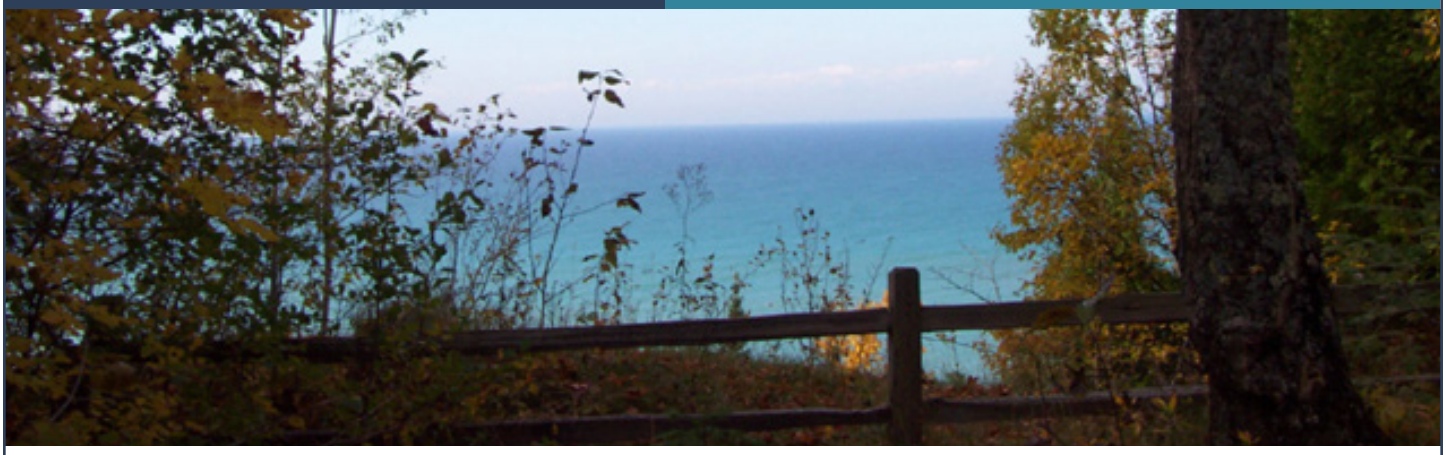
Zoning Ordinance



West Traverse Township

West Traverse Township
Emmet County, Michigan
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West Traverse Township
ZONING ORDINANCE

West Traverse Township
Emmet County
Michigan

Adopted: February 13, 2018

Effective: March 1, 2018

Last amended: July 9, 2024
(Table of Amendments on last page of ordinance)

Prepared with the Assistance of:
Northeast Michigan Council of Governments in partnership with Networks Northwest
www.discovernortheastmichigan.org networksnorthwest.org

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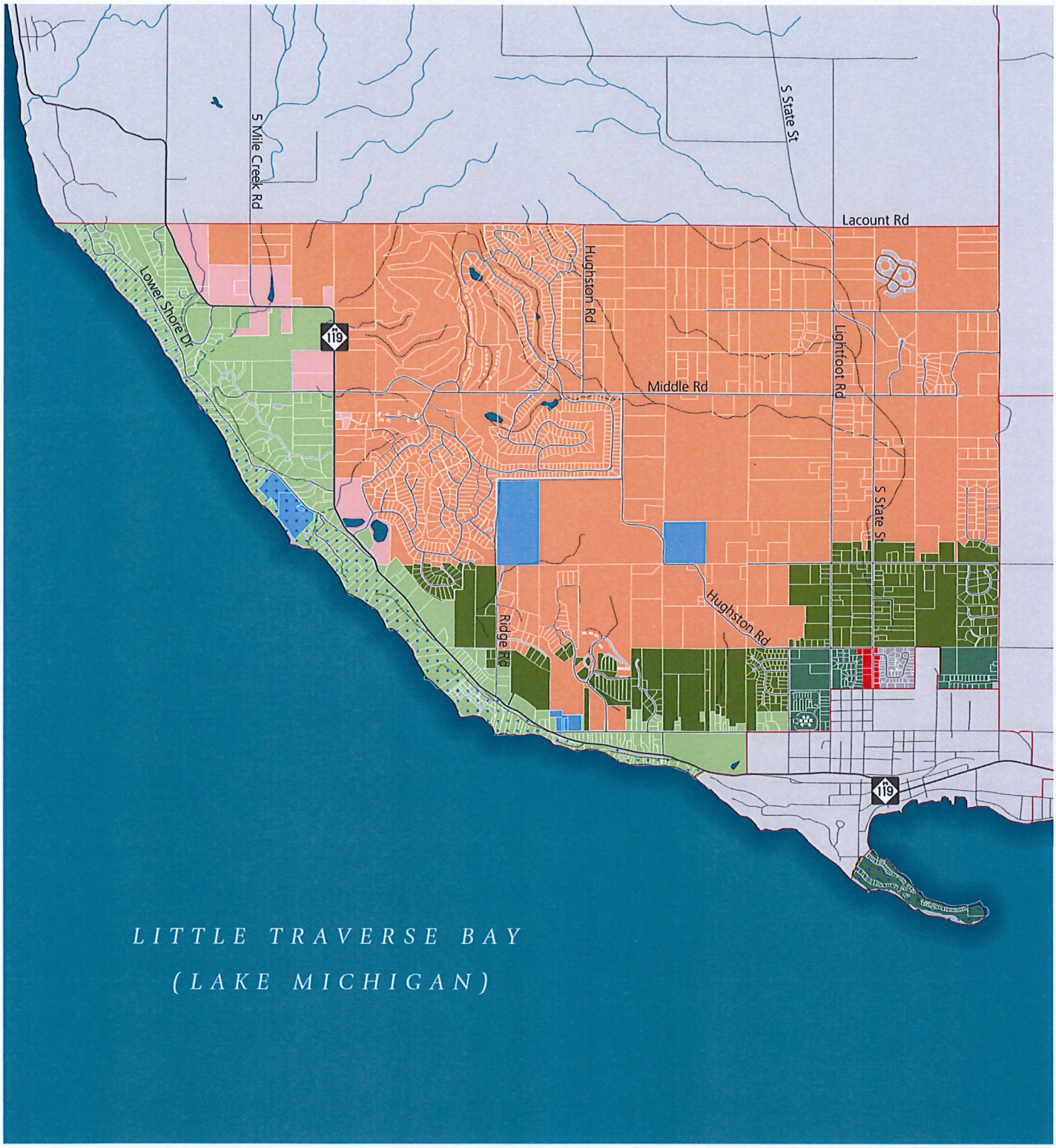

Zoning Map

2,500 Feet

Beckett & Raeder, Inc.

Sources: Michigan Open Data Portal, West Traverse Township, Emmet County

- A-1: Agriculture & Forest
- A-1-A: Agriculture Restricted
- R-1: Single & Two Family Residential
- R-1-A: Residential Restricted
- R-2: Transitional Residential
- S-1: Public District
- C-1: Commercial
- I-1: Light Industrial
- WO: Waterfront Overlay

Article 1

Title, Authority & Purpose

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101 Short Title

This Ordinance shall be known as the "WEST TRAVERSE TOWNSHIP ZONING ORDINANCE" and shall be referred to herein as "this Ordinance".

102 Authority

This Ordinance is enacted into law pursuant to the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, MCL 125.3101 et. seq**. This enabling act is hereby made a part of this Ordinance just as if said Act were repeated word for word herein.

103 Purpose

An ordinance governing the unincorporated portions of the Township of West Traverse, Emmet County, Michigan, to regulate and restrict the location and use of land and buildings to meet the need for food, fiber, energy and other natural resources; designating the locations of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures for trade, industry, residence and for public and semi-public or other specified uses; to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts and open spaces; to regulate and limit the density of population; and for said purposes to divide the Township into districts and establishing the boundaries thereof; to provide for special land uses; to provide for districts with specific land management objectives; to provide for the acquisition of nonconforming property; to provide for a method for the adoption of ordinances and amendments thereto; to provide for emergency interim ordinances; to provide for administering of ordinances and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a Board of Appeals; imposing penalties for the violation of this Ordinance; and to provide for the collection of fees for permits.

Article 2

Terminology & Definitions

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For the purposes of this Ordinance, the following rules shall apply to the terminology in the text and the following definitions shall apply to words and phrases used in the text.

201 Terminology

1. The particular shall control the general.

2. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

4. Words used in the present tense shall include the future, words used in the singular number shall include the plural and the plural the singular, unless the text clearly indicates the contrary.

5. A "building" or "structure" includes any part thereof.

6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."

7. The word "person" includes an individual, a firm, a corporation, a partnership, an incorporated association, a limited liability company, any other similar entity or their agents.

8. The word "occupied" and the word "used" shall be considered to be followed by the words "or intended, arranged or designed to be used or occupied".

9. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows:

   a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

   b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

   c. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

10. Terms not herein defined shall have the meaning customarily assigned to them.

11. "Township" shall refer specifically to West Traverse Township.

202 Definitions

A

ABUTTING: Having property or district line in common; e.g., two lots are abutting if they have property lines in common.

ACCESS: A way of approaching or entering a property. For purposes of this Ordinance, all lots of record shall have access to a public street or highway or to a private street.

ACCESSORY USE: A use naturally and normally incidental and subordinate to the main use of the land or building.

ACCESSORY BUILDING OR STRUCTURE: A supplemental building or structure on the same lot as the main building, or a structure which is intended to be supplemental to an allowed use to be added in the future, provided such a structure is devoted exclusively to an accessory use, but not for dwelling, lodging or sleeping purposes. Where an accessory building is attached to a main building by a common wall with a minimum length of ten (10) feet, the accessory building shall be considered a part of the main building. Fences and freestanding walls that are not supporting roofs or ceilings are not considered structures or accessory structures. *Amended 7/14/20; Effective 7/29/20*

1. ***MINOR ACCESSORY BUILDING OR ACCESSORY STRUCTURE***: An accessory building or accessory structure that is two hundred (200) square feet or less.

2. ***MAJOR ACCESSORY BUILDING OR ACCESSORY STRUCTURE***: An accessory building or accessory structure that is GREATER THAN two hundred (200) square feet.

ACCESSORY DWELLING UNIT: A residential dwelling unit located on the same property as a single-family dwelling and constructed as an accessory use to the single-family dwelling. *Amended 7/9/24; Effective 7/25/24*

ADJACENT PROPERTY: All lands which adjoin any side or corner of a specific parcel of land including, but not limited to, those lands separated from the parcel by a road right-of-way, easements or public utility right-of-way.

ADULT DAY CARE FACILITY: A facility receiving adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition. *(Amended 6/13/23; Effective 6/30/23)*

ADULT FOSTER CARE FACILITY: A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. *Amended 6/13/23; Effective 6/30/23*

A. An adult foster care facility does not include the following:

1. A nursing home licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260**.

2. A home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260**.

3. A hospital licensed under Article 17 of the **Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260**.

4. A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the **Mental Health Code, 1974 PA 258, MCL 330.1001 to 330.2106**.

5. A county infirmary operated by a county department of social services or family independence agency under Section 55 of the **Social Welfare Act, 1939 PA 280, MCL 400.55**.

6. A child caring institution, children's camp, foster family home or foster family group home licensed or approved under **1973 PA 116, MCL 722.111 to 722.128**, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

    1. Two, if the total number of residents is 10 or fewer.
    2. Three, if the total number of residents is not less than 11 and not more than 14.
    3. Four, if the total number of residents is not less than 15 and not more than 20.
    4. Five, if the total number of residents is 21 or more.

7. A foster family home licensed or approved under **1973 PA 116, MCL 722.111 to 722.128**, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of **1973 PA 116, MCL 722.115**.

8. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to

adult correctional institutions, a maternity home or a hotel or rooming house that does not provide or offer to provide foster care.

9. A facility created by **1885 PA 152, MCL 36.1 to 36.12**.

10. An area excluded from the definition of adult foster care facility under section 17(3) of the **Continuing Care Community Disclosure Act, MCL 554.917.**

B. The following additional definitions shall apply in the application of this Ordinance.

1. ***ADULT FOSTER CARE FAMILY HOME***: A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

2. ***ADULT FOSTER CARE SMALL GROUP HOME***: An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

3. ***ADULT FOSTER CARE LARGE GROUP HOME***: A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

4. ***ADULT FOSTER CARE CONGREGATE FACILITY***: An adult foster care large group home with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

5. ***STATE-LICENSED RESIDENTIAL FACILITY***: A structure constructed for residential purposes that is licensed by the state under the **Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128**, and provides residential services for six or fewer individuals under 24-hour supervision or care. The licensee is NOT a member of the household nor is an occupant of the residence.

AGGRIEVED PARTY: To be aggrieved, a person must meet the following three (3) criteria:

1. The appellant must have participated in the challenged proceedings by taking a position on the contested decision, such as through a letter or oral public comment.

2. The appellant must claim some legally protected interest or protected personal, pecuniary (financial), or property right that is likely to be affected by the challenged decision.

3. The appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community.
(Amended 6/13/23; Effective 6/30/23)

AGRI-TOURISM BUSINESS: Farms which engage in agriculturally-related tourism operations including: *(Amended 5/12/20; Effective 5/27/20)*

1. Bakeries selling goods grown primarily on-site.
2. Educational tours, classes, lectures, and seminars.
3. Family-oriented animated barns (haunted houses).
4. Gift shops for agriculturally-related products, crafts.
5. Historical agricultural exhibits.
6. Organized meeting space.
7. Petting farms, animal display, and pony rides.
8. Picnic areas (including rest rooms).
9. Playgrounds, wagon/sleigh rides, nature trails.
10. Restaurants related to the agricultural use of the site.
11. Seasonal outdoor mazes of agricultural origin.
12. **Commercial Event Facilities** (Farms which operate commercial event facilities shall also comply with **Section 733**).
13. Farm Stays. *(Amended 6/13/23; Effective 6/30/23)*
14. Other uses which may be considered and deemed appropriate by the Planning Commission.

ALTERATIONS: Any change, addition or modification in size, shape, character, construction or use of a building or structure.

ANIMAL CLINIC OR HOSPITAL: A building or group of buildings and/or structure where domestic and farm animals are admitted for examination, treatment and care by a licensed veterinarian or related paraprofessionals and technicians and where such animals may be provided with overnight housing and short-term boarding incidental to clinic/hospital use.

APPLICANT: A property owner or person authorized by the property owner who applies for a permit or petition.

APPLICATION: The process by which an applicant within the Township submits a request to develop, construct, build, modify, or erect a structure or commence a Special Use upon such parcel of land. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the Township concerning such a request.

ARTIST'S STUDIO: A commercial stand-alone space, separate from a residence, designed to be used as a place of work by an artist, artisan or craftsperson including persons engaged in the application, teaching or performance of fine arts such as but not limited to drawing, vocal or instrumental music, painting, sculpture and writing. An artist studio in conjunction with a primary residence is regulated by **Section 704**: **Home Office, Home Occupations and Home Based Businesses.**

ASSISTED LIVING HOME: A structure providing housing and limited services such as nursing, recreation, and meals to individuals who are partially able to provide services to themselves.

ATTACHED STRUCTURE: Any structure that is attached to another structure by a common wall of at least ten (10) feet or by structural connections that allow pedestrian access to both structures through a space as defined as habitable living space by current building code. To be considered an attached structure, an accessory building shall be attached directly to the main building by sharing a common wall, of at least ten (10) feet in length, directly between the main building and accessory building. *Amended 7/14/20; Effective 7/29/20*

B

BASEMENT: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

BEACH/DUNE LANDSCAPE: Those areas where dune vegetation predominates, some of which include: beach grass (ammophila breviligulata), pea grass (lathyrus japonicus), bearberry (arctstaphylos uva-uris), creeping juniper (juniperus horizontalis), common milkweed (asclepias syriaca), willow (salix sp) and beach wormwood (artemisia campertris).

BED AND BREAKFAST ESTABLISHMENT: An establishment where overnight lodging and breakfast is offered for compensation by the resident owner of a private single-family home to unrelated transient families or individuals for periods of less than thirty (30) consecutive days. *(Amended 6/13/23; Effective 6/30/23)*

BERM: A mound of soil graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

BIOFUEL PRODUCTION FACILITIES:

1. ***BIOFUEL***: Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.

2. ***ETHANOL***: A substance that meets the ASTM international standard in effect on the effective date of this section as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

3. ***FARM***: The land, plants, animals, buildings, structures and ponds used for agriculture or aquicultural activities, machinery, equipment and other appurtenances used in the commercial production of farm products.

4. ***PROOF GALLON***: That term as defined in **27 CFR 19.907**. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a

specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

BREEZEWAY: Any covered passageway with open or enclosed sides between two buildings.

BUFFER STRIP: A strip of land for the planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

BUILDING: Any structure, either temporary or permanent, having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT: See ***HEIGHT OF STRUCTURE***.

C

CAR WASH ESTABLISHMENT: A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

CEMETERY: Property, including crematories, mausoleums and/or columbariums, used or intended to be used for the perpetual interment of deceased human beings or household pets.

CHILD CARE FACILITY: A facility for the care of children (persons under 18 years of age), as licensed and regulated by the state under **Child Care Organizations Act, 1973 PA 116, MCL 722.111 to 722.128,** and the associated rules promulgated by the State Department of Human Services. Such organizations shall be further defined as follows:

1. ***FAMILY CHILD CARE HOME***: A private home operated by a Michigan licensed day care operator in which at least one (1) but less than seven (7) children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. "Providing babysitting services" means caring for a child on behalf of the child's parent or guardian if the annual compensation for providing those services does not equal or exceed $600.00 or an amount that would according to the Internal Revenue Code of 1986 obligate the child's parent or guardian to provide a form 1099 to the individual for compensation paid during the calendar year for those services. Family Child Care Home includes a private home with increased capacity. "Increased capacity" means one (1) additional child added to the total number of minor children received for care and supervision in a family child care home. The definition of Family Child Care Home in 1973 PA 116, as amended, supersedes this definition if a difference in definition exists. *(Amended 6/13/23; Effective 6/30/23)*

2. ***GROUP CHILD CARE HOME***: A private home operated by a Michigan licensed day care operator in which more than six (6) but not more than twelve (12) children are given

care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent and/or legal guardian, not including children related to an adult member of the resident family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. Group child care home includes a private home with increased capacity. "Increased capacity" means two (2) additional children added to the total number of minor children received for care and supervision in a group child care home. The definition of Group Child Care Home in 1973 PA 116, as amended, supersedes this definition if a difference in definition exists. *(Amended 6/13/23; Effective 6/30/23)*

3. ***CHILD CARE CENTER***: A facility, other than a private residence, receiving one (1) or more preschool or school-age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center.

4. ***CHILD CARING INSTITUTION***: A child care facility that is organized for the purpose of receiving minor children for care, maintenance and supervision, usually on a twenty-four (24) hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, which is described as a small child caring institution, owned, leased, or rented by a licensed agency providing care for more than four (4) but less than thirteen (13) minor children. Child caring institution also includes institutions for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home or home for the aged licensed under Article 17 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school licensed under Section 1335 of the Revised School Code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by the State or licensed under the Mental Health Code, 1974 PA 258, MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, in which a child has been placed under Section 5(6). *(Amended 6/13/23; Effective 6/30/23)*

5. ***PRIVATE HOME***: A private residence in which the registered facility operator permanently resides as a member of the household.

CHURCH: See ***RELIGIOUS INSTITUTION***.

CLINIC: A building or group of buildings where human patients are admitted for examination and treatment by a professional; such as, a physician, dentist or the like, except that such patients are not lodged therein overnight.

CLUB OR LODGE: The room, building or other facilities used for the meetings of a group of people organized for a common purpose such as a fraternal organization or a society.

CLUBHOUSE: The main building, accessory to an approved use, which may include restrooms, locker room, pro shop, bar and restaurant.

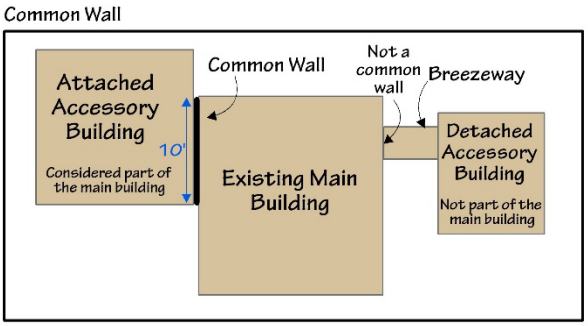
CLUSTER DEVELOPMENT: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally sensitive areas.

COMMERCIAL EVENT FACILITY: A location where events are held including, but not limited to, weddings, parties, meetings, family reunions, and corporate events. The event locations can include, but not be limited to, tents, gazebos, barns, open areas, and residential structures as well as other structures specifically designed to host events. *Amended 5/12/20; Effective 5/27/20*

COMMISSION: West Traverse Township Planning Commission.

COMMON AREAS, USES AND SERVICES: Land areas, facilities and utilities which are intended to be shared by the owners and occupants of individual building units in a subdivision or a Planned Unit Development.

COMMON WALL: A shared wall serving as a dividing partition directly between two buildings that are joined together. The shared wall shall run parallel between the two spaces. A wall attached in a perpendicular manner (such as a breezeway) shall not be considered a common wall. *Amended 7/14/20; Effective 7/29/20*



COMMON WALL BUILDING: Any building wherein individual uses or dwelling units are separated from one another by a common wall.

CONDOMINIUM ACT: **1978 PA 59, as amended, MCL §§ 559.101 - 559.276.**

CONDOMINIUM UNIT: That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed and is a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. Lot shall mean the same as condominium unit in site condominium developments.

CONVALESCENT OR NURSING HOME: A structure licensed under the applicable Michigan law, with sleeping rooms where lodging, meals, nursing and limited medical care are provided for persons who are dependent upon others to provide services.

CONVENIENCE STORE: A retail store that sells groceries and may also sell gasoline; does not include automotive service stations or automotive repair shops.

D

DECK: A structural platform without a roof or walls. Also includes balconies. Decks or stairways are attached structures when they are connected to another structure in any manner and shall meet the setbacks of that structure. *Amended 7/14/20; Effective 7/29/20*

DENSITY: The number of dwelling units on, or to be developed upon, a given land area.

DEVELOPMENT: The construction of a new building or other structure on a lot, the relocation of an existing building or other structure on another lot or the use of open land for a new use. Includes all structures and other modifications of the natural landscape above and below ground or water on a particular site.

DISTRICT: A portion of the incorporated area of West Traverse Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. "District" as used herein is synonymous with the word "zone", "zoning district", or "overlay district".

DRIVE-IN FACILITIES: Any place or premises which offers the sale of goods or services to customers in vehicles including those establishments where customers may serve themselves and use the goods or services on the premises.

DRIVE-THROUGH: An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles, rather than within a building or structure, for carry out and consumption or use after the vehicle is removed from the premises.

DRIVEWAY: An improved area which provides vehicular ingress, egress, access or circulation to or from any public or private roadway to one public or private property. *Amended 7/9/24; Effective 7/25/24*

DRIVING RANGE: A limited area on which patrons drive golf balls from a central driving tee. Such area may include a snack-bar and pro-shop, but excludes miniature golf courses and golf courses.

DWELLING UNIT: A building or portion of a building, either site-built or pre-manufactured, which has sleeping, living, cooking and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

DWELLING UNIT, MANUFACTURED: A factory-built, single-family structure that is transportable in one (1) or more sections, is built on a permanent chassis, is designed to be used as a dwelling with or without a permanent foundation, is designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating and electrical systems in the structure, but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does

not have wheels or axles permanently attached to its body or frame. A manufactured home is constructed according to the **National Mobile Home Construction and Safety Standards Act of 1974, as amended.** The manufactured home shall meet the minimum floor area requirements of this Zoning Ordinance and be installed in accordance with all of the other requirements of this Ordinance specified for dwellings when located outside of a licensed Manufactured Housing Development.

DWELLING, SINGLE-FAMILY:

1. ***DWELLING, SINGLE-FAMILY DETACHED***: A building designed exclusively for and occupied exclusively by one (1) family that is separate and distinct from any other dwelling. A single-family dwelling that does not share a common wall with any other dwelling is a detached single-family dwelling.

2. ***DWELLING, SINGLE-FAMILY ATTACHED***: A dwelling designed for occupancy by one (1) family in a row of at least (3) three such units in which no unit is located over another and each unit is separated from any other unit by one or more vertical common fire-resistant walls (also known as a townhouse or rowhouse).

DWELLING, TWO-FAMILY OR DUPLEX: A building designed exclusively for occupancy by two (2) families living independently of each other.

DWELLING, MULTIPLE-FAMILY: A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

E

ERECTED: Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises which are required for construction, excavation, fill, drainage and the like shall be considered a part of erected.

ESSENTIAL SERVICES: Equipment and accessories reasonably necessary for the providing of adequate service by public utilities or governmental departments or commissions for the public health, safety or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of essential service equipment. Wind energy systems, wireless communications, solar energy panels and solar energy facilities are not considered essential services. *Amended 6/9/20; Effective 6/24/20*

EXCAVATION: The removal of rock, sand, soil or fill material below the average grade of the surrounding land and/or road grade, whichever is highest, except common household gardening and ground care.

F

FAÇADE: The face of a building, especially the principal front that looks onto a street or open space.

FAMILY: One or more persons related by blood, marriage or legal adoption (and their domestic employees) occupying a dwelling unit and living as a single housekeeping unit; or a collective number of individuals living together in a dwelling unit whose relationship is of a permanent and distinct domestic character and cooking as a single housekeeping unit. This definition shall not include a society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary in character or nature.

FARM, COMMERCIAL: Includes the land, plants, animals, buildings, structures and ponds used for agriculture or aquicultural activities, machinery, equipment and other appurtenances used in the commercial production of farm products. It is a farm operation producing a farm product intending to be marketed and sold.

FARM, DOMESTIC: A parcel of land used or intended to be used for agricultural purposes on properties other than Commercial Farms. Domestic farming includes keeping farm animals as pets and raising animals for educational experience. Dogs, cats and other typical household pets are not regulated as domestic farm animals.

FARM PRODUCT: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber or fur as determined by the **Michigan Commission of Agriculture**.

FARM OPERATION: The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting and storage of farm products, and includes but is not limited to:

1. Marketing produce at roadside stands or farm markets.
2. The generation of noise, odors, dust, fumes and other associated conditions.
3. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the **Michigan Vehicle Code, 1949 PA 300, MCL §§ 257.1 to 257.923.**
4. Field preparation and ground and aerial seeding and spraying.
5. The application of chemical fertilizers or organic materials, conditioners, liming materials or pesticides.
6. Use of alternative pest management techniques.
7. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and

care of farm animals.

8. The management, storage, transport, utilization and application of farm by-products, including manure or agricultural wastes.
9. The conversion from a farm operation activity to other farm operation activities.
10. The employment and use of labor.

FARM STAY: A hosted accommodation on a working farm or ranch with guests paying for the privilege of staying overnight. Farm stay facilities may allow guests to help with farming activities or operations. Also called Vacation Farm or Guest Ranch. Farm stay accommodations may be offered in a variety of formats including but not limited to guest rooms in the principal dwelling, guest rooms in accessory buildings, campsites where guests bring their own accommodations or sites where permanent freestanding recreational structures are in place (cabins, yurts, permanent tents, and the like). Farm Stays are classified as an ***Agri-Tourism Business***. *(Amended 6/13/23; Effective 6/30/23)*

FENCE: A means, partition, structure or gate erected as a dividing structure or barrier and not part of a structure requiring a building permit.

FLOOD PLAIN: The relatively flat area or lowlands contiguous to the channel of watercourse or a body of standing water which has been or may be covered by flood water. The one-hundred (100) year flood plain consists of contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years. The one-hundred (100) year flood plains are identified on Floodway Maps produced by **FEMA (Federal Emergency Management Agency)**.

FOOD TRUCK: Any structure, vehicle, or trailer designed as a complete and transportable unit and used as a mobile business to sell prepared food or drink for human consumption from a stationary location during serving hours. Food trucks exclude structures which are installed with a permanent foundation. Also called a Mobile Food Vendor. This definition does not include mobile food trucks which distribute food and drink as they are driving throughout the community (i.e. mobile ice cream truck). *Amended 7/9/24; Effective 7/25/24*

FOOD TRUCK PARK: A lot or lots under the control of a person or entity upon which two (2) or more Food Trucks are located on a continual basis and which is offered to the public for the purpose of conducting commerce relating to the sale of prepared food or drink. *Amended 7/9/24; Effective 7/25/24*

FOREST VEGETATION: Woody plants with a diameter at breast height (dbh) of three (3) inches or more.

G

GARBAGE: Waste material which will or may decompose and become offensive or dangerous to public health.

GASOLINE SERVICE STATION: Any structure or premises arranged, designed or used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in

such vehicles and for the washing or polishing of such vehicles, but not including the use of space or facilities for the refinishing of motor vehicles or for the rebuilding or the dismantling for the purpose of re-use or resale of motor vehicles or parts thereof or for the outdoor storage or repair of motor vehicles or parts thereof.

