and the same are hereby amended or repealed to the extent of such conflict, and said Village Code and all other existing ordinances shall otherwise remain in full force and effect.

SECTION 5: This Ordinance shall not affect any punishment, discipline, infraction, or penalty or any action based on any other Ordinance of this Village incurred before the effective date of this Ordinance, nor any suit, prosecution or proceeding pending at the time of the effective date of this Ordinance, for an offense or violation committed or cause of action arising before this Ordinance, and said other ordinances as heretofore existing shall continue in full force and effect for said limited purpose.

SECTION 6: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness

of the remaining portions of this Ordinance, or any part thereof. The Corporate Authorities hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 7: This Ordinance shall be in full force and effect immediately from and after its passage, approval and publication as provided by law.

SECTION 8: The Village Clerk is directed to immediately publish this Ordinance in pamphlet form.

Presented, read and passed by the President and Board of Trustees of the Village of Tower Lakes, Lake County, Illinois, on a roll call vote at a duly called regular or special meeting of the Board of Trustees on the _____ day of _____, 2020, and deposited and filed in the Office of the Village Clerk of said Village on said date.

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the President of the Village of Tower Lakes,
Illinois, this _____ day of _____, 2020.

David Parro, Village President,
Village of Tower Lakes

ATTEST:

Christine Burgoon, Village Clerk
Village of Tower Lakes

Recorded in the Record of Ordinances
of the Village as Ordinance No. 2020-_____

Christine Burgoon, Village Clerk
Village of Tower Lakes

PUBLISHED IN PAMPHLET FORM THIS ____ DAY OF _____, 2020.