***GOLF COURSE**:* A tract of land laid out with a least nine holes, improved with tees, greens, fairways and hazards designed for playing a game of golf, and shall not include miniature golf.

***GRADE**:* The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

***GREENBELT**:* Any natural or man-made planting of trees and shrubs to serve as a screening device between abutting land or along bodies of water to screen and control erosion.

H

***HARD SURFACED**:* Paved with concrete, bituminous material or other similar materials. Such concrete pavement shall be of a minimum thickness of six (6) inches and any bituminous paving shall be a minimum thickness of one and one half (1 ½) inches and shall be placed upon a base of processed road gravel of a minimum thickness of six (6) inches, or equivalent surface and base thickness certified by a registered engineer. The surface shall be capable of supporting emergency vehicles. The Zoning Board of Appeals may grant a variance to this requirement upon recommendation of the Planning Commission where a more imaginative paving solution is presented that is more attractive and still provides for orderly parking, proper drainage, adequate load bearing and dust control.

***HEIGHT OF STRUCTURE**:* The vertical distance measured from the average grade at the front of the structure to the highest point of the structure whether it be roof, wall, parapet or similar appurtenance of the structure.

***HELICOPTER**:* A type of aircraft whose aerodynamic support is obtained from propeller rotation on an approximately vertical axis and that is capable of rising and descending vertically.

1. ***HELIPORT**:* A heliport (used privately or commercially) is an identifiable area on land, water or a structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of any helicopters.

2. ***STRUCTURE**:* (Definition for this subsection only). An object including a mobile object constructed, placed or installed by a human or humans, including but without limitation, buildings, decks, docks, patios, roadways and utilities.

3. ***GROWTH**:* Any object of natural or planted growth of trees, shrubs or other vegetation.

4. ***GROUND EFFECT**:* Improvement in flight capability that develops when a helicopter flies or hovers near the ground or other surface, resulting from the cushion of air built up

between the ground and the helicopter by the air displaced downward by the rotor resulting in ground disturbance.

5. ***TAKEOFF AND LANDING AREA***: A cleared area containing a final approach and takeoff area (FATO) available for the takeoff and landing of helicopters.

HOME BASED BUSINESS: A business conducted within a dwelling or accessory building by resident(s) of the dwelling unit as a secondary use that is clearly incidental to the use of the lot and dwelling for residential purposes. Up to two (2) persons may work with the residents. A Zoning Permit and a Special Use Permit is required.

HOME OCCUPATION: A business, other than a home office, conducted entirely within a dwelling carried on by resident(s) of the dwelling unit as a secondary use which is clearly incidental to the use of the lot and dwelling for residential purposes. A Zoning Permit is required.

HOME OFFICE: Use of any residential premise conducted using office equipment entirely within a dwelling by resident(s) of the dwelling unit. The use must be clearly secondary to the use of the dwelling unit for residential purposes and cannot take on the character of a business or industrial use. No sale of merchandise and no signage, other than occupants name and address, is allowed. No permit is required.

HOSPITAL: An establishment for human patients providing physical or mental health services, inpatient or overnight accommodations, and provides medical, surgical, nursing and related care of the sick or injured.

HOTEL/MOTEL: A commercial building or part of a commercial building used for transient occupancy of less than thirty (30) days which may include any of the following services: housekeeping, front desk service, continental breakfast, bellhop service, restaurant, drinking establishment, meeting rooms, banquet halls or similar services. The term “hotel” or "motel" shall include motor courts, motor lodges, and similar facilities within this definition, but it shall not include resorts, bed and breakfast establishments, rooming/boarding houses, short term rentals or multiple family dwellings. *(Amended 6/13/23; Effective 6/30/23)*

I

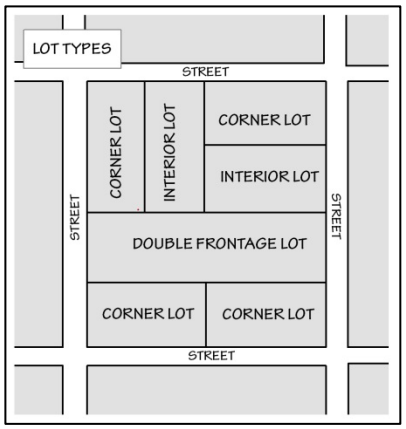
IMPERVIOUS SURFACE: Any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.

K

KENNEL: Any premises on which dogs, cats or other household pets are maintained, boarded, bred or cared for in return for remuneration or are kept for the purpose of sale.

L

LANDSCAPING: Some combination of planted trees, vines, ground cover, flowers or turf. In addition, the combination or design may include rock ground cover, earth mounds and such structural features as fountains, ponds, art works, screens, walls, fences, benches, walks, paths, steps, terraces, garden structures, etc.



LOADING SPACE: An off-street space on the same lot with a building, or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT: A parcel, tract or portion of land separated from other parcels or portions of land by description on a recorded plat or by metes and bounds description

LOT, CORNER: Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. Any lot line separating the lot from any street shall be construed as a front lot line.

LOT – DOUBLE FRONTAGE: Any lot, including a corner lot, as defined herein, having two (2) or more sides abutting one (1) or more streets. Any lot line separating the lot from any street shall be construed as being a front lot line.

LOT, INTERIOR: Any lot other than a corner lot.

LOT, WATERFRONT: A lot having frontage directly upon a lake, river or stream. The portion adjacent to the water is considered the front lot line.

LOT AREA: The minimum lot area required in each district which is exclusive of road rights-of-way and road easement areas. Non-road easements are included in the calculation of lot area.

LOT COVERAGE: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures. This shall be deemed to include all buildings, porches, swimming pools, decks above 8" above grade, arbors, breezeways, patio roofs and the like, whether open box type and/or lathe roofs or fully roofed, but shall not include fences, walls or hedges used as fences.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT LINES: The lines bounding a lot as defined herein:

1. ***FRONT LOT LINE***: In the case of an interior lot, that line separating said lot from the street or right-of-way. In the case of a waterfront lot, that line separating said lot from the waterfront.

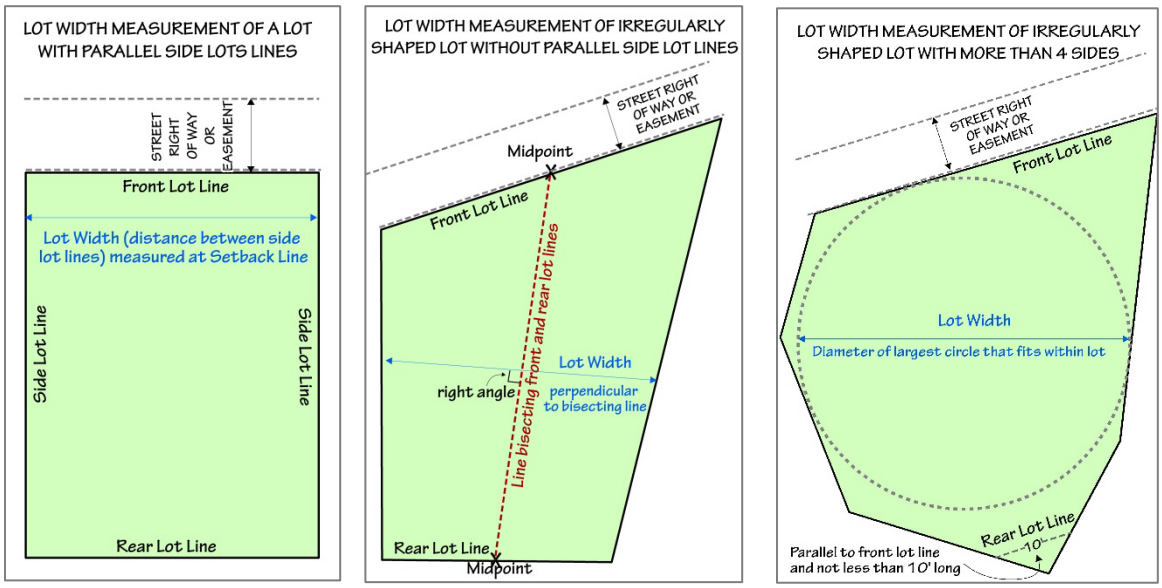
2. ***REAR LOT LINE***: That lot line opposite and most distant from the front lot line. In the

case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet (10') long lying farthest from the front lot line and wholly within the lot.

3. ***SIDE LOT LINE***: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Township or County Officials, and which actually exists as so shown.

LOT WIDTH: The horizontal distance, which is not necessarily parallel to the road rights-of-way, between the side lot lines measured at the front setback line for lots with parallel side lot lines. In the case of irregular shaped lots, the width shall be measured on a line drawn perpendicular to a line that bisects the front and rear lot lines at a point midway along the front and rear lot lines. In the case of a lot which has more than four (4) sides, the lot width shall be the minimum diameter of the largest circle that fits wholly within the lot.



M

MANUFACTURED HOME: see ***DWELLING, MANUFACTURED***.

MANUFACTURED HOUSING COMMUNITY: A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home.

MANUFACTURED HOUSING COMMUNITY HOMESITE: The designated parcel of land within a manufactured housing community upon which one (1) single-family manufactured home and

accessory buildings, if any, are placed.

MANUFACTURING: The production of articles for use from raw or prepared materials by giving these materials new forms, qualities, properties or combinations, whether by hand labor or machine.

MASTER DEED: The condominium document recording the condominium project as approved by the Township to which is attached as exhibits and incorporated by reference, the bylaws for the project and the condominium subdivision plan for the project and all other information required by **Section 8 of the Condominium Act, 1978 PA 59, as amended.**

MASTER PLAN: The West Traverse Township Master Plan including background information, maps, goals and objectives, and plans for the development of West Traverse Township and including any part of such plan and any amendments to such plan or parts thereof.

MEDICAL MARIHUANA: The following definitions 1 through 8 are related to medical marihuana.

1. ***MEDICAL MARIHUANA***: Marihuana as defined by the **Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26421 et. seq.)** grown, used or transferred for "medical use" as defined by the Act.

2. ***ENCLOSED, LOCKED FACILITY***: That term as defined in **Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423).**

3. ***MARIHUANA***: A controlled substance as defined in **Section 7106 of the Public Health Code, P.A. 368 of 1978, as amended, being MCL 333.7106).**

4. ***PRIMARY CAREGIVER***: That term defined in **Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423)** who is at least 21 years old and who has been registered by **State Department of Licensing and Regulatory Affairs** or any successor agency to assist with a Qualifying Patients' use of medical marihuana.

5. ***PRIMARY CAREGIVER FACILITY***: A building in which the activities of a Primary Caregiver are conducted.

6. ***QUALIFYING PATIENT***: That term defined in **Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act, being MCL 333.26423)** who has been diagnosed by a physician as having a debilitating medical condition as provided by the Michigan Medical Marihuana Act and who has obtained a duly issued registry identification card from the **State Department of Licensing and Regulatory Affairs** or any successor agency.

MINI-STORAGE: Mini-storage buildings are groups of buildings that contain varying sizes of individual compartmentalized and controlled access stalls or lockers for the dead storage of customer's goods or wares.

MOBILE HOME: See ***MANUFACTURED HOME***.

MOBILE HOME PARK: See ***MANUFACTURED HOUSING COMMUNITY***.

N

NONCONFORMING USE OR STRUCTURE: Any use or structure which was lawfully existing immediately prior to the time this Ordinance became effective and which does not now comply with the requirements thereof.

NON-PARTICIPATING LOT(S): One (1) or more lots for which there is not a signed lease or easement for development of a solar energy facility, wind energy facility or wireless communications facility associated with the applicant project. *(Amended 6/13/23; Effective 6/30/23)*

NUISANCE: An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic, (p) a burned out structure or (q) a condemned structure.

NURSERY: A space, building or structure or combination thereof, for the growing or storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits, vegetables, farm equipment or the like.

NURSERY SCHOOL OR PRE-SCHOOL: A daytime facility which has as its main objective a development program for pre-Kindergarten children and whose staff meets the educational requirements established by the State.

NURSING HOME: See ***CONVALESCENT OR NURSING HOME***.

O

OFFICE: A place where a business, executive, administrative or professional activity is carried on (wherein goods, wares or merchandise are not commercially treated, manufactured, fabricated, displayed, warehoused, exchanged or sold.); provided, however, this definition shall not preclude the interior display of or sale made from samples of merchandise normally associated with certain business services such as but not limited to manufacturer's representatives. The following types of activities are not business or professional services within the context of this Ordinance: retail sales of merchandise, manufacturing, entertainment and education of students on site.

OPEN SPACE: Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment. This definition does not apply to "Open Space in a Planned Unit Development."

OPEN SPACE IN A PLANNED UNIT DEVELOPMENT (PUD): In a Planned Unit Development, required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. A covenant or deeded interest for this open space area shall be recorded with the County Register of Deeds so that it shall be assured of remaining undeveloped. Copies of recorded documents shall be filed with the Zoning Administrator. Dedicated open space does not include parking lots, private or public roads or public right of ways, but may include flood plain areas and wetlands up to a maximum of twenty (20) percent of the required open space. In addition, landscaped areas devoted to perimeter setbacks can be included as dedicated open space.

OPENNESS FACTOR: The percentage of a fence section area, between upright supports, through which light and air can directly pass.

ORDINARY HIGH WATER MARK: The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the soil and the vegetation. On a river or stream, the ordinary high water line shall be the ten year flood limit line. The ordinary high water line on Lake Michigan shall be the 1986 high water mark as documented by the **U.S. Army Corps of Engineers**, said mark being 581.99 feet above mean sea level.

OUTDOOR DISPLAY: The display and sale of products and services outside of a building or structure including garden supplies, motor oil, food and beverages, burial monuments, building and landscape materials and similar materials or items.

OUTDOOR STORAGE: A land area occupied and used for open storage of products, building materials, sand, gravel, stone, lumber, equipment and other supplies.

OUTDOOR WOOD FURNACE DEFINITIONS:

1. ***OUTDOOR WOOD FURNACE***: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated not within a building intended for habitation by humans or domestic animals and is primarily hand-loaded for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Wood-fired Hydronic Heater or Hydronic Heater.
2. ***OUTDOOR WOOD-PELLET FURNACE***: An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.
3. ***CHIMNEY***: Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.
4. ***EXISTING OUTDOOR WOOD FURNACE***: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this Ordinance.

5. ***NEW OUTDOOR WOOD FURNACE***: An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this Ordinance.
6. ***NATURAL WOOD***: Wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

OWNER: A person holding any legal, equitable, option or contract of interest in land.

P

PARCEL: See ***LOT***.

PARK: Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, for recreational purposes.

PARKING, ON-SITE: Any space designated and used for the parking of motor vehicles, located on the same site, lot or parcel with the use which it is to serve in accordance with this Ordinance.

PARKING SPACE: An area of definite length and width, said area shall be exclusive of drives, aisles, maneuvering lanes or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PARTICIPATING LOT(S): One (1) or more lots under a signed lease or easement for development of a solar energy facility, wind energy facility or wireless communications facility associated with the applicant project. *(Amended 6/13/23; Effective 6/30/23)*

PATIO: An uncovered floor usually made of concrete, brick or other material, placed directly on the ground.

PERFORMANCE GUARANTEE: Means a cash deposit, certified check, irrevocable bank letter of credit or a performance or surety bond approved by West Traverse Township.

PLACE OF WORSHIP: See ***RELIGIOUS INSTITUTION***.

PLANNED UNIT DEVELOPMENT (PUD): A type of development which is designed and built as a whole unit and which provides a more desirable living environment by retaining the rural and natural character of the Township through the preservation of open spaces, woodlands, streams, ponds, water frontage, hills and similar natural assets. A PUD encourages a more creative approach to residential development through the planned reduction or grouping of lots while maintaining the overall density of the zoning district.

PLANNING COMMISSION: The body appointed by the Township Board under the provisions of the **Michigan Planning Enabling Act, 2008 PA 33, as amended, being MCL 125.3801 et. seq.** Refers to the West Traverse Township Planning Commission.

PLAT: A map of a subdivision of land recorded with the Register of Deeds pursuant to State statute.

PLOT PLAN: The drawings and documents depicting and explaining all salient features of a proposed development which requires a zoning permit but is not required to prepare a site plan, in order to evaluate compliance with Zoning Ordinance standards and requirements.

PRACTICAL DIFFICULTY: A situation in which a property owner cannot establish a "minimum practical" legal use of a legal lot or parcel, meeting all of the dimensional standards of the zoning district in which the lot is located. Situations occurring due to the owner's desire to establish a use greater than the "minimum practical" standard to enhance economic gain greater than associated with the "minimum practical" standard or created by an owner subsequent to the amendment of this Ordinance is not a Practical Difficulty. The Zoning Board of Appeals is responsible for determining Practical Difficulty.

PRINCIPAL BUILDING OR PRINCIPAL STRUCTURE: A building or structure which is used for the primary purpose of the lot on which it is situated. *(Amended 6/13/23; Effective 6/30/23)*

PRINCIPAL USE: The primary or chief purpose for which a lot is used.

PRIVATE ACCESS WAY: An area which provides vehicular ingress, egress, access or circulation to or from two or more properties, which is privately owned and maintained and has been improved in accordance with the requirements of this Ordinance. *Amended 7/9/24; Effective 7/25/24*

PUBLIC UTILITY: A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, transportation or water.

PUBLIC UTILITY FACILTIES: Includes electric transformer stations, gas regulator stations, gas valve houses, booster stations, telephone exchange buildings, telephone repeater buildings and other similar utility uses.

R

RECREATIONAL EQUIPMENT: Watercraft, boat trailers, snowmobiles and snowmobile trailers, horse trailers, dune buggies, tents and other similar equipment.

RECREATIONAL VEHICLE: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities; or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers and pop-up campers.

RECYCLING CENTER: Machinery, equipment, structures or any parts or accessories of machinery, equipment or structures installed or acquired for the primary purpose of recovering materials or energy from the waste stream.

RELIGIOUS INSTITUTION: A building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body. Accessory uses, buildings and structures customarily associated with the religious institution are classified as part of the

principal use as a church, temple, synagogue or similar religious structure and/or institution.

RESORT: An establishment complete with buildings, structures, grounds and sanitary facilities providing lodging and other amenities which may include outdoor recreation, convention, dining and similar facilities. More than one (1) rental cabin on a lot shall be classified as a resort. *(Amended 6/13/23; Effective 6/30/23)*

RESTAURANT: A building in which food or beverages are prepared and offered for sale in a ready to consume state, and where consumption is permitted on the premises.

RETAIL STORES: Any building or structure in which goods, wares or merchandise are sold to the ultimate consumer for direct consumption and generally not intended for resale.

RIGHT-OF-WAY: A street, alley, public access way, or other thoroughfare or easement permanently established for passage of persons or vehicles. *Amended 7/9/24; Effective 7/25/24*

ROAD, PUBLIC: A public right-of-way which has been dedicated and accepted by West Traverse Township and/or the Emmet County Road Commission for the purpose of providing access to abutting lots or lands.

ROAD, PRIVATE: A right-of-way in a Platted Subdivision, Single Family Site Unit Condominiums, or Planned Unit Developments, owned, constructed and maintained by a private individual or individuals, for the purpose of providing access to abutting lots or land. See also, ***PRIVATE ACCESS WAY***. *Amended 7/9/24; Effective 7/25/24*

ROADSIDE STAND: An accessory and temporary structure operated for the purpose of temporarily selling goods or products.

ROOMING/BOARDING HOUSE: An owner-occupied, single-family dwelling containing guest rooms in which lodging is provided with or without meals for compensation and which is open to guests for periods of thirty (30) days or more. Rooming/boarding houses shall not rent out more than four (4) rooms for guests. *(Amended 6/13/23; Effective 6/30/23)*

S

SCHOOL: A public or private educational institution for the purpose of elementary or secondary education, offering students an academic curriculum and which meets all of the requirements of the compulsory education laws of the State of Michigan. Such term shall also include all adjacent properties owned by and used by such schools for educational, research and recreational purposes.

SEASONAL USE: Any use or activity that is not conducted year-round.

SETBACK: The line limiting the minimum horizontal distance between the furthest most projection of a structure and the nearest lot line. Setbacks shall run parallel to the road right-of-way, road easement or waterfront line.

SEXUALLY ORIENTED BUSINESSES: Means an "Adult Bookstore or Adult Video Store", an "Adult Cabaret," an "Adult Motion Picture Theater," "Escort Agency," a "Sexual Device Shop" or a "Sexual Encounter Center".

1. ***ADULT BOOKSTORE OR ADULT VIDEO STORE***: means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of "Specified Sexual Activities" or "Specified Anatomical Areas".

   A "principal business activity" exists where the commercial establishment:

   a. has a substantial portion of its displayed merchandise which consists of said items, or

   b. has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or

   c. has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

   d. derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or

   e. maintains a substantial section of its interior business space for the sale or rental of said items, or

   f. maintains an "adult arcade" which means any place to which the public is permitted or invited wherein coin-operated, slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "Specified Sexual Activities" or "Specified Anatomical Areas".

2. ***ADULT CABARET***: Means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

3. ***ADULT MOTION PICTURE THEATER***: means a commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the display of "Specified Sexual Activities" or "Specified Anatomical Areas" are regularly shown to more than five (5) persons for any form of consideration.

4. ***CHARACTERIZED BY***: Means describing the essential character or quality of an item. As applied in this Article, no business shall be classified as a sexually oriented business by virtue of showing, selling or renting materials rated NC-17 or R by the Motion Picture Association of America.

5. ***EMPLOY, EMPLOYEE AND EMPLOYMENT***: Describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full time, part time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

6. ***ESCORT AGENCY***: Any business, agency, or person who, for a fee, commission, hire, reward, or profit, furnishes or offers to furnish names of persons, or who introduces, furnishes, or arranges for persons, who may accompany other persons to or about social affairs, entertainments, or places of amusement, or who may consort with others about any place of public resort or within any private quarters. *(Amended 6/13/23; Effective 6/30/23)*

7. ***ESTABLISH OR ESTABLISHMENT***: Shall mean and include any of the following:

   a. the opening or commencement of any sexually oriented business as a new business.

   b. the conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business; or

   c. the addition of any sexually oriented business to any other existing sexually oriented business.

8. ***HUMAN:*** Besides the customary meaning, the term "human" shall also include non-living anthropomorphic devices (resembling human), both physical and digital. *(Amended 6/13/23; Effective 6/30/23)*

9. ***INFLUENTIAL INTEREST***: Means any of the following:

   a. the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business.

   b. ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business; or

   c. holding an office (e.g. president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

10. ***NUDITY OR A STATE OF NUDITY***: Means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque

covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

11. ***OPERATE OR CAUSE TO OPERATE***: Shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who operates the business or is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner or licensee of the business.

12. ***PERSON***: Shall mean individual, proprietorship, partnership, corporation, association or other legal entity.

13. ***PREMISES***: Shall mean the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the licensee as described in the application for a sexually oriented business license.

14. ***REGULARLY***: Means and refers to the consistent and repeated doing of the act.

15. ***SEMI NUDE OR STATE OF SEMI NUDITY***: Means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.

16. ***SEXUAL DEVICE***: Means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

17. ***SEXUAL DEVICE SHOP***: Means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic or establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

18. ***SEXUAL ENCOUNTER CENTER***: Shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration,

physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

19. ***SEXUALLY ORIENTED BUSINESS***: Means an "Adult Bookstore or Adult Video Store", an "Adult Cabaret", an "Adult Motion Picture Theater", "Escort Agency," a "Sexual Device Shop" or a "Sexual Encounter Center." *(Amended 6/13/23; Effective 6/30/23)*

20. ***SPECIFIED ANATOMICAL AREAS***: Means and includes:

    a. Less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

21. ***SPECIFIED CRIMINAL ACTIVITY***: Means any of the following specified offenses, as amended from time to time, for which less than eight (8) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

    a. Criminal sexual conduct **(MCL 750.520a-759.520g),** child sexually abusive activity **(MCL 750.145c),** computer crimes against children **(MCL 750.145d (1)(a));**

    b. Prostitution related offenses **(MCL 750.448-750-449a);**

    c. Offenses related to obscenity **(MCL 752.365)** and material harmful to minors **(MCL 750.142 0750.143);**

    d. Indecent exposure **(MCL 750.335a);**

    e. Any attempt, solicitation or conspiracy to commit one of the foregoing offenses;

    f. Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan.

22. ***SPECIFIED SEXUAL ACTIVITY***: Means any of the following:

    a. intercourse, oral copulation, masturbation or sodomy; or

    b. excretory functions as a part of or in connection with any of the activities described in (a) above.

23. ***SUBSTANTIAL***: Means at least thirty percent (30%) of the item(s).

24. ***VIEWING ROOM***: Shall mean the room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc or other video reproduction.

SHIPPING CONTAINER: A container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other portable structures that are used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials and merchandise. *Amended 7/14/20; Effective 7/29/20*

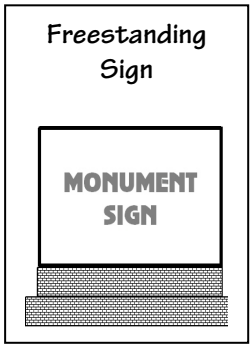
SHOPPING CENTER: A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

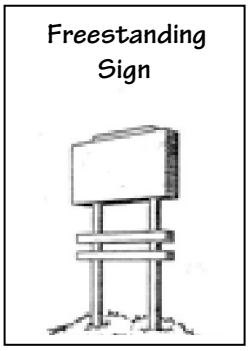
SIGN: Any device designed to inform the general public or attract the attention of a person or persons.

SIGN HEIGHT: The vertical distance measured from the ground immediately beneath the sign to the highest point of the sign or its projecting structure.

SIGN TYPES:

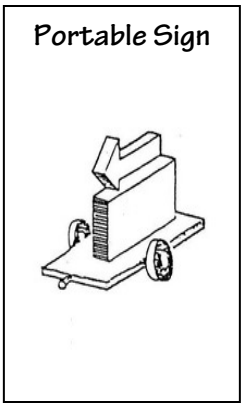
1. ***FREESTANDING SIGN***: A sign which is an elevated sign supported by one (1) or more bearing columns or any sign attached directly to the ground by a solid base and foundation constructed of masonry, brick, stone, decorative metal, wood or other durable material.

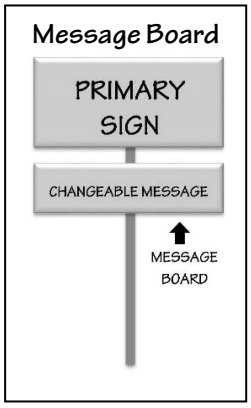




2. ***MESSAGE BOARD, STATIC***: A sign with a changeable display/message consisting of alphabetic, pictographic, or symbolic informational content that must be changed manually by non-electronic means.

3. ***MESSAGE BOARD, ELECTRONIC***: A sign with a changeable display/message consisting of alphabetic, pictographic, or symbolic informational content that is composed of a series of lights that may be changed through electronic means.

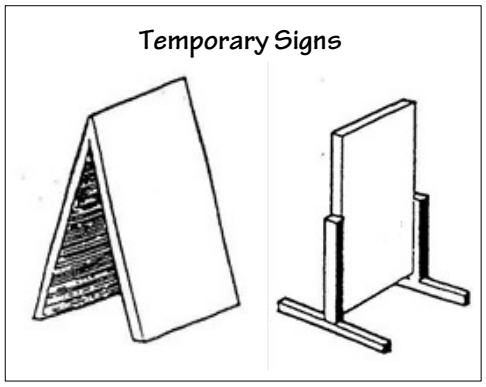




4. ***MULTIPLE SIGN ARRAY***: An on-premise sign which identifies a complex of similar establishments on one parcel and contains multiple signs – one for each establishment.

5. ***OFF-PREMISE ADVERTISING SIGN (BILLBOARD)***: A sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered other than upon the premises where such sign is located.

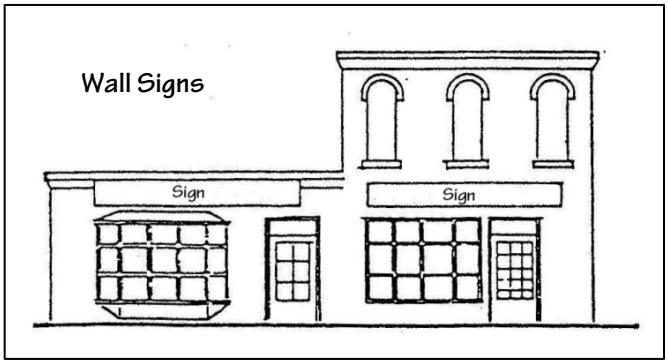
6. ***PORTABLE SIGN***: Any sign not permanently attached to the ground or a building and is designed to be transported by trailer or wheels including such signs with wheels removed.



7. ***ROOF SIGN***: A display sign which is erected, constructed and maintained above the roof of the building provided, however, that this definition shall not include signs attached to the vertical face of a mansard roof.

8. ***TEMPORARY SIGN***: A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays. A temporary sign is one that is not affixed to the ground permanently and can be easily moved. A temporary sign shall not be used as a substitute for a permanent on-premise advertising sign, except as permitted within this Ordinance.

9. ***WALL SIGN***: Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this Ordinance, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.



SITE CONDOMINIUM (CONDOMINIUM SUBDIVISION): A method of subdivision where the sale and ownership of sites is regulated by the **Condominium Act 1978 PA 59, as amended, being MCL §§ 559.101-559.276** as opposed to the **Land Division Act 1967 PA 288, as amended, being MCL 560.101 et. seq**. Condominium subdivision shall be equivalent to the term "subdivision" as used in this Zoning Ordinance.

SITE CONDOMINIUM SUBDIVISION PLAN: The site, survey, and utility plans, floor plans and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.

SITE PLAN: The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

SOLAR ENERGY: *(Amended 6/13/23; Effective 6/30/23)*

1. ***GROUNDCOVER***:

   a. ***POLLINATOR HABITAT***: Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.

   b. ***CONSERVATION COVER***: Solar sites designed in consultation with conservation organizations that focus on restoring native plants and grasses with the aim of protecting specific species (e.g., bird habitat) or providing specific ecosystem services (e.g., carbon sequestration, soil health).

   c. ***FORAGE***: Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.

   d. ***AGRIVOLTAICS***: Solar sites that combine raising crops for food, fiber or fuel and generates electricity within the project area to maximize land use.

2. ***SOLAR ENERGY PANELS (ON-SITE ACCESSORY)***: Solar collection devices designed to capture and utilize the energy of the sun to generate electrical power for use primarily on-site. A solar collection device is the actual material(s) used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected. Freestanding (ground-mounted or pole-mounted) on-site solar energy panels are an accessory use on the property and shall be allowed only by Special Land Use permit. Building or roof-mounted on-site solar energy panels are a Permitted Use and do not require a zoning permit. See Section 734 for regulations for all on-site accessory solar energy panels. *Amended 6/9/20; Effective 6/24/23*

   a. ***BUILDING-INTEGRATED ACCESSORY SOLAR ENERGY PANELS***: Accessory solar energy panels that are an integral part of a primary or accessory building or structure (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building or structure. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights and awnings.

   b. ***GROUND-MOUNTED ACCESSORY SOLAR ENERGY PANELS***: Accessory solar energy panels mounted on support posts, like a rack or pole that are attached to or rest on the ground.

   c. ***ROOF-MOUNTED ACCESSORY SOLAR ENERGY PANELS***: A solar energy system mounted on racking that is attached to or ballasted on the roof of a building or structure.

3. ***SOLAR ENERGY FACILITY (UTILITY SCALE OR COMMERCIAL)***: A facility designed to capture and utilize the energy of the sun to generate electrical power to primarily meet

utility-scale or commercial needs for use off-site. A solar energy facility consists of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected. A solar energy facility (utility-scale or commercial) may be an accessory or principal use on the property and shall be allowed only by Special Land Use permit. *Amended 6/9/20; Effective 6/24/20*

4. ***MAXIMUM TILT***: The maximum angle of a solar panel (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.

5. ***MINIMUM TILT***: The minimal angle of a solar panel (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.

6. ***REPOWERING***: Reconfiguring, renovating or replacing a solar energy facility to maintain or increase the power rating of the solar energy facility within the existing project footprint.

SPECIAL LAND USE PERMIT: A permit issued by West Traverse Township to a person or persons intending to undertake the operation of an activity upon land or within a structure which is classified in this Ordinance as a Special Land Use and which has been given approval by the Planning Commission.

STABLE, PRIVATE: A privately-owned facility, including shelter buildings, corrals, feed and storage buildings, for the keeping of horses for use by the owner, his family or guests without pay or compensation of any kind.

STABLE, COMMERCIAL: A facility, including shelter buildings, corrals, feed and storage buildings, for the keeping of horses for use by the owner or for customers for which there is rental or compensation.

STATE LICENSED RESIDENTIAL FACILITY: A structure constructed for residential purposes that is licensed by the state under the **Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or the Child Care Organizations Act, 1973 PA 116, MCL 722.111 to 722.128**, and provides residential services for 6 or fewer individuals under 24-hour supervision or care. The licensee is NOT a member of the household nor is an occupant of the residence.

STORAGE: To leave or deposit in a place for preservation or disposal in one or more of the following ways:

1. ***STORAGE-ACCESSORY***: Storage which is accessory to the principal use of the premises.

2. ***STORAGE BUILDING***: A building in which storage is the principal activity.

STRUCTURE: Anything constructed or erected on the ground or attached to something having a fixed location on the ground.

SUBDIVISION: The division of land, lot, tract or parcel into two or more lots, parcels, plats, sites or other divisions of land for the purpose of sale, lease, offer or development, whether

immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural or other land whether by deed, metes and bounds description, lease, plat or other instrument.

T

TEMPORARY USE: A use or building permitted to exist during periods of construction of the main building or use, or for special events.

TIMBER AND TREE PRODUCTS PRODUCTION: The cutting, splitting, hauling, extraction and similar processing of tree products not including the selling of finished lumber products.

TRAVEL TRAILER: See Recreational Vehicle.

U

USE: The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

USE, PRINCIPAL: The primary use to which the premises are devoted.

V

VARIANCE: A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause practical difficulty or unnecessary hardship as determined in **Article 8** of this Ordinance.

VARIANCE, DIMENSIONAL: A variance granted to provide relief from a specific standard in this Zoning Ordinance which usually relates to an area, dimension or development requirement/limitation.

VEHICLE REPAIR: A structure containing any activity involving the general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles or components, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

W

WALL: An upright structure of masonry, wood, plaster or other building materials serving to enclose, divide or protect an area.

WAREHOUSE: A building wherein goods, merchandise and materials are stored for subsequent sale, distribution or use other than on the site of said warehouse.

WATERFRONT SETBACK: The minimum required horizontal distance from the ordinary high water line of a waterfront lot within which no buildings or structures may be placed.

WETLAND: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh.

WIND ENERGY DEFINITIONS:

1. ***ANEMOMETER TOWER or MET***: A freestanding meteorological tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a **WIND ENERGY SYSTEM**.

2. ***AMBIENT***: The sound pressure level exceeded 90% of the time or L90.

3. ***ANSI***: The **American National Standards Institute**.

4. ***dB(A)***: The sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

5. ***DECIBEL***: The unit of measure used to express the magnitude of sound pressure and sound intensity.

6. ***HAWT***: A horizontal axis wind turbine tower or building mount; one type of **WIND ENERGY SYSTEM**. See also **VAWT**.

7. ***IEC***: The **International Electrotechnical Commission**.

8. ***ISO***: The **International Organization for Standardization**.

9. ***LEASE UNIT BOUNDARY***: The boundary around property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road right-of-ways.

10. ***ON-SITE WIND ENERGY SYSTEM***: A land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

11. ***ROTOR***: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

12. ***SHADOW FLICKER***: Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

13. ***SOUND PRESSURE***: An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

14. ***SOUND PRESSURE LEVEL***: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

15. ***UTILITY GRID WIND ENERGY SYSTEM***: A land use designed and built to provide electricity to the electric utility grid by use of wind and includes accessory uses such as but not limited to an **ANEMOMETER TOWER**, electric substation, and related appurtenances.

16. ***VAWT***: A vertical axis wind turbine tower or building mount; one type of **WIND ENERGY SYSTEM**. See also **HAWT**.

17. ***WIND ENERGY SYSTEM***: A land use for generating power by use of wind or use of a wind turbine generator and includes the turbine, blades and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also **ON-SITE WIND ENERGY SYSTEM** and **UTILITY GRID WIND ENERGY** SYSTEM.

18. ***WIND SITE ASSESSMENT SYSTEM***: A land use using a **MET** or **ANEMOMETER TOWER** to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

WIRELESS COMMUNICATIONS:

1. ***ANTENNA ARRAY***: An Antenna Array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

2. ***COLLOCATION***: To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocate" has a corresponding meaning.

3. ***HEIGHT***: When referring to a Wireless Communication Facility, height shall mean the distance measured from ground level to the highest point on the Wireless Communication Facility, including the Antenna Array.

4. ***SMALL CELL WIRELESS FACILITY***: A wireless facility that meets both of the following requirements: *(Amended 6/13/23; Effective 6/30/23)*

    a. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.

    b. All other wireless equipment associated with the facility is cumulatively not more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume:

electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches and vertical cable runs for the connection of power and other services.

5. ***TEMPORARY WIRELESS COMMUNICATION FACILITY***: Temporary Wireless Communication Facility shall mean a Wireless Communication Facility to be placed in use for ninety (90) or fewer days.

6. ***WIRELESS COMMUNICATIONS***: Wireless communications shall mean television and radio towers, as well as any personal wireless service as defined in the **Telecommunications Act of 1996, as amended**, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist.

7. ***WIRELESS COMMUNICATIONS EQUIPMENT***: The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables and coaxial and fiber optic cables, but excluding wireless communications support structures.

8. ***WIRELESS COMMUNICATION FACILITY***: Any facility for the transmission and/or reception of wireless communications services, usually consisting of an Antenna Array, connection cables, Wireless Communications Equipment and sometimes a Support Structure. A Wireless Communication Facility also includes an Antenna Array attached to an existing building or structure or mounted on the ground. *(Amended 6/13/23; Effective 6/30/23)*

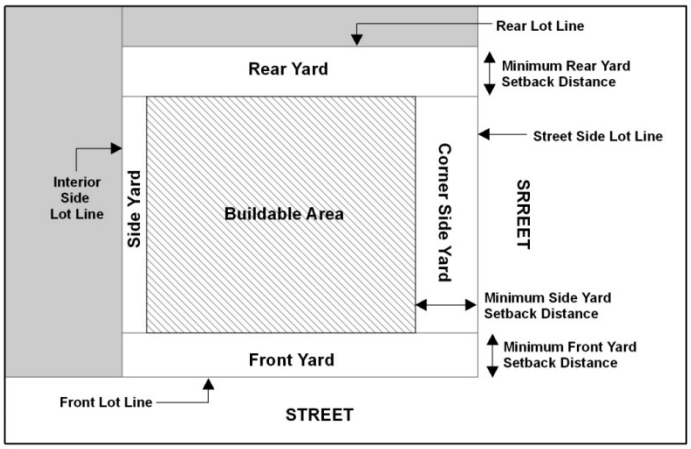
9. **WIRELESS COMMUNICATION FACILITY (GROUND-MOUNTED) – ALSO CALLED "EARTH STATION OR GROUND STATION"**: A wireless communication facility in which the antenna array is mounted to the ground or other surface and which does not use a Wireless Communications Support Structure (tower). *(Amended 6/13/23; Effective 6/30/23)*

10. ***WIRELESS COMMUNICATIONS SUPPORT STRUCTURE***: A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole or building. Also called a "tower." *(Amended 6/13/23; Effective 6/30/23)*

Y

YARD: an open space on the same lot with a structure, unoccupied and unobstructed on or above grade level which extends along a lot line and to a depth or width specified in the yard requirements for the zoning district in which it is located. Yards are further defined herein:

1. ***FRONT YARD****:* the open space extending the full width between the side lot lines and also the full depth between the front lot line and the required setback line as specified for each zoning district. In the case of a waterfront lot, the waterfront side shall be considered the front yard.



2. ***REAR YARD****:* an open space extending the full width between the side lot lines and also the full depth from the rear lot line to the line specified as the minimum distance a structure may be located from the rear lot line as specified for each zoning district.

3. ***SIDE YARD****:* the open space on either side of a structure extending from the required front yard (setback line) to the required rear yard and also the full width from the side lot lines to the lines specified as the minimum distance a structure may be located from the side lot line as specified for each zoning district.

4. ***CORNER SIDE YARD:*** An open space between a main building and the street side lot line extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the street side lot line to the nearest point of the main building.

Z

ZONING ADMINISTRATOR*:* The duly authorized official of West Traverse Township who is responsible for administration and enforcement of this Ordinance.

ZONING APPEAL*:* An entreaty or demand for a hearing and/or review of facts and/or actions by the Zoning Board of Appeals.

ZONING BOARD OF APPEALS*:* As used in this Ordinance, the term "Board of Appeals" or “ZBA” means the Zoning Board of Appeals.

ZONING PERMIT*:* A permit, issued by the Zoning Administrator, to allow the use of land for a stated purpose and/or the construction of structures upon a specified parcel of land.

Article 3
District Regulations

Sec	Name		Pg
301	Zoning Map		3-1
302	Zoning District Boundaries		3-1
	302:1	Boundary Lines	3-1
	302:2	Boundary Line Interpretation	3-1
303	Zoning of Annexed, Vacated or Filled Area		3-2
	303:1	Annexed Area	3-2
	303:2	Vacated Area	3-2
	303:3	Filled Area	3-2
304	Establishment of Districts and District Requirements		3-2
305	Table of Permitted and Special Land Uses		3-5
306	A-1 and A-1-A Agricultural and Forest Districts		3-9
307	R-1 and R-1-A Residential Districts		3-12
308	R-2 Transitional Residential District		3-14
309	C-1 Commercial District		3-16
310	I-1 Light Industrial-Commercial District		3-21
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313	Schedule of Regulations		3-33

301 Zoning Map

The areas comprising the zoning districts and the boundaries of said districts are hereby established as shown on the official Zoning Map entitled "ZONING MAP, WEST TRAVERSE TOWNSHIP, EMMET COUNTY, MICHIGAN". The Zoning Map shall be maintained in the West Traverse Township Hall and shall show all changes which are made in district boundaries according to procedures set forth in this Ordinance. The official Zoning Map, including legally adopted amendments, shall be designated as such by the signature on the map of the Zoning Administrator and Planning Commission Chair. The Zoning Map, which together with any explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

302 Zoning District Boundaries

302:1 Boundary Lines.

District boundary lines as shown on the Zoning Map, unless otherwise indicated, shall be construed as following lot lines, West Traverse Township limits lines, centerlines of highways, streets, roads, alleys, easements, railroads, streams, rivers, lakes or those centerlines extended or projected.

302:2 Boundary Line Interpretation.

Questions concerning district boundary lines as shown on the Zoning Map shall be decided by

the Zoning Board of Appeals after recommendation by the Planning Commission.

303 Zoning of Annexed, Vacated or Filled Area

303:1 Annexed Area.

All land, property or territory hereafter to be annexed to West Traverse Township shall be considered to be in an A-1 District until otherwise classified.

303:2 Vacated Area.

Whenever any street, highway or other public right-of-way within West Traverse Township shall have been vacated by official government action and when such right-of-way lands attach to and become part of the land adjoining said right-of-way, such right-of-way property shall automatically acquire and be subject to the provisions of the zoning district of the abutting property without further governmental action. In the case of a vacated right-of-way which also served as a district boundary, the centerline of such vacated right-of-way shall remain the boundary line and the lands on either side of said centerline shall become attached to their respective adjoining properties without further governmental action.

303:3 Filled Area.

Whenever, after appropriate permits are obtained, any fill material is placed in any lake, stream, or wetland so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said property emanates. No fill material shall be placed in any lake or stream within the Township unless appropriate permits are obtained.

304 Establishment of Districts and District Requirements

A. The following zoning districts are hereby established: A-1 and A-1-A: Agricultural and Forest District, R-1 and R-1-A: Single-Family and Two-Family District, R-2: Transitional Residential District, C-1: Commercial District, I-1: Light Industrial-Commercial District, S-1: Public District, and W-1: Waterfront Overlay District.

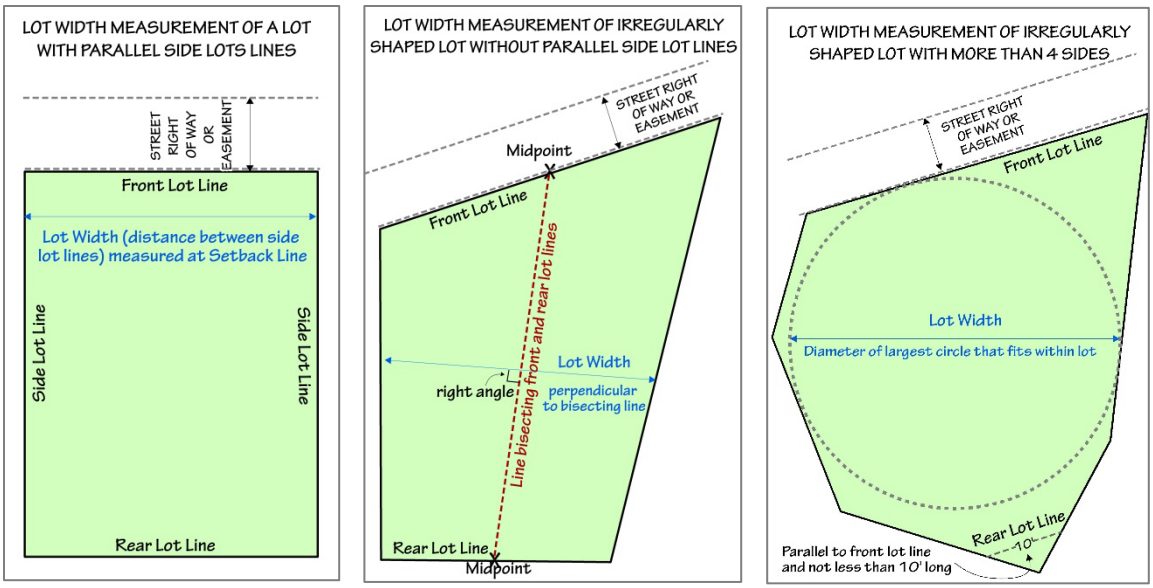
B. The suffix "A" when added to any district shall restrict development in that district by specifically prohibiting any common wall building. A nonconforming building created by the application of the "A" district shall be rebuildable to the size at the time of the adoption of the "A" district. All provisions not in conflict with the suffix "A" prohibition shall remain in effect.

C. Within any district, no structure or premises shall hereafter be used, erected, converted or altered externally in whole or in part if said use or structure is not in accordance with the intent of the applicable section of this Ordinance, except as otherwise provided in this Ordinance. Uses or structures not listed shall be prohibited in such district.

D. **Minimum Lot Requirements**.

1. **Lot Area**. The minimum lot area required in each district shall be exclusive of road right-of-ways and road easement areas.

2. **Lot Width**. The horizontal distance, which is not necessarily parallel to the road right-of-ways, between the side lot lines measured at the front setback line for lots with parallel side lot lines. In the case of irregular shaped lots, the width shall be measured on a line drawn perpendicular to a line that bisects the front and rear lot lines at a point midway along the front and rear lot lines. In the case of a lot which has more than four (4) sides, the lot width shall be the minimum diameter of the largest circle that fits wholly within the lot.



3. **Lot Depth**. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

4. **Setbacks**.

   a. **From Road Right-of-Way**. No building or structure shall be closer to a road right-of-way than the minimum front yard requirement of its zoning district. Setbacks shall run parallel to the road right-of-way.

   b. **From Road Easement(s).** All lots or parcels or property that front upon an approved road easement or are transversed by a road easement that is used by the subject parcel and/or some other lot or parcel for road and/or access purposes, shall have all setbacks and required yards measured from the nearest boundary line of such

easement to the proposed structure, building or other improvement of the subject parcel or lot. Setbacks shall run parallel to the road easement.

c. **From Lake Front**. The setbacks shall be a minimum of sixty (60) feet, measured from the ordinary high water mark of 1986 as determined by the U.S. Army Corps of Engineers, said mark is 581.99 feet for Lake Michigan. (See **§312 Waterfront Overlay**) Setbacks shall run parallel to the waterfront.

d. **Double Frontage Lots.** On double frontage lots, a front yard as prescribed for the district as herein established shall be provided on both roads.

e. **Lots Bordering a Different District**. In case of a lot having a side yard along any district boundary line, on the other side of which is a more restrictive district, said yard shall have a width of not less than that required for the more restrictive district.

5. **Residential Dwelling Units Floor Area & Width.** No residential dwelling unit shall have less than eight hundred (800) square feet of floor area, the sum of which shall be the area measured to the exterior face of exterior walls, having more than seven (7) feet, six (6) inches headroom and which may be made useable for human habitation excluding the floor area of basements, garages, accessory buildings, attics, unheated porches or breezeways and unenclosed porches. The minimum building width across any front and any side elevation shall be twenty (20) feet on an unbroken building line, excluding garages, porches and accessory buildings.

305 Table of Permitted and Special Land Uses

West Traverse Township Zoning Districts			
A-1	Agricultural and Forest District	C-1	Commercial District
A-1-A	Agricultural and Forest District– no common wall structures	I-1	Light Industrial -Commercial District
R-1	Single Family and Two-Family District	S-1	Public District
R-1-A	Single Family Residential District– no common wall structures	W-1	Waterfront Overlay District
R-2	Transitional Residential District		

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
ACCOMMODATION & FOOD SERVICES								
Bakeries & Confectioneries						P	P	
Bed & Breakfasts (§708)	S*	S*	S*	S*	S*			
Caterers/Food Service Contractors						P	P	
Coffee Shops						P	P	
Commercial Event Facilities (§733) *(Amended 5/12/20; Effective 5/27/20)*	S*	S*				S*		
Drinking Establishments/Bars						P	P	
Food Trucks/Food Truck Parks (§735) *Amended 7/9/24; Effective 7/25/24*						P*	P*	
Hotels , Motels, & Resorts (attached or detached units) (§709)	S*		S*		S*	S*	S*	
Restaurants						P	P	
Rooming/Boarding Houses *(Amended 6/13/23; Effective 6/30/23)*	S	S	S	S	S			
Wineries, Cideries, Distilleries, and Breweries which include Tasting Rooms, Retail Sales, and Distribution Services. *If organized events are planned to be held at such facilities, then* ***§733 (Commercial Event Facilities)*** *shall apply.* *(Amended 5/12/20; Effective 5/27/20)*	S	S				S	S	

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
AGRICULTURE & FOREST PRODUCTS								
Agri-Tourism Businesses. *If organized events are planned to be held at such facilities, then* ***§733 (Commercial Event Facilities)*** *shall apply.* *(Amended 5/12/20; Effective 5/27/20)*	S	S						
Biofuel Production Facilities on Farms (§732)	P*S*	P*S*						
Farming (§703)	P*	P*						
Forest Products Processing (Saw Mills, Veneer Mills, Planing Mills & related operations) (§718)	S*	S*						
Forestry/Forest Management (including Forest Harvesting and Temporary Log Storage Yards) (§718)	S*	S*						
Kennels (§719)	S*	S*						
Roadside Stand/Farm Market (sale of product grown on premises) (§703)	P*	P*						
Stables, Commercial (boarding/riding) (§720)	P*	P*						
Stables, Private (§720)	S*	S*						

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
ARTS, ENTERTAINMENT & RECREATION								
Art Galleries & Art Studios						P	P	
Botanical Gardens (public)								P
Fitness & Recreational Sports (ex: health clubs, gym)						S	S	
Golf Courses (& Accessory Structures) (§715)	S*	S*						S*
Golf Driving Ranges (§713)	S*	S*						S*
Major Outdoor Public Recreation Areas including: boating areas, camping areas, swimming areas, fishing sites, picnic areas, footpaths								P
Museums								P
Nature Parks/Nature Areas (Public)								P
Private Clubs, Lodges & Fraternal Organizations	S	S	S	S	S	S	S	
Public Parks, Playgrounds, Ballfields, Recreational Areas (§713)	S*	S*	S*	S*	S*			P
Scenic Areas (public – developed)								P

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
COMMERCIAL, RETAIL, & SERVICE								
Convenience Stores						P	P	
Financial Institutions						P	P	
Gas Stations						P	P	
Greenhouses, Nurseries, Landscaping Businesses						P	P	
Manufactured Home Dealers						S	S	
Offices (conducted wholly within a building)						P	P	
Outdoor Displays of Retail Goods						P	P	
Outdoor Storage of Materials/Goods for Sale & Storage of Accessory Equipment (§729)						P*	P*	
Pet & Pet Care Stores incl Dog Grooming (except Veterinary & Animal Shelters) (§730)						S*	S*	
Professional Offices						P	P	
Retail Sales						P	P	
Sales & Rental of Agricultural & Construction Equipment						S	S	
Sales and Rental of New & Used Vehicles & Recreational Equipment (& Showrooms)						S	S	
Service Businesses (conducted wholly within a building)						P	P	
Sexually Oriented Businesses (§728)						P*	P*	
Vehicle & Recreational Equipment Repair/Oil Change (conducted wholly within a building)						S	P	
Veterinary Clinics/Animal Hospitals (§730)						S*	S*	

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
CONTRACTORS & CONSTRUCTION								
Lumber/Building Material Storage Yards							S	
Special Trade Contractors w/ outdoor storage of materials (Sand, Gravel, Stone, Lumber) & Contractor's Equipment							S	
EDUCATIONAL SERVICES & RELIGION								
Schools – Nonprofit (§716)	S*	S*	S*	S*	S*	S*	S*	
Schools – For Profit (§716)						S*	S*	
Religious Institutions & Customary Accessory Uses (§717)	S*	S*	S*	S*	S*	S*	S*	
HUMAN CARE & SOCIAL ASSISTANCE								
Adult Day Care – in private home (up to 6) *(Amended 6/13/23; Effective 6/30/23)*	P	P	P	P	P			
Adult Day Care – in private home (7-12) *(Amended 6/13/23; Effective 6/30/23)*	S	S	S	S	S			
Adult Day Care – NOT in private home *(Amended 6/13/23; Effective 6/30/23)*						S		
Adult Foster Care: Small Group Homes, Large Group Homes, and Congregate Facilities (§706)	S*		S*		S*			
Child Care Services (see following)								
Family Child Care Homes	P	P	P	P	P			
Group Child Care Homes (§731)	S*	S*	S*	S*	S*			
Child Care Centers /Nursery Schools (not in home)						S	S	
Child Caring Institutions *(Amended 6/13/23; Effective 6/30/23)*						S		
Medical /Dental /Optical Clinics						P	P	
Nursing/Convalescent Homes/ Assisted Living Homes (§706)	S*		S*		S*			
State-Licensed Residential Facilities (6 or less) & Adult Foster Care Family Homes	P	P	P	P	P			
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT								
Manufacturing (wholly within a building) Using Light Machinery (finished products shall be easily portable)							P	
Metal Fabricating (wholly within a building)							P	
Resource Extraction (§707)	S*	S*	S*	S*	S*	S*	S*	
Tool & Die Shops (wholly within a building)							P	
MISCELLANEOUS & MIXED USES								
Accessory Buildings & Uses (§407)	P*	P*	P*	P*	P*	P*	P*	
Accessory Structures & Uses (Public District facilities) including but not limited to service buildings w/o storage yards, playground equipment, sanitation facilities, monuments, signs, plaques, shelters and parking areas.								P
Cemeteries (§714)	S*	S*	S*	S*	S*			
Planned Unit Developments (§727)	S*	S*	S*	S*	S*			
Site Condominiums (§721)	S*	S*	S*	S*	S*	S*	S*	

TABLE OF PERMITTED USES & SPECIAL LAND USES

P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A	R-1	R-1-A	R-2	C-1	I-1	S-1
PUBLIC FACILITIES								
Government Offices (§714)	S*	S*						P
Libraries						S	S	
Police/Fire Stations								P
RESIDENTIAL USES								
Accessory Dwelling Units (§407) *Amended 7/9/24; Effective 7/25/24*	P*	P*	P*	P*	P*			
Home Offices (no zoning permit is required) (§704)	P*	P*	P*	P*	P*			
Home Based Businesses (§704)	S*	S*	S*	S*	S*			
Home Occupations (§704)	P*	P*	P*	P*	P*			
Manufactured Housing Communities (w/ accessory uses such as laundry facility, office bldg, & community bldg) (§710)	S*	S*	S*	S*	S*			
Medical Marihuana Primary Caregivers (§726)	P*	P*	P*	P*	P*			
Multiple-Family Dwelling Units/Senior Apartments (§705)	S*		S*		S*			
Single-Family Dwellings – Detached (year round & seasonal)	P	P	P	P	P			
Single-Family Dwellings – Attached (Townhouses; Condominiums) (§705)	S*		S*		S*			
Two-Family Dwellings (duplex)	P		P		S			
TRANSPORTATION SERVICES, WAREHOUSING, WHOLESALE TRADE, STORAGE, & SHIPPING								
Heliports (§723)	S*	S*				S*	S*	
Storage Buildings (including mini-storage)						P	P	
Warehousing (conducted wholly within a building)							P	
Wholesale Businesses (conducted wholly within a building)							P	
UTILITIES, ENERGY & COMMUNICATIONS								
Outdoor Wood Furnaces (§725)	P*	P*	P*	P*			P*	
Public Utility Facilities (§711)	S*	S*	S*	S*	S*	S*	S*	
Public Utility Facilities without Storage Yards (§711)	S*	S*	S*	S*	S*	S*	S*	P
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	S*	S*	S*	S*	S*	S*	S*	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	P*	P*	P*	P*	P*	P*	P*	P*
Solar Energy Facility (Utility Scale or Commercial) (§734) *(Amended 6/9/20; Effective 6/24/20)*	S*	S*						
Wind Energy Systems (Utility Grid) (§724)	S*	S*	S*	S*	S*	S*	S*	
Wind Energy Systems (On-Site) (§724)	S*	S*	S*	S*	S*	S*	S*	
Wind Energy Site Assessment Systems (§724)	S*	S*	S*	S*	S*	S*	S*	
Wireless Communications Support Structures (§712)	S*	S*						S*
Wireless Communications – Collocation on Existing Tower (§712)	P*	P*						P*
Wireless Communications – Ground-Mounted or other facilities not classified above (§712) *(Amended 6/13/23; Effective 6/30/23)*	S*	S*						S*
Wireless Communications – Small Cell Wireless Facilities (§712) *(Amended 6/13/23; Effective 6/30/23)*	S*	S*						S*

306 A-1 and A-1-A Agricultural and Forest Districts

A-1 | A-1-A

306:1 Intent.

The A-1 and A-1-A Districts are established in recognition of the areas of sparse development customarily occurring in agriculturally oriented communities. The areas which comprise the majority of these zoning districts contain the principal agricultural activities. It is not intended that high concentration of development be permitted in these districts except as authorized by this Ordinance. Uses which are not of an agricultural nature may be permitted in these districts as Special Land Uses provided they comply with the applicable standards, pertaining to Special Land Uses as outlined in **§306:2** and the regulations and standards of **Article 7** of this Ordinance.

306:2 Uses Permitted by Right & Special Land Uses.

Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the tables below and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A
ACCOMMODATION & FOOD SERVICES		
Bed & Breakfasts (§708)	S*	S*
Commercial Event Facilities (§733) *(Amended 5/12/20; Effective 5/27/20)*	S*	S*
Hotels , Motels & Resorts (attached or detached units) (§709)	S*	
Rooming/Boarding Houses *(Amended 6/13/23; Effective 6/30/23)*	S	S
Wineries, Cideries, Distilleries, and Breweries which include Tasting Rooms, Retail Sales, and Distribution Services. *If organized events are planned to be held at such facilities, then* ***§733 (Commercial Event Facilities)*** *shall apply. (Amended 5/12/20; Effective 5/27/20)*	S	S
AGRICULTURE & FOREST PRODUCTS		
Agri-Tourism Businesses. *If organized events are planned to be held at such facilities, then* ***§733 (Commercial Event Facilities)*** *shall apply. (Amended 5/12/20; Effective 5/27/20)*	S	S
Biofuel Production Facilities on Farms (§732)	P*S*	P*S*
Farming (§703)	P*	P*
Forest Products Processing (Saw Mills, Veneer Mills, Planing Mills & related operations) (§718)	S*	S*
Forestry/Forest Management (including Forest Harvesting and Temporary Log Storage Yards) (§718)	S*	S*
Kennels (§719)	S*	S*
Roadside Stand/Farm Market (sale of product grown on premises) (§703)	P*	P*
Stables, Commercial (boarding/riding) (§720)	P*	P*

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A
AGRICULTURE & FOREST PRODUCTS (continued)		
Stables, Private (§720)	S*	S*
ARTS, ENTERTAINMENT & RECREATION		
Golf Courses (& Accessory Structures) (§715)	S*	S*
Golf Driving Ranges (§713)	S*	S*
Private Clubs, Lodges & Fraternal Organizations	S	S
Public Parks, Playgrounds, Ballfields, Recreational Areas (§713)	S*	S*
EDUCATIONAL SERVICES & RELIGION		
Schools – Nonprofit (§716)	S*	S*
Religious Institutions & Customary Accessory Uses (§717)	S*	S*
HUMAN CARE & SOCIAL ASSISTANCE		
Adult Day Care – in private home (up to 6) *(Amended 6/13/23; Effective 6/30/23)*	P	P
Adult Day Care – in private home (7-12) *(Amended 6/13/23; Effective 6/30/23)*	S	S
Adult Foster Care: Small Group Homes, Large Group Homes, and Congregate Facilities (§706)	S*	
Child Care Services (see following)		
Family Child Care Homes	P	P
Group Child Care Homes (§731)	S*	S*
Nursing/Convalescent Homes/Assisted Living Homes (§706)	S*	
State-Licensed Residential Facilities (6 or less) & Adult Foster Care Family Homes	P	P

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT		
Resource Extraction (§707)	S*	S*
MISCELLANEOUS & MIXED USES		
Accessory Buildings & Uses (§407)	P	P
Cemeteries (§714)	S*	S*
Planned Unit Developments (§727)	S*	S*
Site Condominiums (§721)	S*	S*
PUBLIC FACILITIES		
Government Offices (§714)	S*	S*
RESIDENTIAL USES		
Home Offices (no zoning permit is required) (§704)	P*	P*
Home Based Businesses (§704)	S*	S*
Home Occupations (§704)	P*	P*
Manufactured Housing Communities (with accessory uses such as laundry facilities, office building, and community building) (§710)	S*	S*
Medical Marihuana Primary Caregivers (§726)	P*	P*
Multiple-Family Dwelling Units/Senior Apartments (§705)	S*	
Single-Family Dwellings – Detached (year round & seasonal)	P	P
Single-Family Dwellings – Attached (Townhouses; Condominiums) (§705)	S*	
Two-Family Dwellings (duplex)	P	

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	A-1	A-1-A
TRANSPORTATION SERVICES, WAREHOUSING, WHOLESALE TRADE, STORAGE & SHIPPING		
Heliports (§723)	S*	S*
UTILITIES, ENERGY & COMMUNICATIONS		
Outdoor Wood Furnaces (§725)	P*	P*
Public Utility Facilities (§711)	S*	S*
Public Utility Facilities without Storage Yards (§711)	S*	S*
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	S*	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	P*	P*
Solar Energy Facility (Utility Scale or Commercial) (§734) (Amended 6/9/20; Effective 6/24/20)	S*	S*
Wind Energy Systems (Utility Grid) (§724)	S*	S*
Wind Energy Systems (On-Site) (§724)	S*	S*
Wind Energy Site Assessment Systems (§724)	S*	S*
Wireless Communications Support Structures (§712)	S*	S*
Wireless Communications – Collocation on an Existing Tower (§712)	P*	P*
Wireless Communications – Ground-Mounted or other facilities not classified above (§712)	S*	S*
Wireless Communications – Small Cell Wireless Facilities (§712)	S*	S*

306:3 Development Standards for A-1 and A-1-A.

The following development standards shall apply to the uses listed below. Development standards for the uses listed with an "*" in the tables in **§306:2** have Supplemental Regulations listed in **Article 7.**

A-1 and A-1-A Development Standards						
Uses	**Minimum Lot Size**		**Minimum Setbacks**			**Maximum Height**
	Area	**Width**	**Front**	**Rear**	**Side**	
Farming	**2 acres**	**200 ft**	---	---	---	---
Single-Family Dwellings	**2 acres**	**200 ft**	40 ft	40 ft	20 ft	35 ft
Two-Family Dwellings[1]	**4 acres**	**300 ft**	40 ft	40 ft	20 ft	35 ft
All Other Uses	Development standards shall comply with standards for single-family dwellings (above) unless: (1) otherwise regulated by **Article 7** or (2) the Planning Commission sets a more stringent standard (i.e. larger required setback, area, or width) as a condition of approval.					
Parking regulations for uses other than single-family and two-family dwelling units are contained in **Article 7** (for uses with Supplemental Regulations) or **Section 309:5** (for uses which do not have Supplemental Regulations listed in **Article 7**).						
[1] No common wall structures allowed in A-1-A.						

A-1 A-1-A

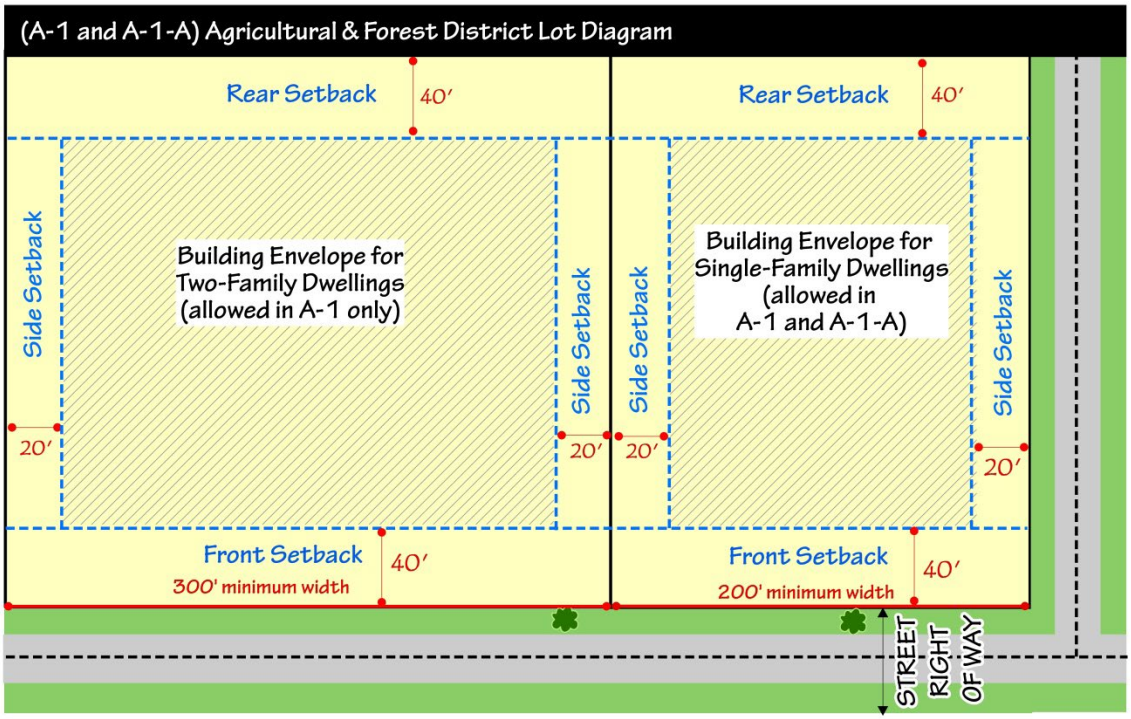


Diagram is not drawn to scale.

307 R-1 (Single-Family & Two-Family) and R-1-A (Single-Family) Districts

307:1 Intent.

R-1 R-1-A

The R-1 (Single-Family and Two-Family District) and R-1-A (Single-Family) District are established to provide areas of general residential development. Desired development includes single-family in R-1 and R-1-A and two-family dwellings in R-1 only.

307:2 Uses Permitted by Right & Special Land Uses.

Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the following tables and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	R-1	R-1-A
ACCOMMODATION &FOOD SERVICES		
Bed & Breakfasts (§708)	S*	S*
Hotels , Motels & Resorts (attached or detached units) (§709)	S*	
Rooming/Boarding Houses (Amended 6/13/23; Effective 6/30/23)	S	S
ARTS, ENTERTAINMENT & RECREATION		
Private Clubs, Lodges & Fraternal Organizations	S	S
Public Parks, Playgrounds, Ballfields, Recreational Areas (§713)	S*	S*
EDUCATIONAL SERVICES & RELIGION		
Schools – Nonprofit (§716)	S*	S*
Religious Institutions & Customary Accessory Uses (§717)	S*	S*
HUMAN CARE & SOCIAL ASSISTANCE		
Adult Day Care – in private home (up to 6) (Amended 6/13/23; Effective 6/30/23)	P	P
Adult Day Care – in private home (7-12) (Amended 6/13/23; Effective 6/30/23)	S	S
Adult Foster Care: Small Group Homes, Large Group Homes, and Congregate Facilities (§706)	S*	
Family Child Care Homes	P	P
Group Child Care Homes (§731)	S*	S*
Nursing/Convalescent Homes/ Assisted Living Homes (§706)	S*	
State-Licensed Residential Facilities (6 or less) & Adult Foster Care Family Homes	P	P
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT		
Resource Extraction (§707)	S*	S*
MISCELLANEOUS & MIXED USES		
Accessory Buildings & Uses (§407)	P*	P*
Cemeteries (§714)	S*	S*

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	R-1	R-1-A
Planned Unit Developments (§727)	S*	S*
Site Condominiums (§721)	S*	S*
RESIDENTIAL USES		
Home Offices (no zoning permit is required) (§704)	P*	P*
Home Based Businesses (§704)	S*	S*
Home Occupations (§704)	P*	P*
Manufactured Housing Communities (with accessory uses such as laundry facilities, office building, and community building) (§710)	S*	S*
Medical Marihuana Primary Caregivers (§726)	P*	P*
Multiple-Family Dwelling Units/Senior Apartments (§705)	S*	
Single-Family Dwellings – Detached (year round & seasonal)	P	P
Single-Family Dwellings – Attached (Townhouses; Condominiums) (§705)	S*	
Two-Family Dwellings (duplex)	P	
UTILITIES, ENERGY & COMMUNICATIONS		
Outdoor Wood Furnaces (§725)	P*	P*
Public Utility Facilities (§711)	S*	S*
Public Utility Facilities without Storage Yards (§711)	S*	S*
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	S*	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	P*	P*
Wind Energy Systems – Utility Grid (§724)	S*	S*
Wind Energy Systems (On-Site) (§724)	S*	S*
Wind Energy Site Assessment Systems (§724)	S*	S*

307:3 Development Standards for R-1 and R-1-A.

R-1 R-1-A

The following development standards shall apply to the uses listed below. Development standards for the uses listed with an "*" in the tables in **§307:2** have Supplemental Regulations listed in **Article 7.**

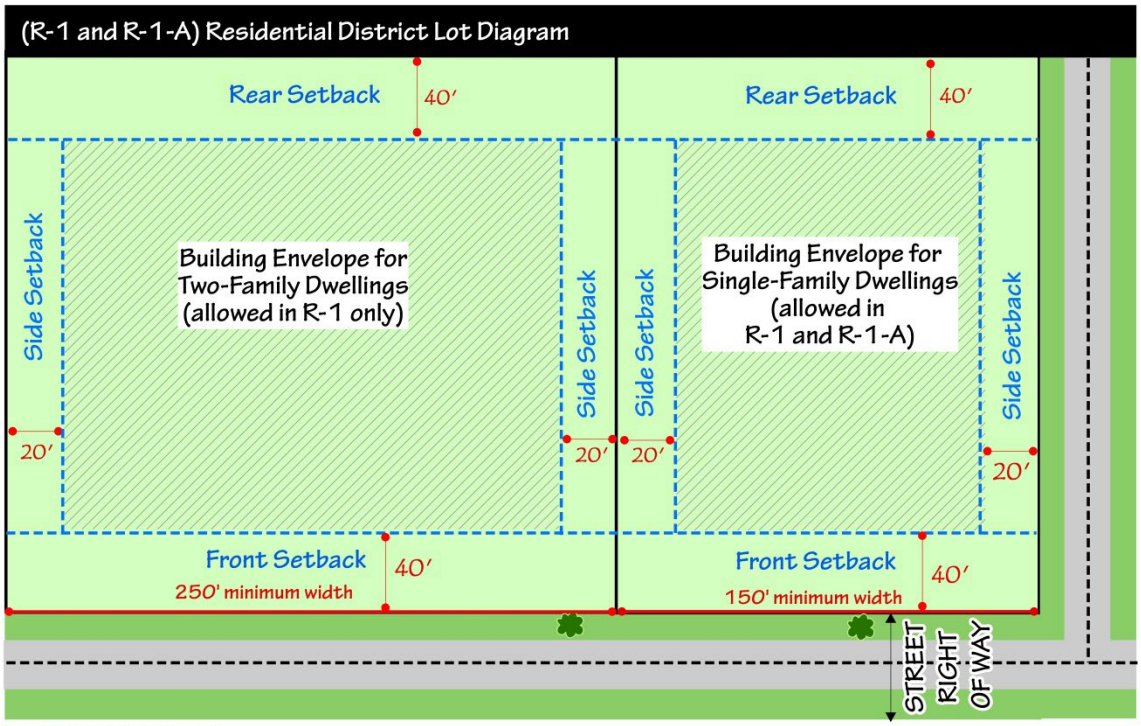
R-1 and R-1-A Development Standards

Uses	Minimum Lot Size		Minimum Setbacks			Maximum Height
	Area	Width	Front	Rear	Side	
Single-Family Dwellings	**1 acre**	**150 ft**	40 ft	40 ft	20 ft [1]	35 ft
Two-Family Dwellings[2]	**2 acres**	**250 ft**	40 ft	40 ft	20 ft	35 ft
All Other Uses	Development standards shall comply with standards for single-family dwellings (above) unless: (1) otherwise regulated by **Article 7** or (2) the Planning Commission sets a more stringent standard (i.e. larger required setback, area, or width) as a condition of approval.					

Parking regulations for uses other than single-family and two-family dwelling units are contained in **Article 7** (for uses with Supplemental Regulations) or **Section 309:5** (for uses which do not have Supplemental Regulations listed in **Article 7**).

[1] Legal non-conforming parcels having a lot width of less than 150 feet shall be allowed a reduction in the required side yard setbacks. All structures shall be set back a minimum of 13.5% of the average lot width from each of the side lot lines. In no instance shall the setback be less than ten (10) feet from each side lot line.

[2] No common wall structures allowed in R-1-A.



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308 R-2 Transitional Residential District

R-2

308:1 Intent.

The R-2 District is intended to serve as a transitional zone between the higher density zoning districts of the city and the lower density districts of the Township. It is not intended that this district be expanded beyond its present boundaries.

308:2 Uses Permitted by Right & Special Land Uses.

Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the tables below and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	R-2
ACCOMMODATION & FOOD SERVICES	
Bed & Breakfasts (§708)	S*
Hotels , Motels & Resorts (attached or detached units) (§709)	S*
Rooming/Boarding Houses *(Amended 6/13/23; Effective 6/30/23)*	S
ARTS, ENTERTAINMENT & RECREATION	
Private Clubs, Lodges & Fraternal Organizations	S
Public Parks, Playgrounds, Ballfields, Recreational Areas (§713)	S*
EDUCATIONAL SERVICES & RELIGION	
Schools – Nonprofit (§716)	S*
Religious Institutions & Customary Accessory Uses (§717)	S*
HUMAN CARE & SOCIAL ASSISTANCE	
Adult Day Care – in private home (up to 6) *(Amended 6/13/23; Effective 6/30/23)*	P
Adult Day Care – in private home (7-12) *(Amended 6/13/23; Effective 6/30/23)*	S
Adult Foster Care: Small Group Homes, Large Group Homes, and Congregate Facilities (§706)	S*
Family Child Care Homes	P*
Group Child Care Homes (§731)	S*
Nursing/Convalescent Homes/ Assisted Living Homes (§706)	S*
State-Licensed Residential Facilities (6 or less) & Adult Foster Care Family Homes	P
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT	
Resource Extraction (§707)	S*
MISCELLANEOUS & MIXED USES	
Accessory Buildings & Uses (§407)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	R-2
MISCELLANEOUS & MIXED USES (continued)	
Cemeteries (§714)	S*
Planned Unit Developments (§727)	S*
Site Condominiums (§721)	S*
RESIDENTIAL USES	
Home Offices (no zoning permit is required) (§704)	P*
Home Based Businesses (§704)	S*
Home Occupations (§704)	P*
Manufactured Housing Communities (with accessory uses such as laundry facilities, office building, and community building) (§710)	S*
Medical Marihuana Primary Caregivers (§726)	P*
Multiple-Family Dwelling Units/Senior Apartments (§705)	S*
Single-Family Dwellings – Detached (year round & seasonal)	P
Single-Family Dwellings – Attached (Townhouses; Condominiums) (§705)	S*
Two-Family Dwellings (duplex)	S
UTILITIES, ENERGY & COMMUNICATIONS	
Public Utility Facilities (§711)	S*
Public Utility Facilities without Storage Yards (§711)	S*
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	P*
Wind Energy Systems (Utility Grid) (§724)	S*
Wind Energy Systems (On-Site) (§724)	S*
Wind Energy Site Assessment Systems (§724)	S*

308:3 Development Standards for R-2.

R-2

The following development standards shall apply to the uses listed below. Development standards for the uses listed with an "*" in the tables in **§308:2** have Supplemental Regulations listed in **Article 7**.

R-2 Development Standards						
Uses	Minimum Lot Size		Minimum Setbacks			Maximum Height
	Area	Width	Front	Rear	Side	
Single-Family Dwellings	**22,000 sq ft**	**100 ft**	40 ft	40 ft	15 ft	35 ft
Two-Family Dwellings	**22,000 sq ft per dwelling unit**	**100 ft**	40 ft	40 ft	15 ft	35 ft
All Other Uses	Development standards shall comply with standards for single-family dwellings (above) unless: (1) otherwise regulated by **Article 7** or (2) the Planning Commission sets a more stringent standard (i.e. larger required setback, area, or width) as a condition of approval.					
Parking regulations for uses other than single-family and two-family dwelling units are contained in **Article 7** (for uses with Supplemental Regulations) or **Section 309:5** (for uses which do not have Supplemental Regulations listed in **Article 7**).						

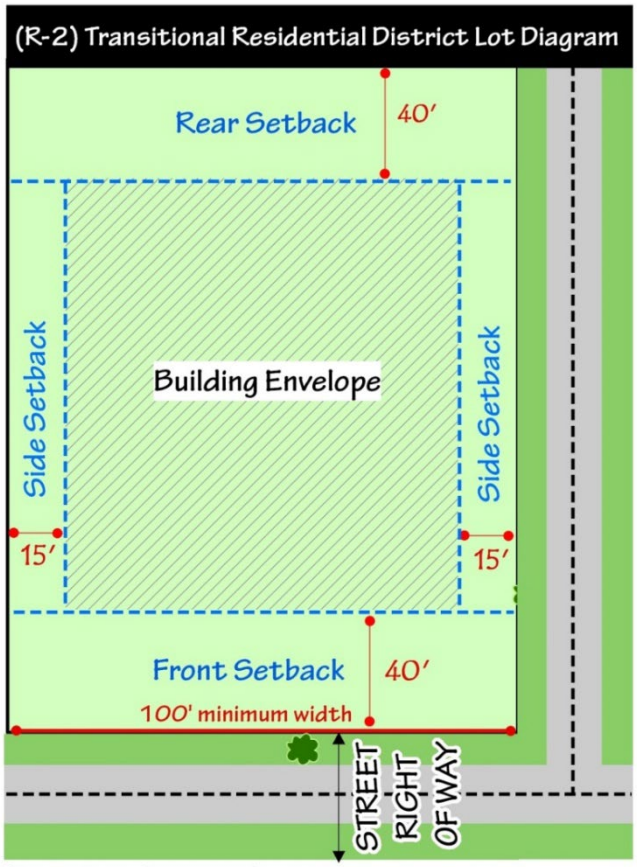


Diagram is not drawn to scale.

309 C-1 Commercial District

C-1

309:1 Intent.

The C-1 District is established to provide areas of general commercial development and to allow for the establishment of neighborhood shopping centers, personal services, professional offices and tourist services. It is not intended that residential development be permitted in this district except as authorized by this Ordinance.

309:2 Uses Permitted by Right & Special Land Uses.

A. Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the tables below and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

B. All new development and/or change of use (where the change of use involves more than five (5) percent exterior alteration to building structure, an increase to the number and configuration of parking spaces or a change to the number and configuration of access drives) in this district shall require site plan approval by the Planning Commission prior to issuance of a zoning permit. Plans submitted for review shall comply with **Article 5**. *Amended 3/23/21; Effective 4/8/21*

   Before granting approval on any development and/or change of use in this district, the Planning Commission shall find that it will not tend to further:

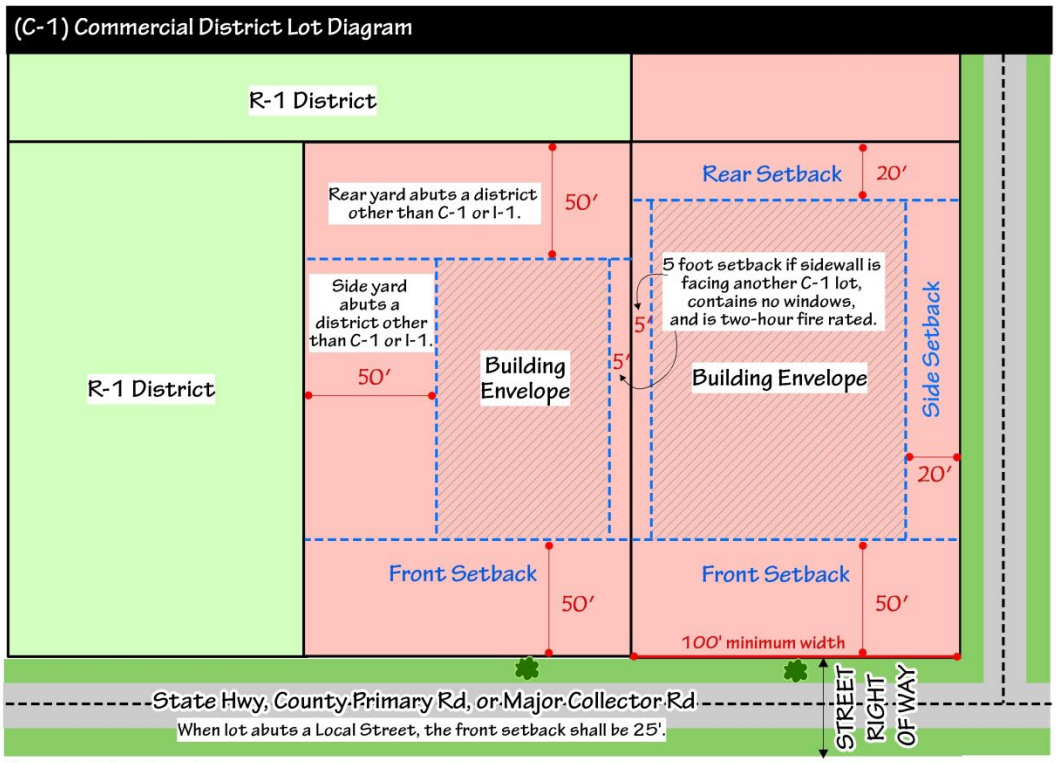
   1. Impair the adequate supply of light and air to adjacent property.
   2. Increase the hazard from fire, flood and other dangers to said property, adjacent properties and roadways.
   3. Diminish the market value of adjacent land and buildings.
   4. Increase the congestion on the public streets.
   5. Otherwise impair the public health, safety, comfort and general welfare.

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	C-1
ACCOMMODATION &FOOD SERVICES	
Bakeries & Confectioneries	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Commercial Event Facilities (§733) *(Amended 5/12/20; Effective 5/27/20)*	S*
Drinking Establishments/Bars	P
Hotels , Motels & Resorts (attached or detached units) (§709)	S*
Restaurants	P
Wineries, Cideries, Distilleries, and Breweries which include Tasting Rooms, Retail Sales, and Distribution Services. *If organized events are planned to be held at such facilities, then* ***§733 (Commercial Event Facilities)*** *shall apply.* *(Amended 5/12/20; Effective 5/27/20)*	S
ARTS, ENTERTAINMENT & RECREATION	
Art Galleries & Art Studios	P
Fitness & Recreational Sports (ex: health clubs, gym)	S
Private Clubs, Lodges & Fraternal Organizations	S
COMMERCIAL, RETAIL & SERVICE	
Convenience Stores	P
Financial Institutions	P
Gas Stations	P
Greenhouses, Nurseries, Landscaping Businesses	P
Manufactured Home Dealers	S
Offices (conducted wholly within a building)	P
Outdoor Displays of Retail Goods	P
Outdoor Storage of Materials/Goods for Sale & Storage of Accessory Equipment (§729)	P*
Pet & Pet Care Stores incl Dog Grooming (except Veterinary & Animal Shelters) (§730)	S*
Professional Offices	P
Retail Sales	P
Sales & Rental of Agricultural & Construction Equipment	S
Sales and Rental of New & Used Vehicles & Recreational Equipment (& Showrooms)	S
Service Businesses (conducted wholly within a building)	P
Sexually Oriented Businesses (§728)	P*
Vehicle & Recreational Equipment Repair/Oil Change (conducted wholly within a building)	S
Veterinary Clinics/Animal Hospitals (§730)	S*

TABLE OF PERMITTED USES & SPECIAL LAND USES *P = Permitted by right* *S = Permitted with a Special Use Permit* **Supplemental Regulations*	C-1
EDUCATIONAL SERVICES & RELIGION	
Schools – Nonprofit (§716)	S*
Schools – For Profit (§716)	S*
Religious Institutions & Customary Accessory Uses (§717)	S*
HUMAN CARE & SOCIAL ASSISTANCE	
Adult Day Care – NOT in private home *(Amended 6/13/23; Effective 6/30/23)*	S
Child Care Centers /Nursery Schools (not in home)	S
Child Caring Institutions *(Amended 6/13/23; Effective 6/30/23)*	S
Medical /Dental /Optical Clinics	P
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT	
Resource Extraction (§707)	S*
MISCELLANEOUS & MIXED USES	
Accessory Buildings & Uses (§407)	P*
Site Condominiums (§721)	S*
PUBLIC FACILITIES	
Libraries	S
TRANSPORTATION SERVICES, WAREHOUSING, WHOLESALE TRADE, STORAGE & SHIPPING	
Heliports (§723)	S*
Storage Buildings (including mini-storage)	P
UTILITIES, ENERGY & COMMUNICATIONS	
Public Utility Facilities (§711)	S*
Public Utility Facilities without Storage Yards (§711)	S*
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	P*
Wind Energy Systems (Utility Grid) (§724)	S*
Wind Energy Systems (On-Site) (§724)	S*
Wind Energy Site Assessment Systems (§724)	S*

309:3 Lot & Structure Standards for C-1.

C-1 Lot & Structure Standards				
Minimum Lot Size Width	Minimum Setbacks			Maximum Height
	Front	Rear	Side	
100 ft	Lots fronting on state highway, county primary roads or other major collector roads:[1] 50 ft Lots fronting on local streets:[1] 25 ft [1]Road type identified by the County Road Commission.	20 feet Where a rear yard borders on a zoning district other than C-1 or I-1, there shall be provided a rear yard of not less than fifty (50) feet.	20 feet Where the sidewall of the structure faces a C-1 or an I-1 zoned parcel and contains no windows or other openings and is two-hour fire rated, a minimum of five (5) foot setback may be approved. Where a side yard borders on a district other than C-1 or I-1, there shall be a setback of not less than fifty (50) feet.	35 ft or 2 stories, whichever is less.



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309:4 Development Standards for C-1.

C-1 Development Standards	
Lighting	Lighting on the premises for parking areas, yard areas, sign lighting or other similar types of exterior lighting shall be shielded and directed downward, with the light source not visible off the premises.
Waste Receptacles	Waste receptacles, including dumpsters, shall be screened so as not to be visible from adjacent property and public or private roadways.
Ingress/Egress	If other commercial entrances or exits are adjacent, they must be shared or connected when possible in order to reduce curb-cuts to public streets.
Screening	All uses in the C-1 district shall be screened with an ornamental fence, wall, berm or planted materials, such as trees or shrubs, no less than five (5) feet high on all sides which abut a developed or zoned residential lot or parcel. Said screen shall obscure vision and provide separation between the two uses. The type of screening and its height shall be determined by the Planning Commission at the site plan review. Where, in its judgment, such screening shall serve no useful purpose, such requirement may be waived by the Planning Commission. The area located between the street and the fence, wall or screening shall be maintained in a neat and orderly manner reasonably landscaped and kept free from weeds, refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance.
Planning Commission Modification	The Planning Commission may waive, or modify, any wall, fence, greenbelt or special setback provision in the C-1 District, where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns, natural barriers or screens and the like.

309:5 Parking Standards for C-1.

A. **Parking Required.** The minimum number of asphalt or concrete off street parking spaces by type of use shall be determined in accordance with this Ordinance. For unspecified uses, the number of spaces shall be determined by the Planning Commission based on the most similar use for which parking space requirements are listed. The minimum number of off street parking spaces by use shall be in accordance with the following:

C-1 Number of Parking Spaces Required	
Office and retail uses	One (1) parking space for each two hundred fifty (250) square feet of gross floor area or one and one-half (1½) square feet of parking area for each square foot of gross floor area.
Open-Air Businesses	One (1) parking space for each one thousand (1,000) square feet of sales area.
Storage Yards	One (1) parking space for each two thousand (2,000) square feet of area.
Motor Vehicle Sales and Service Establishments	One (1) parking space for each two hundred (200) square feet of useable floor area of the sales room and one (1) for each service stall in the garage.

B. **Parking Lot Landscaping.** For any off-street parking lots of twenty (20) spaces or more, there shall be planting of canopy trees subject to the following conditions:

1. One (1) such tree shall be required for each ten (10) surface parking spaces.

2. Trees shall be not less than two and one-half (2-1/2") inches in caliper.

3. Trees shall be planted prior to Final Inspection (pursuant to **Section 904**) and shall be maintained in a healthy, growing condition.

4. The required trees may be evenly distributed or concentrated in clusters as approved by the Planning Commission. If evenly distributed each tree shall be provided with an open land area of not less than eighty (80) square feet to provide area for infiltration and with a minimum diameter of five (5) feet at the trunk base for added protection. Tree plantings shall also be protected from automobiles with curbing, bollards or other suitable devices.

C. **Parking Space Deferral.** The number of off-street parking spaces required by this Ordinance shall be considered the minimum required, however, the Planning Commission, subject to approval of the Site Plan, may defer until a future time the construction of the full number of parking spaces based on the following:

1. The Site Plan shall indicate that the legal number of spaces required per this Section can be physically provided to serve the use.

2. The Planning Commission may rule to defer the actual construction of up to 50% of the required parking space for the following reasons:

   a. The proprietor/owner demonstrates to the Planning Commission that providing 100% of the required parking would not be necessary to serve the level of the property use.

   b. The land proposed for the full amount of parking would better serve the community or the use as landscaped yard or other on-site open space use.

At such times as the intensity of vehicle access to the use increases and/or the Planning Commission determines that the deferred parking spaces are needed to prevent congestion on adjacent streets, increase safety and/or maintain patron convenience, the Planning Commission shall order that all or part of the deferred parking space shall be constructed at the earliest possible time. Based on any determined construction limitations, the Planning Commission and the applicant shall establish and agree on a construction timetable within which any deferred off-street parking spaces will be completed. The construction schedule shall consider time limitations caused by weather/climate conditions, soils, land area, site conditions, the nature of the construction and steps involved in construction.

310 I-1 Light Industrial-Commercial District

I-1

310:1 Intent.

The I-1 District is established to provide areas of general commercial and light industrial development for the location of uses which require the storage and/or operation of mechanical equipment and for uses which require large spaces in which to conduct a commercial operation. It is intended that any uses permitted do not create a nuisance to surrounding areas by the emission of noise, fumes, dust, smoke, light, vibrations, odors or other similar by-products which are not compatible with the general atmosphere of the total community. It is not intended that residential development be permitted in this district except as authorized by this Ordinance.

310:2 Uses Permitted by Right & Special Land Uses.

A. Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the tables below and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

B. All new development and/or change of use (where the change of use involves more than five (5) percent exterior alteration to building structure, an increase to the number and configuration of parking spaces or a change to the number and configuration of access drives) in this district shall require site plan approval by the Planning Commission prior to issuance of a zoning permit. Plans submitted for review shall comply with **Article 5**. *Amended 3/23/21; Effective 4/8/21*

   Before granting approval on any development and/or change of use in this district, the Planning Commission shall find that it will not tend to further:

   1. Impair the adequate supply of light and air to adjacent property.
   2. Increase the hazard from fire, flood and other dangers to said property, adjacent properties and roadways.
   3. Diminish the market value of adjacent land and buildings.
   4. Increase the congestion on the public streets.
   5. Otherwise impair the public health, safety, comfort and general welfare.
   6. Increase off-site water run-off.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	I-1
ACCOMMODATION & FOOD SERVICES	
Bakeries & Confectioneries	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Drinking Establishments/Bars	P
Hotels , Motels & Resorts (attached or detached units) (§709)	S*
Restaurants	P
Wineries, Cideries, Distilleries, and Breweries which include Tasting Rooms, Retail Sales, and Distribution Services. If organized events are planned to be held at such facilities, then §733 (Commercial Event Facilities) shall apply. (Amended 5/12/20; Effective 5/27/20)	S
ARTS, ENTERTAINMENT & RECREATION	
Art Galleries & Art Studios	P
Fitness & Recreational Sports (ex: health clubs, gym)	S
Private Clubs/Lodges/Fraternal Organizations	S
COMMERCIAL, RETAIL & SERVICE	
Convenience Stores	P
Financial Institutions	P
Gas Stations	P
Greenhouses, Nurseries, Landscaping Businesses	P
Manufactured Home Dealers	S
Offices (conducted wholly within a building)	P
Outdoor Displasy of Retail Goods	P
Outdoor Storage of Materials/Goods for Sale & Storage of Accessory Equipment (§729)	P*
Pet & Pet Care Stores incl Dog Grooming (except Veterinary & Animal Shelters) (§730)	S*
Professional Offices	P
Retail Sales	P
Sales & Rental of Agricultural & Construction Equipment	S
Sales and Rental of New & Used Vehicles & Recreational Equipment (& Showrooms)	S
Service Businesses (conducted wholly within a building)	P
Sexually Oriented Businesses (§728)	P*
Vehicle & Recreational Equipment Repair/Oil Change (conducted wholly within a building)	P
Veterinary Clinics/Animal Hospitals (§730)	S*
CONTRACTORS & CONSTRUCTION	
Lumber/Building Material Storage Yards	S
Special Trade Contractors w/ Outdoor Storage of Materials (Sand, Gravel, Stone, Lumber) & Contractor's Equipment	S

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	I-1
EDUCATIONAL SERVICES & RELIGION	
Schools – Nonprofit (§716)	S*
Schools – For Profit (§716)	S*
Religious Institutions & Customary Accessory Uses (§717)	S*
HUMAN CARE & SOCIAL ASSISTANCE	
Child Care Centers/Nursery Schools (not in home)	S
Medical /Dental /Optical Clinics	P
MANUFACTURING, INDUSTRIAL, MINING & WASTE MANAGEMENT	
Manufacturing (wholly within a building) using Light Machinery (finished products shall be easily portable)	P
Metal Fabricating (wholly within a building)	P
Resource Extraction (§707)	S*
Tool & Die Shops (wholly within a building)	P
MISCELLANEOUS & MIXED USES	
Accessory Buildings & Uses (§407)	P*
Site Condominiums (§721)	S*
PUBLIC FACILITIES	
Libraries	S
TRANSPORTATION SERVICES, WAREHOUSING, WHOLESALE TRADE, STORAGE & SHIPPING	
Heliports (§723)	S*
Storage Buildings (including mini-storage)	P
Warehousing (conducted wholly within a building)	P
Wholesale Businesses (conducted wholly within a building)	P
UTILITIES, ENERGY & COMMUNICATIONS	
Outdoor Wood Furnaces (§725)	P*
Public Utility Facilities (§711)	S*
Public Utility Facilities without Storage Yards (§711)	S*
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	S*
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) (Amended 6/9/20; Effective 6/24/20)	P*
Wind Energy Systems (Utility Grid) (§724)	S*
Wind Energy Systems (On-Site) (§724)	S*
Wind Energy Site Assessment Systems (§724)	S*

310:3 Lot & Structure Standards for I-1.

I-1 Lot & Structure Standards				
Minimum Lot Size Width	Minimum Setbacks			Maximum Height
	Front	Rear	Side	
100 ft	25 feet	20 feet Where a rear yard borders on a zoning district other than C-1 or I-1, there shall be provided a rear yard of not less than fifty (50) feet.	20 feet Where the sidewall of the structure faces a C-1 or I-1 zoned parcel and contains no windows or other openings and is two-hour fire rated, a minimum of five (5) foot setback may be approved. Where a side yard borders on any other zoning district there shall be a setback of not less than fifty (50) feet.	35 ft or 2 stories, whichever is less.

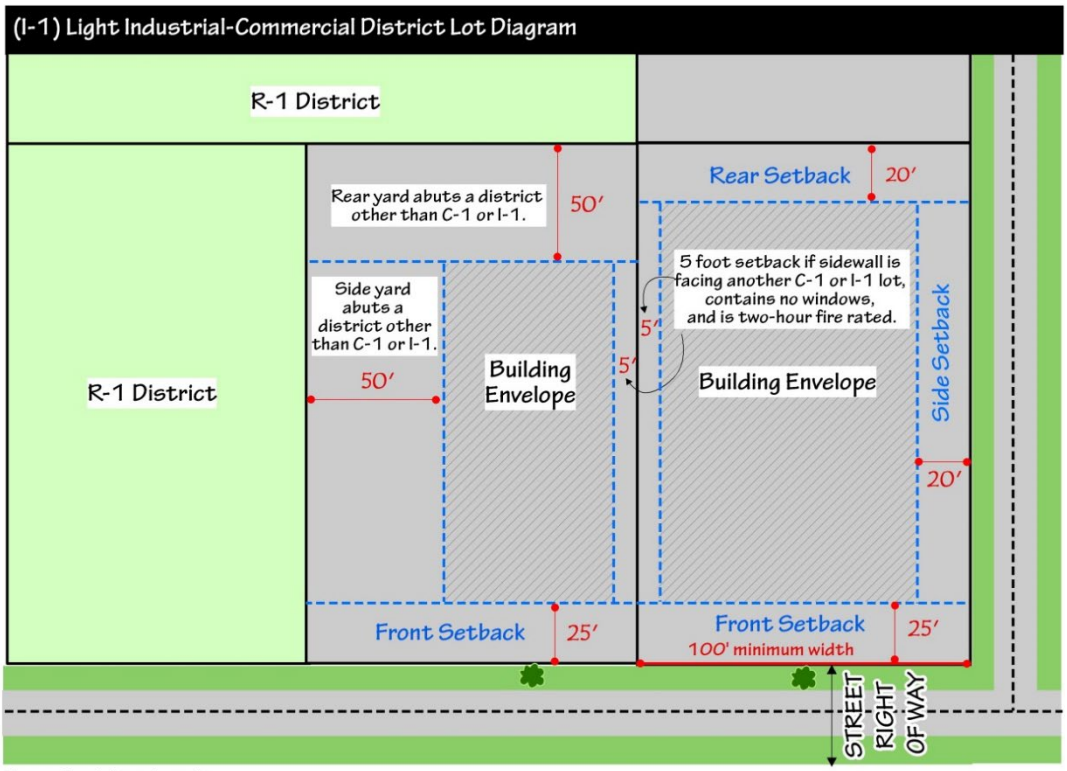


Diagram is not drawn to scale.

310:4 Development Standards for I-1.

I-1 Development Standards	
Lighting	Lighting on the premises for parking areas, yard areas, sign lighting or other similar types of exterior lighting shall be shielded and directed downward, with the light source not visible off the premises.
Waste Receptacles	Waste receptacles, including dumpsters, should preferably be out of view.
Screening	All uses in this district shall be screened with an ornamental fence, wall, berm or planted materials, such as trees or shrubs, no less than five (5) feet high on all sides which abut a developed or zoned residential lot or parcel. Said screen shall obscure vision and provide separation between the two uses. The type of screening and its height shall be determined by the Planning Commission at the site plan review.
Planning Commission Modification	The Planning Commission may waive, or modify, any wall, fence, greenbelt or special setback provision in the I-1 District, where in its determination no good or practical purpose would be served, including such reasons as large site area, natural isolation, land ownership patterns, natural barriers or screens and the like.
Landscaping and Parking Location	Wholesale or retail business including warehousing and storage buildings, manufacturing using light machinery, metal fabricating, tool and die shops, and automobile repair and related services shall have a landscaped front yard in the first 20' of required front yard setback (beginning at the right of way or easement) with the remaining front yard or the side or rear yard used for loading and customer and employee parking.

310:5 Parking Standards for I-1.

A. **Parking Required**. The minimum number of dust-controlled and preferably asphalt or concrete, off-street parking spaces by type of use shall be determined in accordance with this Ordinance. Ingress and egress areas shall be paved with asphalt or concrete at least from the road through the front yard setback. For unspecified uses, the number of spaces shall be determined by the Planning Commission based on the most similar use for which parking space requirements are listed. The minimum number of off-street parking spaces by use shall be in accordance with the following:

Number of Parking Spaces Required	
Office and retail uses	One (1) parking space for each two hundred fifty (250) square feet of gross floor area or one and one-half (1½) square feet of parking area for each square foot of gross floor area.
Open-Air Businesses	One (1) parking space for each one thousand (1,000) square feet of sales area.
Storage Yards	One (1) parking space for each two thousand (2,000) square feet of area.
Motor Vehicle Sales and Service Establishments	One (1) parking space for each two hundred (200) square feet of useable floor area of the sales room and one (1) for each service stall in the garage.
Industrial Warehouse or Wholesale Establishments	One (1) space for every one and one-half (1½) employees in the largest working shift or one (1) space per six hundred (600) square feet of gross floor area, whichever is greater.

B. **Parking Lot Location**. No parking shall be permitted in the first twenty (20) feet of the required front yard setback within this district.

C. **Parking Space Standards**. Off-street parking spaces shall be at least nine and one-half (9½) feet by twenty (20) feet and a loading space shall be provided separate from parking with an area of fifteen (15) feet by thirty (30) feet, where deemed appropriate by the Planning Commission upon Site Plan review.

D. **Parking Lot Landscaping**. For any off-street parking lots of twenty (20) spaces or more, there shall be planting of canopy trees subject to the following conditions:

1. One (1) such tree shall be required for each ten (10) surface parking spaces.

2. Trees shall not be less than two and one-half (2½) inches in caliper.

3. Trees shall be planted prior to Final Inspection (pursuant to **Section 904**) and shall be maintained in a healthy, growing condition.

4. The required trees may be evenly distributed or concentrated in clusters as approved by the Planning Commission. If evenly distributed each tree shall be provided with an open land area of not less than eighty (80) square feet to provide area for infiltration and with a minimum diameter of five (5) feet at the trunk base for added protection. Tree plantings shall also be protected from automobiles with curbing, bollards or other suitable devices.

E. **Parking Space Deferral**. The number of off-street parking spaces required by this Ordinance shall be considered the minimum required, however, the Planning Commission, subject to approval of the Site Plan, may defer until a future time the construction of the full number of parking spaces based on the following:

1. The Site Plan shall indicate that the legal number of spaces required per this Section can be physically provided to serve the use.

2. The Planning Commission may rule to defer the actual construction of up to 50% of the required parking space for the following reasons:

   a. The proprietor/owner demonstrates to the Planning Commission that providing 100% of the required parking would not be necessary to serve the level of the property use.

   b. The land proposed for the full amount of parking would better serve the community or the use as landscaped yard or other on-site open space use.

At such times as the intensity of vehicle access to the use increases and/or the Planning Commission determines that the deferred parking spaces are needed to prevent congestion on adjacent streets, increase safety and/or maintain patron convenience, the Planning Commission shall order that all or part of the deferred parking space shall be constructed at the earliest possible time not to exceed 12 months. Based on any determined construction limitations, the Planning Commission and the applicant shall establish and agree on a construction timetable within which any deferred off-street parking spaces will be completed. The construction schedule shall consider time limitations caused by weather/climate conditions, soils, land area, site conditions, the nature of the construction and steps involved in construction.

311 S-1 Public District

S-1

311:1 Intent.

The S-1 Public District is established to provide scenic open space and recreational areas for use by the general public. It is intended that these areas be owned, leased or similarly under the jurisdiction of a governmental unit or school district. It is not intended that residential, commercial or industrial development be permitted except as may be incidental to the principal public use.

311:2 Use Standards.

Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** and the tables to the right**.** All uses in the S-1 District shall be subject to review by the Planning Commission prior to Township Board approval. Approval for any listed permitted use in this district may be obtained provided the provisions of **Article 7 (Supplemental Regulations)** are met and the following conditions are complied with:

A. Proposed use or structure must be owned, leased or otherwise under the jurisdiction of a governmental unit or school district.

B. The controlling governmental unit or school district will be responsible for the submittal to the Planning Commission of any plans, reports or any other applicable type of information indicating proposals for development, maintenance and upkeep which the Planning Commission deems necessary.

C. Proposed use, when open, shall be available for use by the general public.

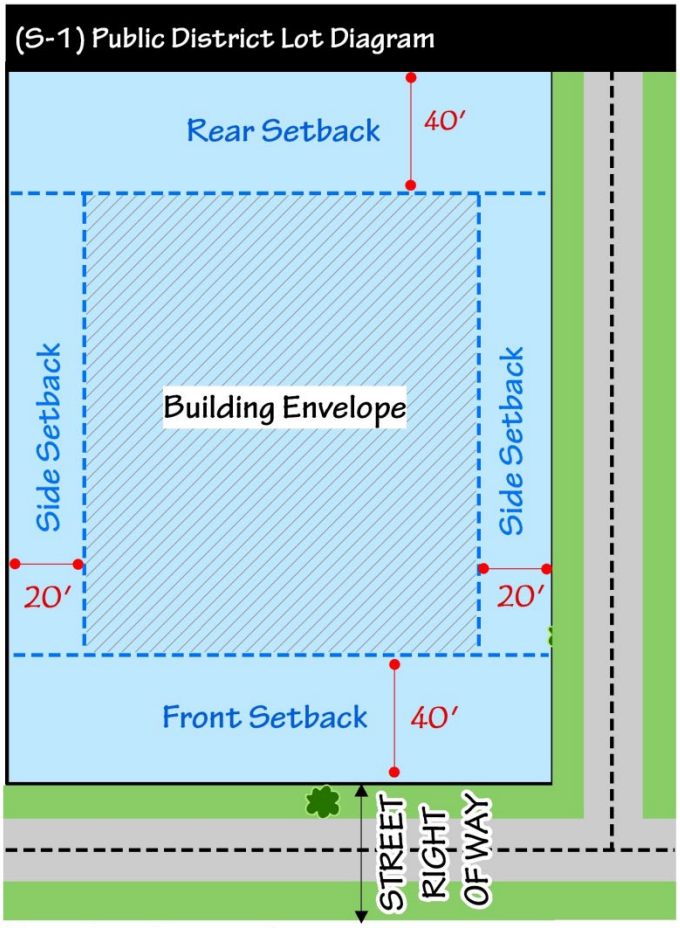
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = Permitted by right *S = Permitted with a Special Use Permit* **Supplemental Regulations*	**S-1**
ARTS, ENTERTAINMENT & RECREATION	
Botanical Gardens (public)	**P**
Golf Courses (& Accessory Structures) (§715)	**S***
Golf Driving Ranges (§713)	**S***
Major Outdoor Public Recreation Areas including: boating areas, camping areas, swimming areas, fishing sites, picnic areas, footpaths	**P**
Museums	**P**
Nature Parks/Nature Areas (Public)	**P**
Public Parks, Playgrounds, Ballfields, Recreational Areas	**P**
Scenic Areas (public – developed)	**P**
MISCELLANEOUS & MIXED USES	
Accessory Structures & Uses (Public District facilities) including but not limited to service buildings w/o storage yards, playground equipment, sanitation facilities, monuments, signs, plaques, shelters and parking areas.	**P**
PUBLIC FACILITIES	
Government Offices	**P**
Police/Fire Stations	**P**
UTILITIES, ENERGY & COMMUNICATIONS	
Public Utility Facilities without Storage Yards	**P**
Solar Energy Panels (On-Site Accessory: Freestanding (Ground-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	**S***
Solar Energy Panels (On-Site Accessory: Building-Mounted) (§734) *(Amended 6/9/20; Effective 6/24/20)*	**P***
Wireless Communications Support Structures (§712)	**S***
Wireless Communications – Collocation on an Existing Tower (§712)	**P***
Wireless Communications – Ground-Mounted or other facilities not classified above (§712)	**S***
Wireless Communications – Small Cell Wireless Facilities (§712)	**S***

D. Proposed use shall be in harmony with and compatible with the surrounding and adjacent development and shall not in any way, in the opinion of the Township Board, be a nuisance to West Traverse Township, its citizens or property owners.

311:3 Development Standards for S-1.

S-1

S-1 Lot & Structure Standards				
Minimum Lot Size	Minimum Setbacks			Maximum Height
Width	Front	Rear	Side	
N/A	40 feet	40 feet	20 feet	35 ft or 2 stories, whichever is less.



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312 W-1 Waterfront Overlay District

W-1

312:1 Intent.

The Waterfront Overlay District is enacted to implement a protection strategy for the West Traverse Township waterfront resource. The purpose and intent of the Waterfront Overlay District is based on the recognition that:

A. The economic and environmental well-being of West Traverse Township is predicated on the preservation of its waterfront resource.

B. Waterfront properties have unique physical, economic and social attributes.

C. The existing viewsheds of waterfront property owners should be preserved.

D. Many of the landscape features found in the waterfront district are susceptible to wind and wave erosion and should be protected from adverse human impact.

E. Future land development and redevelopment should not be conducted at the expense of the West Traverse Township's natural features.

F. The natural features of the waterfront district should be preserved and maintained for all West Traverse Township residents.

312:2 Areas Affected.

The areas affected by the provisions of the Waterfront Overlay District are designated on the Zoning Map. Only the portion of a property which is within the Waterfront Overlay District is affected by these provisions.

312:3 Uses Permitted by Right & Special Land Uses.

Permitted and Special Land Uses shall be limited to those listed in **§305: Table of Permitted and Special Land Uses** for the underlying district and shall be subject to all applicable provisions of **Article 5: Plot Plans & Site Plan Review, Article 6 Special Land Uses** and **Article 7: Supplemental Regulations.**

312:4 Development Standards.

The following development standards are governed by this Ordinance. In the event that regulations imposed by this Ordinance are in conflict with the underlying zoning district, the regulations imposed by this overlay district shall prevail to the extent of such conflict and no further.

A. **Natural Vegetation.**

1. To minimize erosion, stabilize the coast, protect water quality, preserve wildlife habitat and maintain aesthetic values, a natural vegetation strip shall be maintained, to the maximum extent possible, between the ordinary high water mark and the landscape predominated by forest vegetation.

2. To preserve the fragile and transient nature of the beach/dune landscape, whenever possible, the lakeshore side of all structures, except water-related structures listed in subsection B below, shall be located within the landscape predominated by forest vegetation (*) rather than within the beach/dune(**) landscape. Natural ground cover shall be preserved to the fullest extent feasible and where removed, it shall be replaced with native vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty. Attempts should be made to incorporate existing mature trees into the design, with trimming for filtered views whenever possible.

   *Forest vegetation is defined by woody plants with a diameter at breast height (dbh) of three (3) inches or more.

   **Beach/dune landscape is defined as those areas where dune vegetation predominates, some of which include: Beach grass (Ammophila Breviligulata), Pea grass (Lathyrus Japonicus), Bearberry (Arctstaphylos Uva-uris), Creeping juniper (Juniperus Horizontalis), Common milkweed (Asclepias Syriaca), Willow (Salix sp) and Beach wormwood (Artemisia Campertris).

B. **Setbacks.** All structures within the Waterfront Overlay District shall be set back according to the requirements below, except for the following water related uses: recreational docks, boardwalks, pump houses, beach decks, stormwater and erosion control devices and similar facilities when located and designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of existing viewsheds or water resource uses.

1. All structures shall be a minimum of sixty (60) feet from the 1986 ordinary high water mark for Lake Michigan as documented by the U.S. Army Corps of Engineers, said mark being 581.99 feet above sea level. If the beach/dune environment extends a distance greater than sixty (60) feet landward from the 1986 ordinary high water mark, then structures shall be placed in a fashion as described in **§ 312:4 (A) Natural Vegetation**.

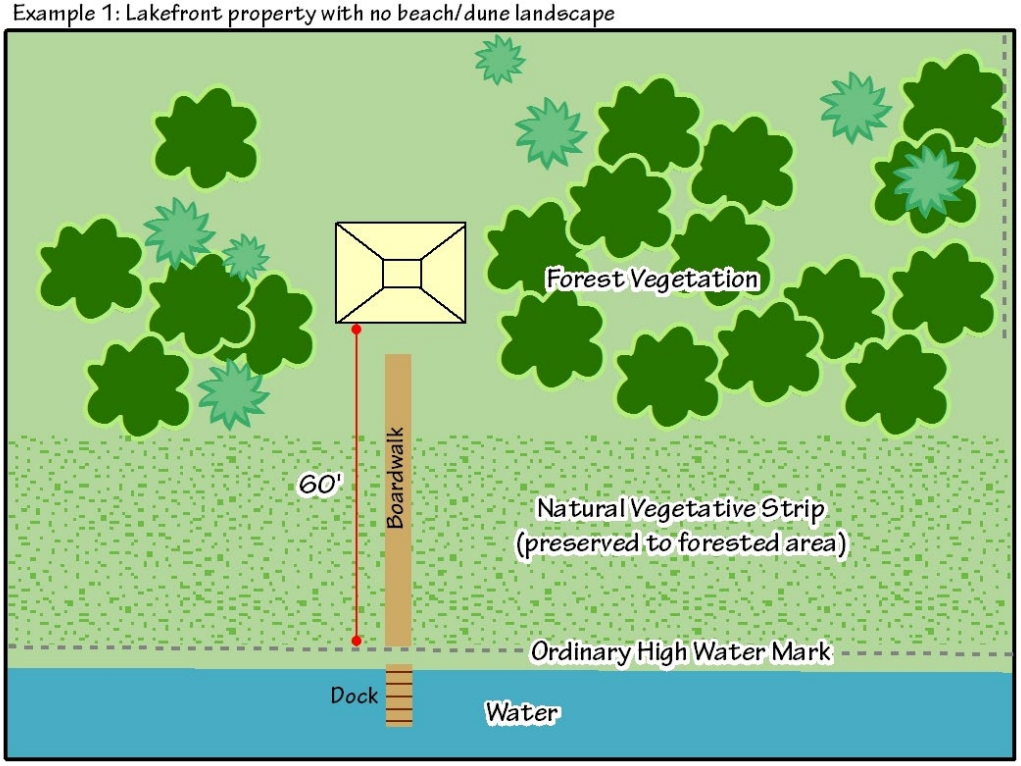
2. Structures listed as exceptions above shall require zoning permits before construction. The maximum height (including railings) shall be three (3) feet.

3. A setback of sixty (60) feet will be maintained from other water features such as streams, lakes and ponds.

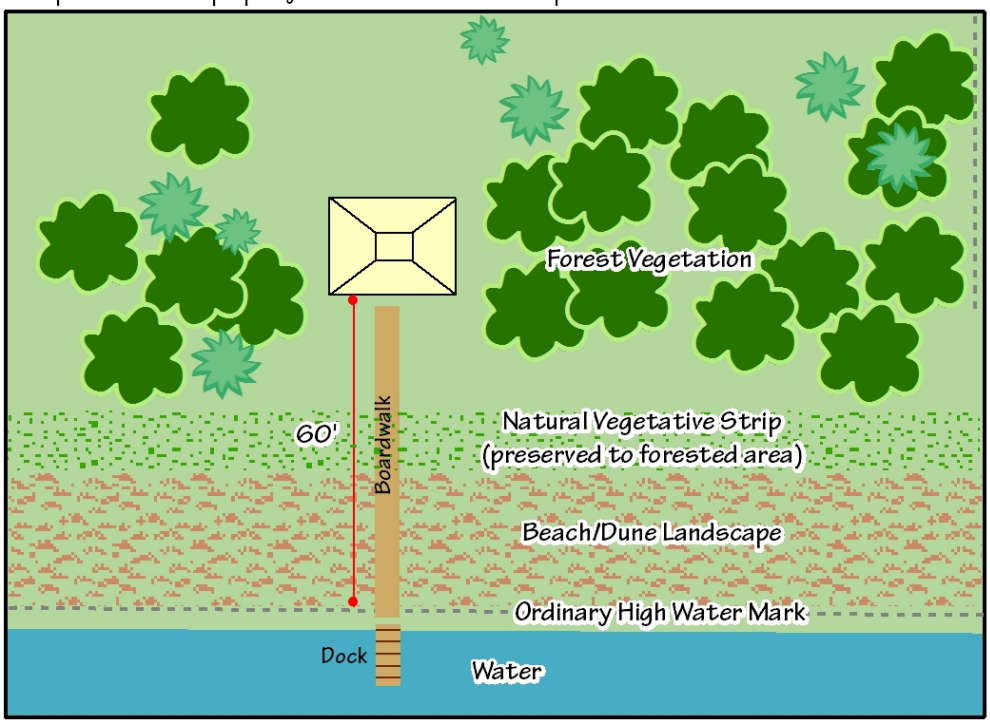
4. Waterfront development shall maintain, to the maximum extent possible, open and unobstructed views to the waterfront from adjacent properties, roadways and pedestrian ways.

W-1

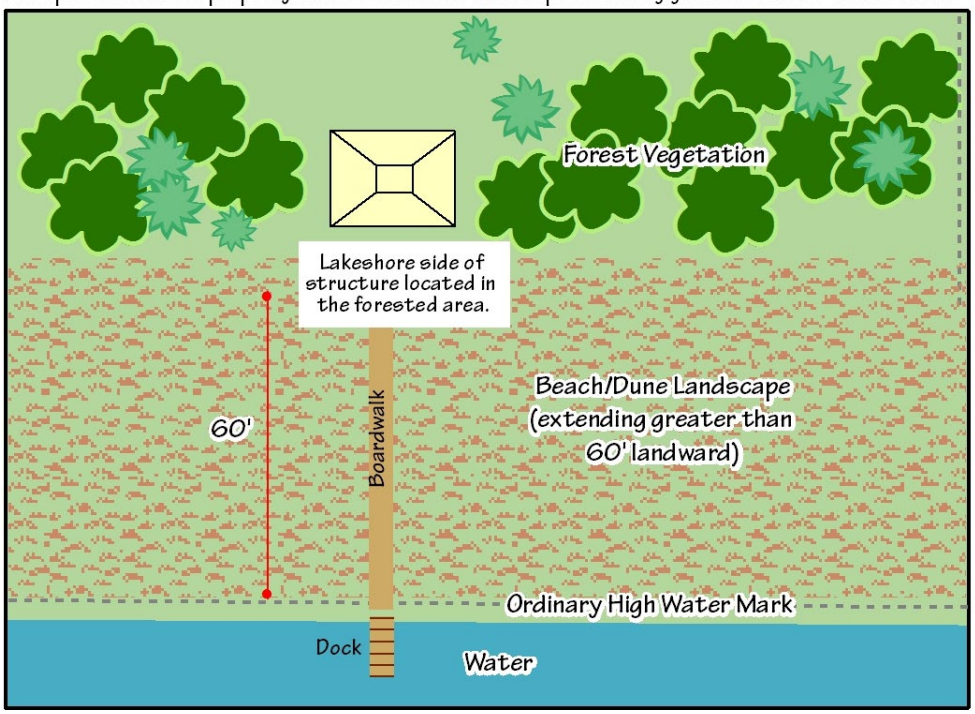
Example 1: Lakefront property with no beach/dune landscape



Example 2: Lakefront property with a beach/dune landscape



Example 3: Lakefront property with a beach/dune landscape extending greater than 60' from OHWM.



313 Schedule of Regulations

Zoning District	Type of Use	Minimum Lot Size		Maximum Building Height[1]	Setbacks			Footnotes
		Area	Lot Width		Front (Min)	Rear (Min)	Side (Min)	
A-1 and A-1-A	Farming	2 acres	200 ft	---	---	---	---	A, B, C
	Single-Family Dwellings	2 acres	200 ft	35 ft	40 ft	40 ft	20 ft	
	Two-Family Dwellings	4 acres	300 ft	35 ft	40 ft	40 ft	20 ft	
R-1 and R-1-A	Single-Family Dwellings	1 acre	150 ft	35 ft	40 ft	40 ft	20 ft	A, B, C, D
	Two-Family Dwellings	2 acres	250 ft	35 ft	40 ft	40 ft	20 ft	
R-2	Single-Family Dwellings	22,000 sq ft	100 ft	35 ft	40 ft	40 ft	15 ft	A, C
	Two-Family Dwellings	22,000 sq ft per dwelling unit	100 ft	35 ft	40 ft	40 ft	15 ft	
C-1	All	---	100 ft	35 ft or 2 stories, whichever is less	Lots fronting on state highway, county primary roads or other major collector roads: 50 ft Lots fronting on local streets: 25 ft *(Road type identified by the County Road Commission)*	20 ft	20 ft	E, F
I-1	All	---	100 ft	35 ft or 2 stories, whichever is less	25 ft	20 ft	20 ft	G, H
S-1	All	---	---	35 ft or 2 stories, whichever is less	40 ft	40 ft	20 ft	
W-1	See **Section 312** for Waterfront Overlay District Standards							

Footnotes:

A. For all other uses, development standards shall comply with standards for single-family dwellings unless:

1. Otherwise regulated by **Article 7**; or

2. The Planning Commission sets a more stringent standard (i.e. larger required setback, area or width) as a condition of approval.

B. No common wall structures allowed in A-1-A and R-1-A.

C. Parking regulations for uses other than single-family and two-family dwelling units are contained in **Article 7** (for uses with Supplemental Regulations) or **Section 309:5** (for uses which do not have Supplemental Regulations listed in Article 7).

D. Legal non-conforming parcels having a lot width of less than 150 feet shall be allowed a reduction in the required side yard setbacks. All structures shall be set back a minimum of 13.5% of the average lot width from each of the side lot lines. In no instance shall the setback be less than ten (10) feet from each side lot line.

E. **Rear and Side Setbacks for C-1**.

1. **Rear Setback**. Where a rear yard borders on a zoning district other than C-1 or I-1, there shall be provided a rear yard of not less than fifty (50) feet.

2. **Side Setback**. Where the sidewall of the structure faces a C-1 or an I-1 zoned parcel and contains no windows or other openings and is two-hour fire rated, a minimum of five (5) foot set back may be approved. Where a side yard borders on a district other than C-1 or I-1, there shall be a setback of not less than fifty (50) feet.

F. See **Section 309** for additional development regulations for C-1.

G. **Rear and Side Setbacks for I-1**.

1. **Rear Setback**. Where a rear yard borders on a zoning district other than C-1 or I-1, there shall be provided a rear yard of not less than fifty (50) feet.

2. **Side Setback**. Where the sidewall of the structure faces a C-1 or an I-1 zoned parcel and contains no windows or other openings and is two-hour fire rated, a minimum of five (5) foot set back may be approved. Where a side yard borders on any other zoning district there shall be a setback of not less than fifty (50) feet.

H. See **Section 310** for additional development regulations for I-1.

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General Provisions

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401 General Regulations

401:1 General.

A. The provisions of this Ordinance shall be held to be the minimum requirements and shall apply uniformly to each kind or class of structure, use or land.

B. Zoning affects every structure and use and extends vertically.

401:2 Structures and Uses Subject to Regulations.

All structures erected hereafter, all uses of land or structures established hereafter, all structural alterations or relocations of existing structures occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such structures, uses or land shall be located.

401:3 Validity of Permits Issued Prior to Ordinance Adoption.

Any building permits issued prior to the effective date of this Ordinance shall be considered valid and the structure may be completed and used or occupied in accordance with plans, provided that the use or occupancy is on the basis for which building permit was originally designated and provided that construction is begun within sixty (60) days. Any such use which would become nonconforming by virtue of the passage of this Ordinance shall thereafter be considered nonconforming and subject to the provisions of this Ordinance.

402 Conflicting Regulations

402:1 More Restrictive Regulations Apply.

Where the conditions imposed by any provisions of this Ordinance upon the use of structures or land are either more or less restrictive than comparable conditions imposed by the provisions of any other lawful ordinance or of any law, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements, shall govern. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.

402:2 Regulations Conflicting with Other Agreements.

This Ordinance is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the regulations of this Ordinance shall govern.

402:3 Graphics, Tables and Text.

The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics.

403 General Lot, Structure and Use Requirements

403:1 Unlawful Structures.

Structures or uses which were unlawfully existing at the time of the adoption of this Ordinance shall not become or be made lawful solely by reason of adoption of this Ordinance.

403:2 Nonconforming Structures and Uses.

Any structure or use lawfully existing at the time of adoption of this Ordinance may be continued except as hereinafter provided in the regulations contained in **§410** concerning nonconforming structures and uses.

403:3 Restoration to a Safe Condition.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition, any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon such order of such official.

403:4 Barrier-Free Modification.

Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to comply with barrier-free requirements and the Americans with Disabilities Act.

403:5 Adherence to Minimum Requirements.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements of this Ordinance.

403:6 Number of Structures per Lot.

In any district, more than one structure housing a permitted or permissible principal use or a structure housing more than one permitted or permissible use may be erected or maintained on a single lot provided that all other requirements of this Ordinance shall be met for each structure or for each use as though each were on an individual lot.

403:7 Construction on a Lot of Record and a Nonconforming Lot of Record.

In any R-1, R-1-A, A-1 and A-1-A District, a single-family dwelling and permitted accessory structures may be constructed, altered or reconstructed on any single legal lot of record at the effective date of adoption of this Ordinance and any preceding Zoning Ordinance in West Traverse Township, notwithstanding limitations imposed by other provisions of this Ordinance.

This provision shall apply even though such lot fails to meet the Zoning District requirements for area or width or both. Minimum zoning district yard dimensions and requirements shall apply to construction and alterations. Reconstruction may be effected so long as yard dimensions are no less than those of the original structure, or within the minimum Zoning District yard dimensions and requirements. Variance of yard requirements other than those permitted above shall be obtained only through action of the Zoning Board of Appeals.

403:8 No Required Spaces shall be Shared.

No part of a yard or other open spaces or off-street or loading space required about or in connection with any structure for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other structure or use.

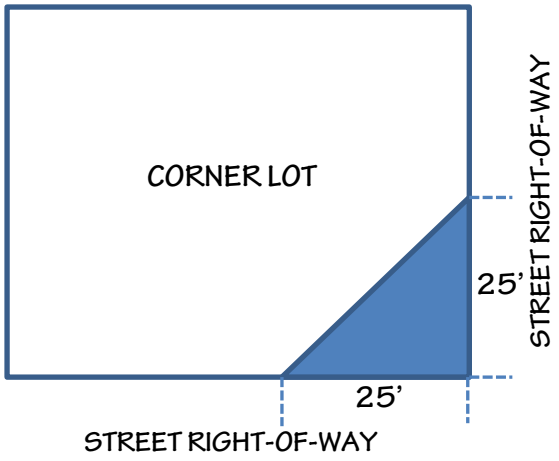
404 Access and Clearance

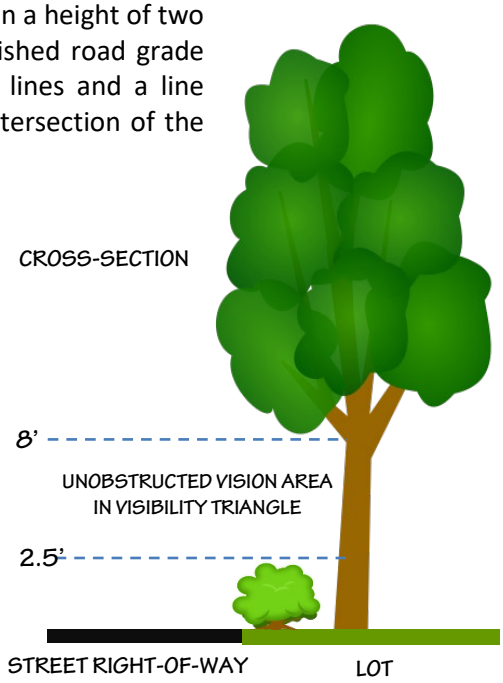
404:1 Access Required.

Every structure hereafter erected or relocated shall be on a lot abutting a public road or an approved private road, or private access way. All structures shall be so located as to provide safe and convenient access for servicing, fire protection and required off-road parking. *Amended 7/9/24; Effective 7/25/24*

404:2 Corner Clearance.

On any corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) feet and eight (8) feet above the established road grade within a triangle formed by the two (2) road right-of-way lines and a line connecting them at points twenty-five (25) feet from the intersection of the right-of-way lines.





404:3 Entranceway.

In all districts, entranceway structures, including but not limited to, walls, columns and gates marking entrances to single-family subdivisions, multiple-family housing projects, commercial developments, industrial developments, mixed-use developments or similar uses may be permitted and may be located in a setback, except as provided in **§404:2** above, provided that such entranceway structures shall be approved during the required Planning Commission review.

405 Temporary Buildings and Construction Debris

405:1 Temporary Buildings for Construction Purposes.

A. Temporary buildings may be utilized during construction for the storage of construction materials, for construction offices or for temporary dwelling purposes during a construction period as permitted herein. Temporary buildings for use incidental to construction work shall be removed within thirty (30) days after the completion or abandonment of the work. No structures shall be used for temporary dwelling purposes that do not comply with the requirements of this Ordinance. The size of temporary dwelling units shall be the only exception to this rule. No garage or other accessory building or structure, travel trailer, basement, tent, barn, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling or construction purposes unless authorized by the issuance of a zoning permit by the Zoning Administrator.

B. Trailers used by contractors for office and storage purposes are permitted for a reasonable length of time on a job site provided there is valid zoning and building permits for construction on the site and the trailer use is directly related to the construction on the property on which it is located.

405:2 Dwelling as a Sales and Management Office.

The Zoning Administrator may authorize a certification for a dwelling to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one (1) year, provided all of the following requirements are complied with:

A. The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.

B. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.

C. Said dwelling shall meet all other zoning restrictions of the zone in which it is located.

405:3 Construction Debris.

All construction debris shall be removed from the site within thirty (30) days after the completion or abandonment of the work. Failure or refusal to remove a temporary building and/or construction debris within thirty (30) days after the completion or abandonment of work constitutes a violation of this Ordinance.

406 Storage

406:1 Vehicle Storage.

No part of any setback shall be used for the storage of vehicle(s), except as otherwise specified in this Ordinance. Outdoor storage of vehicles shall be limited to ninety (90) consecutive days.

406:2 Recreational Vehicles and Equipment Storage.

A. **R-1, R-1-A and R-2 Districts.** Outside storage of privately owned recreational vehicles and equipment, including or similar to campers, boats, travel trailers and snowmobiles, provided that such equipment shall be unoccupied, shall be located in a rear or side yard only and shall meet setbacks.

B. **A-1 and A-1-A Districts.** Outside storage of privately owned recreational vehicles and equipment, including or similar to campers, boats, travel trailers and snowmobiles, provided that such equipment shall be unoccupied, shall be located in a rear or side yard only.

C. Recreational vehicles may be temporarily occupied for a maximum period of thirty (30) days per calendar year provided that sanitary facilities are available in the recreational vehicle or on site.

407 Accessory Buildings

407:1 Accessory Buildings for Residential Uses.

A. Number, Size, and Height Allowed. *Amended 7/9/24; Effective 7/25/24*

Accessory Buildings		Less than 1 acre	1 to <2 acres	2 to < 4 acres	4 to <10 acres	10 acres or greater
Major Accessory Buildings (>200 sq ft)	Number Allowed	One	One	One	Two	Three
	Maximum Size- sq. ft (structure footprint)	600	864	1,200	1,600 if 1 1,200 each if 2	2,400 if 1 1,600 each if 2 1,200 each if 3
	Maximum height of sidewall	12 feet	14 feet	16 feet	16 feet	18 feet
	Setbacks	Applicable District Setback	Applicable District Setback	Applicable District Setback	Applicable District Setback	Applicable District Setback
Minor Accessory Buildings <u>With existing principal structure</u> (200 sq ft or less)	Number allowed in addition to Major Accessory Buildings	One	One	Two	Two	Two
	Max peak height	12 feet	12 feet	12 feet	12 feet	12 feet
	Setbacks	Front Yard: applicable district setback—ALL DISTRICTS	Side and rear yards: 10 feet- ALL DISTRICTS EXCEPT WATERFRONT OVERLAY DISTRITCT	Waterfront Overlay District: accessory structures shall meet side and rear yard setbacks	--	--
Accessory Dwelling Units	Number Allowed	One	One	One	One	One
	Minimum Size- sq. ft (structure footprint)	400	400	400	400	400
	Maximum Size—sq ft (structure footprint)	See **§407.1 G** below	See **§407.1 G** below	See **§407.1 G** below	See **§407.1 G** below	See **§407.1 G** below
	Maximum height of sidewall	If detached, 12 feet	If detached, 14 feet	If detached, 16 feet	If detached, 16 feet	If detached, 18 feet
	Setbacks	Applicable District Setback	Applicable District Setback	Applicable District Setback	Applicable District Setback	Applicable District Setback

B. **Minor Accessory Buildings without a Principal Building**. No minor accessory building shall be allowed prior to issuance of the zoning permit for the principal building except for one minor accessory building for the sole purpose of housing mechanical equipment, such as a pump house. This minor accessory building housing mechanical equipment shall comply with the applicable district setbacks.

C. **Major Accessory Buildings without a Principal Building**.

1. The applicant shall file an affidavit with the Register of Deeds stating the proposed use of the building. Such affidavit shall be recorded by the applicant and a copy returned to the Township prior to the issuance of a zoning permit.

2. On properties of greater than 4 acres, with Planning Commission approval, one major accessory building shall be allowed without a principal structure in compliance with the standards listed in the chart above and comply with the applicable district setbacks. The major accessory building shall be sited in such a manner as to permit the construction of a legal principal use at a future time and shall be subject to the size limitations in the chart.

D. **Landscaping and/or Screening**. Landscaping and/or screening may be required depending on the size of the structure and/or the proximity of the structure to the property line, as determined by the Zoning Administrator. The Zoning Administrator may refer the determination of landscaping and screening needs to the Planning Commission.

E. **Modification or Waiver of Standards**. Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this Section, the Planning Commission may waive or modify said standards on a case by case basis subject to Planning Commission review and notifications to property owners within three hundred (300) feet. Notification of property owners shall be given at least fifteen (15) days prior to the meeting at which the issue will be discussed.

F. **Accessory Building as a Dwelling**. No detached accessory building shall be used for dwelling purposes, except as otherwise permitted by **§407.1 G** below.

G. **Accessory Dwelling Units**. *Amended 7/9/24; Effective 7/25/24*

1. **Purpose**. The purposes of this subsection and the allowed use of accessory dwelling units are to: (a) provide homeowners with a means of accommodating friends and extended families; (b) diversifying housing options within existing residential areas and neighborhoods; and (c) preserving and maintaining the residential character of neighborhoods in districts where accessory dwelling units are permitted.

2. **Zoning Districts**. Upon application and payment of a corresponding permit fee, accessory dwelling units may be permitted by the Township Zoning Administrator in the R-1, R-1-A, R-2, A-1, and A-1-A Zoning Districts subject to all of the standards and requirements of this subsection G.

3. **Standards**. The following standards shall apply to all accessory dwelling units:

   a. An accessory dwelling unit shall be limited to one (1) per lot of record.

   b. An accessory dwelling unit must be clearly incidental to the primary dwelling to which it is accessory.

   c. An accessory dwelling unit shall be no larger than 1,000 sq ft or 75% of the ground floor area of the primary dwelling to which it is accessory, whichever is less. In no case shall an accessory dwelling unit be less than 400 square feet in ground floor area.

   d. In addition to a zoning permit application, the applicant shall provide elevation sketches and floor plans of the proposed accessory dwelling unit.

   e. A lot split separating an accessory dwelling unit from the primary dwelling is not allowed, unless it meets the minimum floor area requirement for a single-family dwelling of its respective Zoning District, in addition to all other applicable Ordinance standards.

   f. A minimum of one (1) parking space shall be provided for the accessory dwelling unit, in addition to the minimum number of parking spaces required for the single-family dwelling existing on the lot.

   g. The use of a manufactured home, or a camper trailer, tent, recreational vehicle, or other temporary and/or other non-permanent structure, shall be prohibited as an accessory dwelling unit.

   h. An accessory dwelling unit may have a basement. A basement shall not count towards the square footage of the accessory dwelling unit.

   i. The accessory dwelling unit shall be adequately served by an on-site septic system or sanitary sewer. The applicant shall provide verification of sanitary services and provide the Zoning Administrator with copies of all applicable permits.

   j. The accessory dwelling unit shall have its own entrance, kitchen, sleeping area, and full bathroom facilities separate from those associated with the principal dwelling. The accessory dwelling unit may be located within or above a residential accessory building or be a freestanding detached building.

   k. The owner of the property on which the accessory dwelling unit is located shall owner-occupy either the accessory dwelling unit or the corresponding single-family dwelling.

l. Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this subsection G (3), the Planning Commission may waive or modify said standards on a case-by-case basis subject to Planning Commission review and notifications to property owners within three hundred (300) feet. Notification of property owners shall be given at least fifteen (15) days prior to the Planning Commission meeting at which the issue will be discussed.

407:2 Nontraditional Storage Facilities.

The use of shipping containers, trucks, trailers, semi-trailers, manufactured homes, school buses, travel trailers or other similar vehicles for storage is prohibited in all Districts. *Amended 7/14/20; Effective 7/29/20*

408 Outdoor Lighting

408:1 Purpose.

The purpose of this Section is to eliminate or minimize glare, obtrusive light, light trespass and light pollution; conserve energy and resources while maintaining nighttime safety, utility, security and productivity; and curtail the degradation of the nighttime visual environment.

408:2 Standards.

All outdoor lighting, whether for illuminating sites, walkways, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent property and uses; and further shall not glare upon or interfere with persons and vehicles using public streets.

409 Fences and Walls

A. In any zoning district, fences or freestanding walls may be permitted on any property. No zoning permit shall be required for a fence or wall constructed in compliance with the regulations of **§409**.

B. **Height.** Unless otherwise specifically allowed by this Zoning Ordinance, or authorized during site plan approval by the Planning Commission for screening purposes, no fence or wall shall be higher than four (4) feet within the front yard setback area. For the purposes of this section, the front yard shall be defined as the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. No fence or wall located within the rear or side yard setback area shall exceed six (6) feet in height. *Amended 7/9/24; Effective 7/25/24*

C. **Location.** A fence, wall or wall defining an entrance shall be no closer than five (5) feet to the front property line or road right-of-way, and further provided such fence, wall or wall defining an entrance shall not obstruct sight distances needed for safe vehicular traffic, nor

create a hazard to traffic or pedestrians. Fences may be located on the lot line in the side or rear yards. Fences on corner lots shall conform to **§404:2 (Corner Clearance).**

D. **Finished Side of Fence.** The portions of all fences facing property other than the property of the fence owner or facing a street right-of-way shall be finished and constructed so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the street right-of-way.

E. **Waterfront Lots.** Consistent with **§312.4** of this Ordinance, and except for approved retaining walls, where a lot borders a lake or stream, fencing or walls shall not be constructed on the waterfront side within the required sixty (60) foot waterfront setback area. Fences or walls constructed outside the sixty (60) foot waterfront setback area on the waterfront side shall not exceed four (4) feet in height. Such fences shall not unreasonably restrict views to the water from neighboring properties. *Amended 7/9/24; Effective 7/25/24*

F. **Modification or Waiver of Standards.** Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this Section, the Planning Commission may waive or modify said standards on a case by case basis subject to Planning Commission review and notifications to property owners within three hundred (300) feet. Notification of property owners shall be given at least fifteen (15) days prior to the meeting at which the issue will be discussed.

G. **Materials**. Fence materials may include materials specifically designed for fence construction. Scrap lumber, plywood, woven wire (except for agricultural purposes), sheet metal, plastic or fiberglass sheets, old signage, old doors, pallets, or other materials not specifically designed for fences may not be used as fence materials. *Amended 7/9/24; Effective 7/25/24*

H. **Property Line Determination**. In the installation of any fence or wall, the property owner is fully responsible for determining the location of property lines and should obtain a professional survey if necessary to determine accurate property lines. West Traverse Township shall not be held responsible for any property line disputes between adjacent property owners. *Amended 7/9/24; Effective 7/25/24*

410 Nonconformities

410:1 General.

Within the districts established by this Ordinance or amendments that later may be adopted, 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 amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

410:2 Nonconforming Uses of Land.

Where, at the time of the passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance the use may be continued so long as it remains otherwise lawful, provided:

A. **Expansion or Enlargement by Special Land Use Permit**. Although it is the intent of this Ordinance to restrict the expansion and perpetuation of nonconforming uses, the Township, by the issuance of a Special Land Use Permit, may allow an expansion or enlargement of a nonconforming use or the moving of a nonconforming use to areas of the lot not previously used for such use. The Special Land Use approval process and standards in **Article 6** shall apply. *(Amended 6/13/23; Effective 6/30/23)*

B. **Extension of Nonconforming Use throughout the Building.** Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance.

C. **Abandonment of Nonconforming Use.** When a nonconforming use is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impeded access to the premises or if it is a seasonal type use), the use shall not thereafter be continued except in conformity with the regulations of the district in which it is located. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

1. Whether utilities such as water, gas and electricity to the property have been disconnected.

2. Whether the property, buildings and grounds have fallen into disrepair.

3. Whether signs or other indications of the existence of the nonconforming use have been removed.

4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.

5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

410:3 Nonconforming Structures.

Where a lawful structure exists or is lawfully under construction 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, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

A. **Enlargement of Nonconforming Structure.** No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity. *(Amended 6/13/23; Effective 6/30/23)*

B. **Replacement of Nonconforming Structure.** Any such nonconforming structure which has been removed, damaged or destroyed by any means to an extent of more than fifty percent (50%) of the entirety of the structure shall not be reconstructed except in the case of practical difficulty for which the Zoning Board of Appeals may grant conditional approval for reconstruction. *(Amended 6/13/23; Effective 6/30/23)*

C. **Moving or Relocation of Nonconforming Structure.** Should any nonconforming structure (which is nonconforming due to insufficient setbacks) be moved or relocated on the same lot for any reason for any distance whatsoever, it shall thereafter conform to the setback regulations for the district in which it is located after it is moved. Uses which are nonconforming due to insufficient floor area or excess height shall not be required to meet the floor area and height requirements of this district but shall be required to meet district setbacks. *(Amended 6/13/23; Effective 6/30/23)*

410:4 Change of Ownership.

Change of ownership between private parties does not remove the nonconformity nor extend time limits.

410:5 Removal of Nonconforming Status.

Any nonconforming structure or premises may be made conforming by appropriate action or modifications which cause the structure or premises to fulfill the requirements of the district in which it is located. In the case of a nonconforming use which is a use designated as a Special Use by this Ordinance, the nonconforming status may be removed upon issuance of a Special Use permit following the procedures set forth in **§603** of this Ordinance.

410:6 Special Land Uses Not Nonconforming.

Any existing use or uses hereafter approved as a Special Land Use as provided in this Ordinance shall not be deemed a nonconforming use and shall, without further action, be deemed a conforming use in the appropriate district.

411 Unclassified Uses

When a use is not expressly mentioned in the Zoning Ordinance, the Planning Commission shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district and similar uses allowed in the district. The decision of the Planning Commission regarding unclassified uses may be appealed to the Zoning Board of Appeals.

412 Essential Services

The erection, construction, alteration, maintenance and operation by public or private utilities or municipal departments or commissions, of essential services and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other Ordinances of West Traverse Township in any district. The essential services addressed in this Section must also meet all regulations and requirements of the authority having jurisdiction over roads. No zoning permit is required.

413 Signs

413:1 Purpose.

The purpose of this Section is to regulate outdoor signs designed to be visible to the public in a content-neutral manner while recognizing the mass communications needs of businesses and the public; protecting property values and neighborhood character; creating a more attractive business environment; promoting pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; promoting pleasing community aesthetics; and the protection of the dark night sky. The provisions of this Section are intended to apply the minimum amount of regulation in order to avoid these problems.

All signs shall conform to all codes and ordinances of West Traverse Township and excepting "Exempted Signs" **(§413:6),** shall require approval and a permit issued by the Zoning Administrator for erection or alteration.

413:2 Permitted Signs and District Requirements for Signs.

Signs and devices in designated zoning districts are subject to the following regulations and requirements, unless otherwise restricted by other parts of this Zoning Ordinance:

A. **All Districts.** Signs established for the Township, County, State or Federal governments for public information or direction are permitted without specific requirements.

B. **A-1, A-1-A, R-1, R-1-A, R-2, C-1 and I-1 Districts**

1. **Primary Sign Maximum Surface Area**.

Surface Area of Primary Signage Allowed by District[1]							
	R-1	R-1-A	R-2	A-1	A-1-A	C-1	I-1
Freestanding Signs[2,3]	2 square feet			6 square feet		32 square feet	
Wall Signs[2] **(only allowed for non-residential uses)**	---			Square footage allowed shall equal 75% of linear footage of the front building line. *Example: If the front of the building is 50 feet wide, then the total wall sign size allowed is 37.5 sq ft. (50 X 75%)*		Square footage allowed shall equal 75% of linear footage of the front building line. *Example: If the front of the building is 50 feet wide, then the total wall sign size allowed is 37.5 sq ft. (50 X 75%)*	
[1] Maximum total surface area allowed per sign **[2] Square footage allowances for freestanding and wall signs shall not be combined.** **[3] Multiple Freestanding Sign Arrays: If multiple signs are used on one structure, all signs shall not exceed the square footage as stated above.**							

2. **Setbacks.** Signs shall be permitted anywhere on the premises except that they shall be at least ten (10) feet from the lot line and no closer than ten (10) feet to the highway right-of-way. The distance from the right-of-way may be decreased by the Zoning Administrator for temporary signs and the Planning Commission for permanent signs in specific instances where a finding is made that topography, geography or unalterable site vegetation render the signs unreadable.

3. **Number Allowed.**

   a. One on-premise freestanding sign shall be allowed per road frontage, up to a maximum of two freestanding signs per parcel or lot. In addition, one wall sign shall be allowed.

   b. On parcels containing multiple establishments, each establishment shall be allowed a wall sign.

4. **Illuminated Signs.** Signs with illumination shall be permitted providing the source of light is not visible from any roadway or any adjoining property.

5. **Height.** The height of freestanding signs shall not exceed fifteen (15) feet above the average finished grade. The height may be increased by the Zoning Administrator for temporary signs and the Planning Commission for permanent signs in specific instances where a finding is made that topography, geography or unalterable site vegetation render the signs unreadable.

6. **Replacement Copy.** The replacement or changing of copy on an approved sign is allowed without a permit. However, if the replacement creates a sign which violates the provisions of this Section, it shall be deemed a violation of this Ordinance.

7. **Abandoned Sign Removal.** Once the sign has been deemed by the Zoning Administrator to have been abandoned, the sign(s) shall be removed within thirty (30) calendar days. Anything formerly used to support or provide a structure for a sign and not in use for any other purpose shall be removed. A sign shall be deemed abandoned when any of the following have occurred:

   a. The sign has remained blank over a period of one (1) year.
   b. The sign's message becomes illegible in whole or substantial part.
   c. The sign has fallen into disrepair.
   d. The use for which the sign existed has been gone for over a period of one (1) year.

413:3 Prohibited Signs.

The signs and devices listed in this Subsection shall not be permitted, erected or maintained in any district.

A. **Signs with Moving Lights**. Signs which incorporate, in any manner, flashing lights, moving lights, scrolling motion with more than six (6) characters visible or string lights.

B. Signs affixed to trees, shrubs, rocks or other natural features.

C. **Signs with Moving Parts.** Any sign which has any visible moving parts, visible revolving parts or visible mechanical movements of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations or by action of natural wind currents.

D. **Structurally Unsafe Signs.** Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment or is not kept in good repair, or is capable of causing electrical shocks to persons likely to come in contact with it.

E. **Signs Hazardous to Traffic.** Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by detracting from the visibility of any traffic sign or control device on public streets or roads.

F. **Signs Obstructing Ingress/Egress.** Any sign which obstructs free ingress or egress through a required door, window, fire escape or other required exit way.

G. **Signs in the Right-of-Way.** Any sign on the highway right-of-way or otherwise unlawfully installed, erected or maintained.

H. Portable signs except as listed in **§413:4** of this Ordinance.

I. Roof Signs. No portion of any signs shall project above the edge of the roof or parapet.

J. Off-Premise Signs (billboards).

413:4 Temporary Signs.

A. Temporary signs no greater than twelve (12) square feet shall be permitted per premise with no zoning permit in all districts. The sum of all temporary signs on a premise shall total no greater than twelve (12) square feet. The Planning Commission may increase this size on a case-by-case basis.

B. Portable signs no greater than thirty-two (32) square feet shall be permitted.

413:5 Digital Signs.

Signs using digital lettering that does not flash, move or scroll are allowed in C-1 and I-1. The maximum daylight sign luminance level shall not exceed 62,000 candelas per meter squared at 40,000 lux illumination beginning 1/2 hour after sunrise and continuing until 1/2 hour before sunset and does not exceed 375 candelas per meter squared at 4 lux illumination at all other times.

413:6 Exempted Signs.

The signs and devices listed in this Subsection may be used without permit or approval when not in violation of any law or safety standard or any other portion of this Ordinance.

A. Signs erected by an official government body or agency.

B. Holiday decorations.

C. Signs and legal postings required by law to be displayed.

D. Signs less than two (2) square feet in area.

E. Signs not visible to motorists or pedestrians on any road, alley, body of water, public lands or adjacent parcels.

413.7 Sign Removal from Public Right-of-Way.

Any unauthorized sign that is placed on public property or within the road right-of-way is subject to removal by any elected Township official or the Zoning Administrator. If the owner or party responsible for such sign is known to the Township, the Township shall provide the owner or responsible party with an opportunity to retrieve the removed sign. Any such sign that has

not been retrieved within 30 days following removal is subject to disposal. The Township shall not be responsible for any loss or damage incurred in connection with the removal or temporary storage of any unauthorized sign.

413.8 Substitution Clause.

Any sign that can be displayed under the provisions of this Ordinance may contain a non-commercial message.

413.9 Nonconforming Signs.

A. Nonconforming signs that were otherwise lawful on the effective date of this Zoning Ordinance may be continued.

B. No person shall increase the extent of nonconformity of a nonconforming sign. No illumination shall be added to any nonconforming sign.

C. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Section.

D. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all provisions of this Zoning Ordinance. The remnants of the former sign structure not usable for a new conforming sign shall be removed within one hundred eighty (180) days. For purposes of this Section, a nonconforming sign is considered destroyed if it is damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.

E. Subject to the other provisions of this Section, nonconforming signs may be repaired, maintained, serviced or repainted if the framework and/or the size and/or shape of the sign remain unchanged. If such framework is altered or removed or the size and/or shape of the sign are altered, said sign must be changed to a conforming sign.

F. If a nonconforming sign remains blank for a continuous period of 180 days, that sign shall be deemed abandoned and shall, within 30 days after such 180-day period of abandonment, be altered to comply with this Zoning Ordinance or be removed by the owner of the sign, the owner of the property where the sign is located or the persons having control over such sign. For purposes of this Section, a sign is “blank” if:

   1. It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted;

   2. The advertising message it displays becomes illegible in whole or substantial part; or

   3. The advertising copy that either has been paid for by a party other than the sign owner or promotes an interest other than rental of the sign has been removed.

G. This §413.9 shall not apply to signs advertising seasonal businesses.

413.10 Severance Clause for Signs.

Provisions of §413 shall be deemed to be severable, and should any section, subsection, paragraph or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Section as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid. If any court shall declare invalid the application of any provision of this Section to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use, building or structure not specifically included in said ruling.

414 Private Access Ways

414:1 Intent.

The private access ways standards contained in this Ordinance are declared to be necessary to protect the public health, safety and welfare by regulating the location, construction and improvement, extension, maintenance and use of private access ways to meet the following objectives.

A. To ensure that private access ways are designed with width, surface and grade to assure safe passage and maneuverability of motor vehicles.

B. To provide sufficient side and overhead clearance to accommodate fire-fighting equipment, police, ambulance, other safety and emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles and equipment.

C. To ensure that private access ways are constructed of suitable materials to ensure safe passage and minimal maintenance.

D. To protect against or minimize soil erosion to prevent damage to lakes, streams, wetlands and the natural environment.

E. To provide for sight distance, safety and uniformity of the location and construction of private access ways in relation to existing or proposed lot lines, structures and dwellings.

414:2 Standards.

Private access ways other than those in a Platted Subdivision, Single Family Site Unit Condominiums or Planned Unit Developments shall meet all of the following:

A. A minimum of thirty (30) feet right-of-way or road easement, except along an abutting property line in which case the minimum shall be thirty-five (35) feet.

B. A minimum of eighteen (18) feet of processed road gravel, bituminous or concrete roadbed (including shoulders) is required for access ways serving four (4) or fewer single family units.

C. A minimum of twenty (20) feet of processed road gravel, bituminous or concrete roadbed (including shoulders) is required for private access ways serving five (5) or more single family units.

D. The roadbed shall be a minimum of five (5) feet from both sides of the easement except along an abutting property line, the roadbed shall be a minimum of ten (10) feet from said line.

E. A private access way shall be constructed and maintained in such a way as to be accessible and useable to all emergency vehicles shall include an appropriate means for all emergency vehicles to enter and exit without reversing to exit. *Amended 7/9/24; Effective 7/25/24*

F. A site plan that demonstrates compliance with **§414** (this Section) and **§504** of this Ordinance shall be submitted for review by the Planning Commission.

G. Easement and Maintenance agreements shall be submitted for review by the Planning Commission according to the following provisions:

1. Adequate utility easements shall be granted to the public within or adjacent to the right-of-way for sewer, water, gas, electric, telephone and cable use.

2. All private access ways shall be located within a permanent right-of-way easement that is recorded and verified by the Township Zoning Administrator. The easement shall grant ingress and egress of motor vehicles to abutting properties and to the public for purpose of fire-fighting equipment, police, ambulance, other safety and emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles and equipment. The easement shall be recorded with the deed of all property accessed by the private access way at the Emmet County Register of Deeds. *Amended 7/9/24; Effective 7/25/24*

3. No structure other than for utilities specified above or development activity shall be established within a permanent right-of-way easement.

4. A maintenance agreement binding on all current and future owners of property accessed by the private access road is required. The agreement shall provide for the following:

   a. Statement indicating that the private access way is private and not subject to maintenance jurisdiction of the Emmet County Road Commission. Further, that such access way shall not be maintained or improved at the expense of West Traverse Township unless the maintenance or improvement is funded by a special assessment of the owners of property accessed by the private access way.

b. Provisions to assure that the access way is reasonably maintained to provide access by emergency and service vehicles during all conditions which are reasonably expected in West Traverse Township.

c. The maintenance agreement shall be recorded at the Emmet County Register of Deeds with the deed of all property accessed by the private access way.

Any road not meeting Emmet County Road Commission specifications will not be accepted as a public road by West Traverse Township or the Emmet County Road Commission.

415 Raising and Keeping of Chickens as a Nonagricultural Use

A. **Scope**.

The raising and keeping of chickens as an accessory use to an existing single-family dwelling is permitted by right in the R-1 and R-1-A Zoning Districts, subject to the requirements of this section.

B. **Registration**.

1. Prior to the raising and keeping of chickens on any property under this Section, the property shall be registered by the Township Zoning Administrator.

2. Only an individual living in a dwelling on the property shall raise or keep chickens on the property. A registration may not be transferred.

3. Notwithstanding registering with the Zoning Administrator, private restrictions on the use of property shall remain enforceable and take precedence over a registration. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

C. **Standards**.

In addition to registering, the raising and keeping of chickens under this Section shall comply with the following standards:

1. The maximum number of chickens kept shall not exceed four (4) hens at any one time.

2. Roosters shall not be allowed.

3. The sale of chickens or eggs on the property is prohibited.

4. Chickens shall be provided with a covered and fenced enclosure in the rear yard of the property, as defined by the Zoning Ordinance. Enclosures shall not exceed 200 sq ft in size. All enclosures shall meet required Zoning District setback requirements.

5. Enclosures shall be constructed and repaired so as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.

6. All feed and other items associated with the keeping of chickens shall be stored in a sanitary manner so as to not attract rodents.

7. Hens and their enclosures must be kept in a neat, clean, and sanitary condition free from offensive odors, excessive noise, or other conditions that constitute a nuisance.

D. **Revocation**.

1. If the standards or requirements of any portion of this Section are violated, in addition to a penalty under **Section 908** of this Ordinance, such violation may result in the revocation of a registration by the Zoning Administrator.

2. Reinstatement of a revoked registration may be made by the Zoning Administrator when the violation has been corrected.

3. Notice of the revocation of a registration shall be given to the property owner in writing by first-class mail. The property owner shall have twenty-one (21) days from the date the letter is mailed to appeal a revocation to the Township Board of Trustees.

Article 5

Plan Review & Approval

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501 Purpose

The purpose of this Article is to specify the documents and/or drawings required for plot plans and site plan review so as to ensure that a proposed land use or development activity is in compliance with this Ordinance, other local ordinances, and State and Federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is orderly, properly designed, safe, efficient, environmentally sound and designed in such manner as to protect adjacent properties from substantial adverse impacts.

Plot Plans	Required for uses which are generally less intense in nature as per **§502.**
Site Plans	Required for uses which are generally more intense in nature as per **§503.**

502 Plot Plans

502:1 Circumstances which Require a Plot Plan. *Amended 3/23/21; Effective 4/8/21*

Every application for permit for excavation, construction, moving, alteration or change in type of use or type of occupancy shall be accompanied by a plot plan. The following uses shall require a plot plan:

A. Single-Family and Two-Family Dwelling Units and required parking for such.

B. Attached single-family dwellings and multiple-family dwellings.

C. Special Land Uses that are accessory to a single-family or two-family dwelling (such as Bed & Breakfasts, Home Based Businesses, Group Child Care Homes and Freestanding Solar Energy Panels – On-Site).

D. Accessory Buildings (Residential and Non-Residential).

E. Change of Use in the C-1 or I-1 Districts (from one permitted use to another permitted use when there is no more than five (5) percent exterior alteration to building footprint, no increase to the number and configuration of parking spaces and no change to the number and configuration of access drives).

F. Change of Use in the R-1/R-1-A, R-2, or A-1/A-1-A Districts from an existing non-residential use to another non-residential use, when there is no more than five (5) percent exterior alteration to building footprint, no increase to the number and configuration of parking spaces and no change to the number and configuration of access drives).

G. Signs.

H. Wind Energy Systems – On-Site.

I. All uses which do not require a site plan.

502:2 Plot Plan Data Required.

A plot plan shall be drawn to scale and show the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed work or use is in conformance with the provisions of this Ordinance.

A. The actual shape, location and dimension of the lot. If the lot is not a lot of record, sufficient survey data to locate the lot on the ground.

B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any other buildings or other structures already on the lot.

C. The existing and intended use of the lot and of all structures upon it.

D. Location of required setbacks of the zoning district.

E. The location and configuration of the lot access and driveway, drawn to scale.

F. The location and width of all abutting right-of-ways, easements and public open spaces within or bordering the subject project.

G. Natural features such as forests, bodies of water, wetlands, high risk erosion areas, slopes over 10%, drainage and other similar features, if determined by the Zoning Administrator to be applicable.

H. North arrow.

I. Such other information concerning the lot, adjoining lots or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

502:3 Plot Plan Administrative Procedure. *Amended 3/23/21; Effective 4/8/21*

Uses	Reviewing Official/Body
Single-Family and Two-Family Dwelling Units	Plot plan is reviewed and approved by the Zoning Administrator (review may be sub-contracted to another agency).
Attached single-family dwellings and multiple-family dwellings.	Plot plan is reviewed and approved by the Planning Commission.
Special Land Uses	Plot plan is reviewed and approved by the Planning Commission after the required public hearing.
Accessory Buildings (where the principal use is a single- or two-family dwelling unit)	Plot plan is reviewed and approved by the Zoning Administrator.
Accessory Buildings (where principal use is OTHER THAN a single- or two-family dwelling unit)	Plot plan is reviewed and approved by the Planning Commission.
Signs	Plot plan is reviewed and approved by the Zoning Administrator.
Change of Use in the C-1 or I-1 Districts - change from one permitted use to another permitted use when there is no more than five (5) percent exterior alteration to building footprint, or no increase to the number and configuration of parking spaces and no change to the number and configuration of access drives	Plot plan is reviewed and approved by the Planning Commission.
Change of Use in the R-1/R-1-A, R-2, or A-1/A-1-A Districts from an existing non-residential use to another non-residential use, when there is no more than five (5) percent exterior alteration to building footprint, no increase to the number and configuration of parking spaces and no change to the number and configuration of access drives	Plot plan is reviewed and approved by the Planning Commission.
Wind Energy Systems – On-Site	Plot plan is reviewed and approved by the Planning Commission as a Special Land Use after the required public hearing.

503 Site Plan – Circumstances which Require a Site Plan

Amended 3/23/21; Effective 4/8/21

A site plan shall be required and approved by the Planning Commission prior to the issuance of a zoning permit for the following:

A. All new uses and/or structures except those listed in **§502:1**.

B. Special Land Uses **except** Special Land Uses which are accessory to a single-family and two-family dwelling (such as Bed & Breakfasts, Home Based Businesses, Group Child Care Homes and Freestanding Solar Energy Panels – On-Site. These Special Land Uses are required to submit a plot plan per **§502**).

C. Parking lots, parking areas, storage areas, and access drives.

D. Erection of or an addition to any major utility service facility including the transportation, generating, processing, storing or transmission of petroleum, electricity, sanitary sewage, water, etc. including towers, right-of-ways, substations, pumping stations, regular stations and similar appurtenances.

E. Any use located within an environmental area or high risk area as defined and determined under the provisions of the **Part 323, Shorelands Protection and Management of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended**.

F. Planned Unit Developments and Site Unit Condominiums.

G. Expansion or renovation of an existing use, other than those listed in **§502:1** which increases the existing footprint more than five (5) percent.

H. Utility Grid Wind Energy System(s) and Wind Site Assessment Systems.

I. Change of Use in the C-1 or I-1 Districts (change from one use to another permitted use) when there is more than five (5) percent exterior alteration to building footprint, an increase to the number and configuration of parking spaces or a change to the number and configuration of access drives.

J. Change of Use in the R-1/R-1-A, R-2, or A-1/A-1-A Districts:

   a. When the change is from a residential use to a non-residential permitted use; or

   b. When the change is from a non-residential use to another non-residential permitted use and there is more than five (5) percent exterior alteration to building footprint, an increase to the number and configuration of parking spaces or a change to the number and configuration of access drives.

504 Site Plan – Required Data

A required site plan shall consist of the following and shall include the entire site proposed for improvement under the particular site plan with no unplanned areas on the particular site. Where it is determined by the Planning Commission that certain requirements of this Section are not necessary to the review and understanding of a site and development proposal, the Planning Commission may waive the requirement. Any such waiver shall be recorded in the Commission's minutes. Site improvements and development shall conform exactly to the approved site plans and supplemental drawings as approved by the Planning Commission.

504:1 Site Plan Graphic Requirements.

Site plans submitted in compliance with this Ordinance shall provide the following:

A. Multiple Copies	Nine (9) copies of the application and site plan drawings.
B. Sealed Drawings	Be prepared by and carry the seal of the registered architect, landscape architect, land surveyor or professional engineer who prepared it. The Zoning Administrator shall have the authority to waive the requirements of a professionally prepared plan where it determines a sketch plan would be adequate.
C. Legal Description & Zoning	Contain the legal description and zoning of the particular site and the zoning for adjacent properties.
D. Scale	Be drawn to a minimum scale of one (1) inch equals fifty (50) feet for less than five (5) acres and at one (1) inch equals one hundred (100) feet for five (5) acres or more, and shall contain a general location map at a scale of four (4) inches equals one (1) mile giving site location.
E. Identification Information	Date, north point, scale, property dimensions, street names, size in square feet or acres and any other necessary identification information.
F. Structures, Access, Storage & Parking Areas	All existing and all proposed structures on the subject property, including signs, lighting, fences, walls, other structures within one hundred (100) feet of the subject property, outdoor storage areas, ingress and egress drives, roads and parking areas with spaces delineated, snow storage areas, pedestrian circulation and the height of all structures. Percentage of lot coverage.
G. Easements	All existing easements, utility lines, right-of-ways and other services within and bordering the subject property.
H. Topography & Natural Features	Topography information based on USGS datum, or selected on site elevations. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of topography. Natural features such as bodies of water, wetlands and slopes.
I. Landscaping	Indications of trees and shrubs shall only be used on the site plan where trees and shrubs exist or where such vegetation will be planted prior to occupancy. All such trees and shrubs shall be labeled as to whether existing or proposed. Whenever a tree or group of trees of three (3) inch caliper or greater is to be removed as part of the planned improvements, it or their location shall be shown on the site plan in dotted outlines and noted "to be removed".

J. Miscellaneous Information	The following information shall be required in addition to the applicable data requested above: 1. Locations and proposed method of screening. 2. Loading and unloading area. 3. Total floor area. 4. Typical floor plans. 5. Building elevations (front, side and rear views). 6. Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimension and other data of all such equipment or machinery shall be indicated.
K. Soils	Generalized soil analysis data, which may include data prepared by the Emmet County Soil Conservation District regarding the soils and their adaptability to the use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.
L. Soil Erosion and Sediment Control	No site plan or plat shall be approved unless it includes soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development when required.

504:2 Site Plan Impact Statement.

An Impact Statement shall accompany any application for site plan review and shall include the following:

A. A complete description of the proposed development including site land use characteristics, the number of lots or units and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size and income as applicable.

B. Expected demands on community services and how these services are to be provided, to specifically include school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.

C. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

505 Site Plan – Submittal & Approval Procedure

505:1 Pre-Application Conference.

The Zoning Administrator along with the Planning Commission Chair and/or Planning Commission shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other Ordinance requirements and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission. The Planning Commission Chair shall not meet individually with the applicant/developer.

Except for Planned Unit Developments, this conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

505:2 Number of Copies. *Amended 3/23/21; Effective 4/8/21*

Two (2) full sized copies (drawn to the scale listed in **§504:1** Site Plan Graphic Requirements (D), nine (9) 11" X 17" copies of the proposed site plan in addition to one (1) digital copy shall be required. All copies shall include all required additional or related information and shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent.

505:3 Timing of Submittal for Planning Commission Approval. *Amended 3/23/21; Effective 4/8/21*

Site plans, with application fees, shall be submitted at least fifteen (15) days prior to the Planning Commission meeting at which the site plan will be considered. A Special Planning Commission meeting may be held at the request of the applicant provided that the site plan is submitted at least fifteen (15) days prior to the requested Special Planning Commission meeting and that any applicable special meeting fees are paid in advance by the applicant.

505:4 Review for Completeness.

The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.

505:5 Coordination with Other Agencies and Consultants.

A. **Coordination with Other Agencies.**

The Zoning Administrator <u>may</u> distribute the site plan to the following for comment or recommendation prior to consideration for approval:

1. **The Emmet County Soil Erosion and Sedimentation Control Officer**.

2. **The Emmet County Drain Commissioner**.

3. **The Emmet County Road Commission** and, if appropriate, the **Michigan Department of Transportation**.

4. **Health Department of Northwest Michigan**.

5. **Emmet County Planning and Zoning Department**.

6. Local police, fire and ambulance service providers.

7. Other agencies as deemed appropriate.

B. **Consultants.**

For developments regarded to be complex in terms of street patterns, housing density, questionable soil conditions, steep grades and similar conditions, the final approval of a site plan may be withheld pending consultation with a registered engineer, architect or Township Attorney.

505:6 ZBA Action Required.

Where the applicant is dependent upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted.

505:7 Representation at Meeting. *Amended 3/23/21; Effective 4/8/21*

If the applicant fails to provide representation, the review may be postponed until the next scheduled Planning Commission meeting.

505:8 Approval Based on Findings of Fact.

Following the submittal of a site plan in accordance with the requirements of this Section, and any other rules governing site plan submittals in West Traverse Township, the Planning Commission shall approve, conditionally approve or reject the proposed development with reasons stipulated. The decision of the Planning Commission shall be incorporated into a written Statement of Findings and conclusions relative to the site plan which specifies the basis for the decision and any condition(s) imposed. No land use, zoning compliance and/or building permits shall be issued except for uses that are in full compliance with the provisions and conditions specified in the site plan review process.

505:9 Signed Copies.

Upon approval of the site plan, three (3) copies of the site plan shall be signed and dated by the applicant and Zoning Administrator. One signed and dated site plan shall be provided to the applicant, one (1) copy shall be retained by the Zoning Administrator as part of the permanent zoning file, and one (1) copy shall be made part of the Planning Commission's permanent record of

proceedings on the site plan. If required by the Township, an electronic copy of the final approved site plan shall be provided by the applicant.

505:10 Conformity to Site Plan Required.

Following approval of a site plan by the Planning Commission, the applicant shall construct the site improvements in complete conformity with the approved site plan and conditions imposed. Failure to do so shall be deemed a violation of this Ordinance and the zoning permit may be revoked by the Zoning Administrator.

No construction, reconstruction, demolition or other site work may progress in the interim between submittal and final approval of a site plan, and no building permit(s) shall be issued prior to the approval of the site plan.

Where a proposed development is of sufficient complexity or there are circumstances where a reasonable visual inspection may not be able to confirm compliance with approved plans (For example: In instances of underground improvements, critical grading or slope change, complex curves, areas of critical tolerances or other practical difficulties) the Planning Commission may require the applicant provide a set of the approved plans bearing:

A. The seal of the project's engineer or architect.

B. Certification by the project's engineer or architect that the project has been completed in compliance with the approved plans.

506 Site Plan Review Standards

In the process of reviewing the site plan, the Township Planning Commission shall consider:

A. The location and design of driveways and entrance features with respect to vehicular and pedestrian traffic.

B. **Vehicular and Pedestrian Circulation.** Safe, convenient, uncontested and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Streets and drives which are part of an existing or planned street pattern which serves the project area shall be capable of safely and effectively accommodating the traffic volume and pattern proposed by the project.

C. Buffering techniques such as screening, fences, walls, greenbelts and landscaping may be required by the Planning Commission in pursuance of the objectives of this Section and/or as a condition of the establishment of the proposed use.

D. Methods proposed to prevent property damage in critical environmental areas.

E. **Public Welfare and Adjoining Properties.** The uses proposed will not adversely affect the public health, safety or welfare. Uses and structures located on the site shall take into account the size of the property, uses on the adjoining property and the relationship and

size of buildings to the site. The site shall be developed so as not to impede the development or improvement of surrounding property for uses permitted in this Ordinance nor to diminish the value thereof and will be harmonious in use, appearance and layout with uses in the immediate area.

F. **Light, Air and Access.** The location, size and height of the structures, walls and fences shall be such that there is adequate open space so as to provide light, air and access to the persons occupying the structures and that there will be no interference with adequate light, air and access to adjacent lands.

G. **Topography and Natural Landscape.** All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of elements that respect existing features of the site in relation to topography. Insofar as practical, tree and soil removal and topographic modifications shall be minimized which results in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.

H. **Drainage**. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties. Provisions shall be made to accommodate stormwater and to prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.

I. **Emergency Vehicle Access/Fire and Safety**. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means. The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.

J. **Snow Storage.** Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision and parking area capacity.

K. **Compliance with Other Statutes and Regulations**. Site plans shall conform to all applicable requirements of State and Federal statutes, and approval may be conditioned on the applicant receiving necessary State and Federal permits before the actual zoning permit is granted.

507 Amendment to an Approved Site Plan

Amendments to an approved site plan shall be permitted only under the following circumstances:

A. The owner of property for which a site plan has been approved shall notify the Zoning Administrator of any desired change to the approved site plan.

B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any

specified conditions imposed as part of the original approval. Minor changes shall include the following:

1. Reduction of the size of any building and/or sign.

2. Movement of buildings and/or signs by no more than ten (10) feet. In a PUD, movement of buildings and/or signs by nor more than twenty (20) feet.

3. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.

4. PUDS ONLY: Changes in floor plans that do not exceed five percent (5%) of the total floor area and which do not alter the character of the use or increase the amount of required parking.

5. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.

6. Changes related to items 1. through 5. above, required or requested by West Traverse Township, Emmet County or other State or Federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.

C. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator and applicant to sign and date all approved amendments.

D. An amendment to an approved site plan that cannot be processed by the Zoning Administrator under **507 (B) and (C)** above shall be processed in the same manner as the original site plan application.

508 Expiration of an Approved Site Plan

A site plan shall be valid for a period of one (1) year from date of approval, unless the approved use or construction has started and proceeds to completion in accordance with the terms of such approval. The Planning Commission may grant an extension, thereof, for good cause shown for a period of time not to exceed one (1) year, under such terms and conditions as it shall determine to be necessary and appropriate.

Article 6
Special Land Uses

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601 Purpose

The regulation of land uses in West Traverse Township is accomplished by this Zoning Ordinance which designates zoning districts and sets forth uses allowed in each district. The intent of this Article of the Ordinance is to recognize and provide for certain uses which may be allowable only if they meet the standards and comply with conditions which ensure their being harmonious with the general character of the district in which they may be located.

602 General Provisions

A. Only uses which have been designated as Special Land Uses in each respective zoning district shall be considered for approval as Special Land Uses. Special Land Uses are denoted with an "S" in **§305 Table of Permitted and Special Land Uses**.

B. All uses of land or structures which are designated as Special Land Uses in this Ordinance shall require the granting of Special Land Use Approval in accordance with the procedures of **§603** in this Ordinance, prior to the issuance of a zoning permit.

C. A request for approval of a Special Land Use may be considered provided the standards of **§604** are assured and the submission follows the requirements of this Ordinance. Some Special Land Uses denoted in **§305** with an asterisk (*) have Supplemental Development Standards contained in **Article 7**.

603 Submittal and Approval Procedure

603:1 Initiation of Request for a Special Land Use.

A. Any person owning or having an interest in property in West Traverse Township may initiate a request to operate or maintain a Special Land Use in the Township by submitting an application for a Special Land Use Approval.

B. An application for a Special Land Use shall be filed with the Zoning Administrator on a prescribed form at least thirty (30) days prior to the Planning Commission meeting at which the Special Land Use will be considered. Special Land Uses which require a site plan shall submit two (2) full sized copies (drawn to the scale listed in **§504:1** Site Plan Graphic Requirements (D), nine (9) 11" X 17" copies of a site plan, and one (1) digital copy prepared under the requirements of **§504**. Special Land Uses which require a plot plan shall submit nine (9) 11" X 17" copies of a plot plan prepared under the requirements of **§502**. Such plans, data and statements shall be indicated in required detail and an estimated time until occupancy of the proposed use shall be provided. *Amended 3/23/21; Effective 4/8/21*

603:2 Review of Application by Zoning Administrator.

The Zoning Administrator shall review the application and supporting documents and indicate by endorsement that the application has been properly executed. Application is then forwarded to the Planning Commission for review and hearing.

603:3 Review and Hearing by Planning Commission.

A. Upon receipt, in proper form of the Special Land Use application, the Planning Commission shall review said application to ensure that all conditions of this Section have been complied with. The Planning Commission shall hold at least one (1) public hearing on each application for a Special Land Use. Notice of said hearing shall be given pursuant to **§907**.

B. The Planning Commission or the Township Board only may require that the applicant requesting authorization for a Special Land Use furnish further engineering or architectural data, operating plans or other information when necessary to completely clarify the proposed Special Land Use.

C. If the applicant fails to provide representation at the public hearing, the review may be postponed until the next scheduled Planning Commission meeting. *Amended 3/23/21; Effective 4/8/21*

603:4 Recommendation by Planning Commission.

A. **Decision.**

1. For each application for Special Land Use approval, the Planning Commission shall recommend that the Township Board approve, conditionally approve or deny the Special Land Use request. All conditions imposed shall be in accordance with **§909**. Communication shall state reasons and conditions of recommendation.

2. Approval of a request for a Special Land Use shall not be granted if the Township Board finds that such Special Land Use would fail to comply with any of the requirements of this Ordinance.

3. The Special Land Use request shall become effective on the date of the approval by the Township Board. Approval of the request for the Special Land Use shall authorize the Zoning Administrator to issue a zoning permit provided all other Township requirements are met.

B. **Findings of Fact.**

The decision on a Special Land Use shall be incorporated into a written statement of findings and conclusions relative to the Special Land Use which specifies the basis for the decision and any condition(s) imposed.

C. **Appeals.**

In the case of a Special Land Use, the decision of the Planning Commission may not be appealed to the Zoning Board of Appeals. Appeals shall be made to the Circuit Court of Emmet County.

D. **Compliance with Approved Plans.**

Where a proposed development is of sufficient complexity or there are circumstances where a reasonable visual inspection may not be able to confirm compliance with approved plans (for example, in instances of underground improvements, critical grading or slope change, complex curves, areas of critical tolerances or other practical difficulties) the Planning Commission may require the applicant provide a set of the approved plans bearing:

1. The seal of the project's engineer or architect and

2. A certification by the project's engineer or architect that the project has been completed in compliance with the approved plans.

604 Special Land Use Approval Standards

In consideration of all applications for Special Land Use approval, the Planning Commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed Special Land Use if it is to be approved.

A. **Compatibility with Adjacent Uses.**

1. The proposed Special Land Use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the Zoning District in which it is to be located.

2. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

3. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development and need for particular services and facilities in specific areas of the Township.

4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

5. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

B. **Vehicular and Pedestrian Circulation.**

The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off street parking and provisions for pedestrian traffic, with particular attention to minimizing child vehicle interfacing.

C. **Public Effects.**

1. The proposed use is necessary for the public convenience at the proposed location.

2. The proposed use is so designated, located, planned and to be operated that the public health, safety and welfare will be protected.

3. The proposed Special Land Use is adequately served by and will not place demands in excess of current capacity on fire, police or other public resources.

605 Amendment to a Special Land Use

Changes or alterations to the original approved Special Land Use and conditions thereof, shall be in accordance with **§507**.

606 Expiration/Termination of an Approved Special Land Use

A. A Special Land Use permit shall be valid for as long as the use continues in accordance with the terms stated in the approval permit. A Special Land Use permit shall expire, become null and void or be discontinued by one or more of the following conditions:

1. When the Special Land Use has not been initiated or fully complied with within one (1) year from the date of approval. However, the Township Board may grant an extension,

thereof, for good cause shown, for a period of time not to exceed six (6) months, and under such terms and conditions as it shall determine to be necessary and appropriate.

2. When the Special Land Use is replaced by a Principal Permitted Use except in the case of Residential Special Land Uses.

3. When the applicant requests the rescinding or removal of the Special Land Use permit in writing.

4. When, based on evidence of vacating, abandoning and/or moving the use to another location and the Planning Commission declares the Special Land Use to be null and void. When determining the intent of the property owner to vacate or abandon a Special Land Use, the Planning Commission shall consider the following factors:

   a. Whether utilities such as water, gas and electricity to the property have been disconnected.

   b. Whether the property, buildings and grounds have fallen into disrepair.

   c. Whether signs or other indications of the existence of the Special Land Use have been removed.

   d. Whether equipment or fixtures necessary for the operation of the Special Land Use have been removed.

   e. Other information or actions that evidence an intention on the part of the property owner to abandon the Special Land Use.

5. When the specific terms of a Special Land Use permit or any portion of this Ordinance have been violated and are not in compliance. Violation will result in automatic revocation of the zoning permit by the Zoning Administrator. Re-instatement may be made by the Zoning Administrator when the violation has been corrected.

B. Notice of termination of a Special Land Use permit shall be given to the applicant in writing. The applicant shall have thirty (30) days to appeal the termination.

607 Transfer of Ownership of a Special Land Use

A Special Land Use Permit does <u>not</u> expire on transfer or sale of the property. All requirements of this Ordinance and conditions imposed upon approval remain in effect.

Article 7
Supplemental Regulations

Sec	Name	Pg	Sec	Name	Pg
701	Purpose	7-1	719	Kennels	7-17
702	Manufactured Homes	7-1	720	Stables	7-17
703	Farming Operations & Roadside Stands	7-2	721	Site Unit Condominiums	7-18
704	Home Offices, Home Occupations and Home Based Businesses	7-2	722	Reserved	7-19
705	Multiple Family Dwellings, Townhouses & Housing for the Elderly	7-6	723	Helicopter Landings and Takeoffs	7-20
706	Convalescent or Nursing Home (Includes Adult Foster Care)	7-6	724	Wind Energy Systems (WES's)	7-21
707	Soil Removal/ Resource Extraction	7-7	725	Outdoor Wood Furnaces	7-28
708	Bed and Breakfast Establishments	7-8	726	Medical Marihuana Primary Caregiver	7-31
709	Hotels, Motels, and Resorts	7-8	727	Planned Unit Development (PUD)	7-33
710	Manufactured Housing Community	7-9	728	Sexually Oriented Businesses	7-46
711	Public Utility Facilities	7-10	729	Outdoor Storage of Materials/Goods for Sale & Storage of Accessory Equipment	7-51
712	Wireless Communications Support Structures	7-11	730	Pet Shops, Dog Grooming, and Veterinary Hospitals/Clinics	7-52
713	Recreational and Athletic Areas (Golf Driving Ranges, Ball Fields and Similar Uses)	7-15	731	Group Child Care Facilities	7-52
714	Governmental Administration Facilities, Cemeteries	7-16	732	Biofuel Production Facilities on Farms	7-52
715	Golf Courses, Public and Private	7-16	733	Commercial Event Facilities	7-54
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717	Religious Institutions, Churches, Synagogues, Temples	7-17	735	Food Trucks	7-62
718	Forestry & Forest Products Processing	7-17			

701 Purpose

The uses contained within this Article shall comply with the specific development standards listed for said use in this Article along with provisions listed elsewhere in this Ordinance. All uses marked with an "*" in **§305 Table of Permitted and Special Land Uses** are included in this Article.

702 Manufactured Homes

A. The unit shall be supported by a solid enclosing masonry foundation or on a foundation of solid masonry piling which meets the manufacturer's specifications and the **Michigan Manufactured Housing Commission** requirements and is securely anchored to the ground.

B. The manufactured home shall meet the minimum floor area and width requirements for single-family dwelling as per **§304.**

C. When masonry piling supports are used, the manufactured home shall be skirted or enclosed with a durable weather resistant material which is compatible with the manufactured home. All such skirting to be maintained in place as designed.

D. The wheels, axles and towing assembly shall be removed from a manufactured home before the unit is attached to the foundation.

E. Manufactured homes shall be installed according to the **United States Department of Housing and Urban Development (HUD)** regulations entitled "Manufactured Home Installation Standards", and the construction of the unit shall comply with the United States Department of Housing and Urban Development (HUD) regulations entitled "**Manufactured Home Construction and Safety Standards", being 24 CFR part 3280, as amended**.

F. Manufactured homes shall not be used as accessory buildings.

703 Farming Operations and Roadside Stands

703:1 Farms Raising Livestock.

Livestock farms and ranches, dairy farms and poultry farms are permitted in A-1 and A-1-A Districts provided there is no slaughtering, rendering, tanning or similar processing on the premises except for the private use of the processed product by the occupants.

703:2 Farm Buildings.

Farm buildings, with or without storage yards shall be set back a minimum of one hundred (100) feet from all property lines.

703:3 Roadside Stands/Farm Markets.

Stands for display or sales of agricultural products raised on the premises are permitted in A-1 and A-1-A Districts provided that there shall be no more than one (1) stand for each premise and also provided that the size of any such stand shall not exceed four hundred (400) square feet in floor area. Stands are not allowed in the road right-of-way.

704 Home Offices, Home Occupations and Home Based Businesses

Home Offices, Home Occupations and Home Based Businesses must clearly fall within the definition contained in this Ordinance. **Table 704A** contains a quick reference guide to Home Offices, Home Occupations and Home Based Businesses. No permit is required for Home Offices. A permit is required for Home Occupations and a Special Land Use Permit is required for Home Based Businesses. Standards below shall apply to all Home Offices, Home Occupations and Home Based Business unless otherwise specified.

704:1 General Standards.

A. **No Business/Industrial Character.** The use shall be clearly incidental to the use of the lot and dwelling for residential purposes. The use shall not take on the character of a business or industrial use in terms of signs, open storage, parking bays, visible display, traffic, noise,

vibration, smoke, dust, odor or other and/or similar nuisances, and further the activity shall not conflict with or operate out of character with any surrounding or adjacent uses.

B. **Structural Additions.** Any structural additions to the home for purposes of operating said Home Office, Home Occupation or Home Based Business shall be of an architectural style that is comparable with the architectural style of the existing home or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the Home Office, Home Occupation or Home Based Business is discontinued.

C. **Retain Residential Character.** The Home Office, Home Occupation or Home Based Business shall not conflict with the residential character of the neighborhood and surrounding area, including the type of use proposed, hours of operation, type and style of accessory building and/or number of vehicles attracted to the site.

D. **Distance from Other Home Occupations or Home Based Businesses.** The property for a Home Occupation or Home Based Business shall be a minimum distance of five-hundred (500) feet from any other property with an active Home Occupation and/or an active Home Based Business.

E. **Setbacks.** Front yard, rear yard and side yard requirements shall conform to the minimums established for single-family dwellings in the applicable district.

F. No Home Office, Home Occupation or Home Based Business activities shall be conducted in whole or in part in any breezeway, porch, patio or the like.

G. **Equipment or Processes.** No equipment or process used in a Home Office, Home Occupation or Home Based Business shall create noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

H. **Open Space**. A minimum open space area equal to fifty (50) percent of the site area shall be maintained. Open spaces shall not include buildings, parking lots, pedestrian walks and/or driveways and other paved or impervious surfaces.

I. **Transfer to New Owner.** Planning Commission approval is necessary to transfer a Home Based Business to a new owner.

704:2 Employees.

A. **Home Offices and Home Occupations**. Only the resident(s) on the premises shall conduct the Home Office or Home Occupation and no non-resident shall be employed in connection with the Home Office or Home Occupation.

B. **Home Based Businesses**. At least one resident shall be actively engaged in the Home Based Business and a maximum of two (2) non-residents may be involved.

704:3 Location.

A. **Home Offices and Home Occupations**. The Home Office or Home Occupation shall operate only in an occupied residence.

B. **Home Based Businesses**. The Home Based Business shall operate only in an accessory building or occupied residence on the same lot where one of the actively involved parties resides.

704:4 Traffic and Parking.

A. The parking, traffic or loading demands shall be in accordance with the carrying capacity of the property, serving streets and utilities.

B. **Home Based Businesses**. On-site parking shall be a minimum of one (1) parking space for each one hundred (100) square feet of building area used for Home Based Business purposes, plus one (1) for each employee. Parking shall not be in the front yard. If the Planning Commission determines that the parking needs for a specific Home Based Business at a specific location differ from these parking requirements, the Planning Commission may alter these parking requirements.

704:5 Display and Sale of Merchandise.

A. **Home Occupations and Home Based Businesses.** The Home Occupation or Home Based Business shall not openly display or sell goods, materials or services produced by the Home Occupation or Home Based Business. The services and/or products produced will be contained entirely within the dwelling or accessory building. *Amended 3/23/21; Effective 4/8/21*

B. **Home Offices.** No services and/or products may be sold.

704:6 Exterior Evidence.

A. **Home Occupations and Home Based Businesses.** There shall be no visible evidence of the conduct of such Home Occupation or Home Based Business other than one non-illuminated sign, not exceeding two (2) square feet in area in the R-1 and R-1-A Districts and not exceeding six (6) square feet in area in the A-1 and A-1-A Districts. *Amended 3/23/21; Effective 4/8/21*

B. **Home Offices**. There shall be no visible evidence of the conduct of such Home Office. No signage is allowed.

Table 704A: Comparison Chart for Regulation of Home Offices, Home Occupations & Home Based Businesses

The Ordinance language governs; this chart is only a summary. See Section 202 for the definitions of Home Offices, Home Occupations and Home Based Businesses.

Amended 3/23/21; Effective 4/8/21

Description	Home Office	Home Occupation	Home Based Business
Conducted entirely within dwelling by: (**§704:3**)			
a. Residents	Yes	Yes	Yes
b. Residents plus employees	No	No	Yes
Conducted within an accessory building by residents/occupants (**§704:3.B**)	No	No	Yes
Conducts business in part in breezeway, porch or the like (**§704:1.F**)	No	No	No
May sell merchandise (or physical goods) (**§704:5**)	No	Yes	Yes
Can have up to 2 non-resident employees (**§704:2**)	No	No	Yes
Use takes on exterior character of business (**§704:1.A**)	No	No	No
Activity conflicts with character of surroundings (**§704:1.C**)	No	No	No
Additions comparable and can be used for housing if office/business use discontinued (**§704:1.B**)	Yes	Yes	Yes
Shall not conflict with residential character (type of use, hours, # vehicles, etc) (**§704:1.C**)	Yes	Yes	Yes
Parking, traffic or loading demands in accordance with carrying capacity of area (**§704:4.A**)	Yes	Yes	Yes
On-site parking in front yard; 1 space/100 sq ft + 1 per non-resident employee (**§704:4.B**)	N/A	N/A	Yes
Outside display of goods, materials, merchandise or services (**§704:5**)	No	No	No
Visible evidence other than permitted signage (**§704:6.A**)	No	No	No
Signs (**§704:6** and **§413**)	No	Yes	Yes
Use clearly incidental to primary use of property for dwelling purposes (**§704:1.A**)	Yes	Yes	Yes
All setbacks must be met without variances (**§704:1.E**)	Yes	Yes	Yes
A minimum open space area equal to 50% of the site area shall be maintained (**§704:1.H**)	Yes	Yes	Yes
Property shall be a minimum distance of 500 ft from any other property with an active Home Occupation or active Home Based Business (**§704:1.D**)	No	Yes	Yes
Special Land Use Permit and Public Hearing required	No	No	Yes
Zoning Permit required	No	Yes	Yes

705 Multiple Family Dwellings, Townhouses & Housing for the Elderly (Senior Apartments)

A. **Lot Size.**

1. **A-1 District.** The site, lot, parcel, etc. shall have a minimum area of two (2) acres per dwelling unit.

2. **R-1 District.** The site, lot or parcel shall have a minimum area of one (1) acre per dwelling unit.

B. There shall be a minimum distance of fifty (50) feet between any building and any property line. The maximum height of any building shall not exceed two stories and be no greater than thirty-five (35) feet in height.

C. On-site parking shall be provided at a ratio of two (2) parking spaces per dwelling unit. Entrance and exit drives shall be provided to permit safe and convenient access between parking areas and approved public or private roadways. Parking areas and drives shall be improved with compacted gravel, stone or a hard surfaced material and shall be well drained. For projects involving more than four dwelling units, the Planning Commission may require the drive and parking areas to be hard surfaced.

D. Any lighting on the premises, for parking area, yard lighting, sign lighting or other similar types of exterior lighting shall be a white steady light with the source not visible off the premises.

E. All multiple family parking and service areas which abut a developed or zoned residential lot or parcel shall be screened with an ornamental fence, wall, berm or planted materials. Said screen shall obscure vision and provide separation between the two uses. The type of screening and its height shall be determined by the Planning Commission. Where, in its judgment, such screening shall serve no useful purpose, such requirement may be waived by the Planning Commission.

706 Convalescent or Nursing Home, and Adult Foster Care (greater than six adults)

A. The site, lot or parcel shall have a minimum area of one (1) acre for the first six (6) residents with one (1) additional acre for each four residents after the first six.

B. On-site parking shall be provided at a ratio of one (1) space for each three residents plus one (1) space for each two (2) full time employees. Entrance and exit drives shall be provided to permit safe and convenient access. Parking areas and drives shall be improved with compacted gravel, stone or hard surfaced material and shall be well-drained.

C. Any lighting on the premises for parking areas, yards, signs or other similar types of exterior lighting shall be white steady light with the source not visible off the premises.

D. Proposals for housing shall meet all local, State and Federal regulations.

707 Soil Removal/ Resource Extraction

A. **Minimum Size.** The lot or parcel used for soil removal or resource extraction shall have a minimum area of ten (10) acres.

B. Sand and gravel mining or extraction, quarry excavating, and similar removal operations must satisfy that sufficient material to be mined or extracted exists on the site in question to justify such operation, and that such use would not be detrimental to other permitted land uses in the zoning district.

C. Conformance to the **Michigan Zoning Enabling Act, 2006 PA 110, as amended**: the Township shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources.

1. Natural resources shall be considered valuable if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

2. In determining whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in Silva v Ada Township, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:

   (a) The relationship of extraction and associated activities with existing land uses.

   (b) The impact on existing land uses in the vicinity of the property.

   (c) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

   (d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

   (e) The impact on other identifiable health, safety and welfare interests in the local unit of government.

   (f) The overall public interest in the extraction of the specific natural resources on the property.

D. The Planning Commission may regulate hours of operation, blasting hours, noise levels, dust control measures and traffic, not preempted by **Part 632 of the Natural Resources and**

Environmental Protection Act, 1994 PA 451, MCL 324.63201 to 324.63223. However, such regulation shall be reasonable in accommodating customary mining operations.

E. **Site Reclamation**. Plans for final grading and land reclamation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical.

708 Bed and Breakfast Establishments

A. Bed and Breakfast establishments shall be permitted only after the requirements of State law and/or Township Ordinance have been met.

B. Front yard, rear yard and side yard requirements shall conform to permitted land uses in the applicable zoning district.

C. No alteration or modification shall be made to the Bed and Breakfast establishment without Planning Commission approval.

D. On-site parking shall be provided in an amount determined by the Planning Commission, but not less than one (1) space per rented room, plus two (2) spaces for owner/operator. Entrance and exit drives shall permit safe and convenient flow between parking areas and the public access roadway. Parking areas and drives shall be improved with compacted gravel, stone or hard-surfaced material and shall be well-drained.

E. Not more than twenty-five percent (25%) of the total floor area of the dwelling unit shall be used for Bed and Breakfast sleeping rooms. The site plan shall include an interior floor plan designating the rooms to be used for Bed and Breakfast.

F. There shall be no separate cooking facilities used for the Bed and Breakfast stay.

709 Hotels, Motels, and Resorts

A. **Lot Size.**

1. **R-1 and A-1 Districts.** The site, lot or parcel accommodating a hotel, motel or resort shall have a minimum area of two (2) acres with a maximum density of ten (10) rooms and/or rental units per acre.

2. **C-1 District.** The site, lot or parcel accommodating such use shall have a minimum area of one (1) acre for each ten (10) units or portion thereof.

B. **R-1 and A-1 Districts.** Buildings shall be located not less than fifty (50) feet from any property line. The maximum height of said building shall not exceed two (2) stories and be no greater than thirty-five (35) feet in height.

C. **Parking**. On-site parking at the ratio of one (1) space for each lodging room plus one (1) space for each three (3) full time employees. For multiple use of the facility, parking space shall be provided as though each use were on a separate site or lot. Entrance and exit drives shall be provided to permit safe and convenient access. Parking areas and drives shall be improved with a hard surfaced material and shall be well drained. In the C-1 District, if other commercial entrances or exits are adjacent, they must be shared or connected when possible in order to reduce curb-cuts to public streets.

D. Any lighting on the premises for parking areas, yard lighting, sign lighting or other similar types of exterior lighting shall be a white, steady light with the source not visible off premises.

E. All hotels, motels or resorts which abut a developed or zoned residential lot or parcel shall be screened with an ornamental fence, wall, berm or planted materials. Said screen shall obscure vision and provide separation between the two uses. The type of screening and its height shall be determined by the Planning Commission. Where in its judgment such screening shall serve no useful purpose, such requirement may be waived by the Planning Commission.

710 Manufactured Housing Community

A. All of the following shall be complied with:

1. The regulations promulgated by the **Michigan Manufactured Housing Commission**.

2. The minimum standards for manufactured housing communities established by the **State Department of Public Health**.

3. The **Mobile Home Commission Act (1987 P.A. 96, as amended; MCL 125.2301, et seq.).**

4. Density for a manufactured housing community shall be a minimum of two (2) acres per dwelling unit.

B. Reference is hereby made to **§§ 11, 12 and 13 of the Mobile Home Commission Act** which require, among other things, that the following provisions are met:

1. A person who desires to develop a manufactured housing community shall submit a preliminary plan to:

-West Traverse Township Planning Commission.
-Health Department of Northwest Michigan.
-Emmet County Road Commission.
-Emmet County Drain Commissioner.

The preliminary plan shall include the location, layout, general design and a general description of the project. The preliminary plan shall not include detailed construction

plans.

C. No manufactured home or any other building within a manufactured housing community shall be closer than fifty (50) feet from any road and/or property line.

D. All roads, drive and parking areas within a manufactured housing community shall be hard surface as defined in this Ordinance.

E. There shall be a greenbelt planting strip with a width of not less than twenty (20) feet along the property lines and may be within the fifty (50) foot yard required in **Subsection C**. Such greenbelt shall contain at least one (1) straight or staggered row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and at least three (3) rows of deciduous or evergreen shrubs spaced not more than eight (8) feet apart and which grow to an ultimate height of twelve (12) feet. This requirement may be waived by the Planning Commission.

F. Manufactured homes shall be installed according to the **United States Department of Housing and Urban Development (HUD)** regulations entitled "Manufactured Home Installation Standards", and the construction of the unit shall comply with the United States Department of Housing and Urban Development (HUD) regulations entitled **"Manufactured Home Construction and Safety Standards", being 24 CFR part 3280, as amended**.

711 Public Utility Facilities

A. The public utilities facility may be located within the district when operating requirements are necessary to serve the immediate vicinity.

B. The site, lot or parcel accommodating the public utilities shall meet the minimum area requirements for the district.

C. Any buildings or structures shall be located not less than forty (40) feet from any property line. The maximum height of the building shall be thirty-five (35) feet.

D. Any lighting on the premises for yard lighting, sign lighting or other similar types of exterior lighting shall be a white, steady light with the source not visible off premises.

E. The site may be used for temporary parking of service or maintenance vehicles, but shall not be used for the storage of equipment, supplies or construction or operating materials.

F. Any property line abutting a residential lot or parcel shall be screened with an ornamental fence, wall or planted materials. Said screen shall obscure vision and provide separation between the two uses.

712 Wireless Communications

(Amended 6/13/23; Effective 6/30/23)

A. **Exemptions**. Antenna towers and masts erected and operated as a residential or commercial accessory use serving only that property (such as but not limited to Amateur Radio Service Station Antenna and other "customer end" devices covered by 47 CFR Section 1.4000) are exempt from this Section. See **Over-the-Air Reception Devices (47 CFR Section 1.4000**). Single-use tower and masts shall comply with all FCC rules and regulations in effect at the time they are erected. Property owners who erect single-use towers and masts shall notify the Township prior to erecting such a tower.

B. **Uses Allowed.**

1. **Collocation - Permitted Use**. Pursuant to the **Michigan Zoning Enabling Act, §3514 of 2006 PA 110**, as amended, being MCL 125.3101 et.seq, collocation of wireless communications equipment is a permitted use of property.

2. **New Wireless Communications Facility with Support Structure, Ground-Mounted Wireless Communications Facilities or Other Wireless Communications Facilities**. New wireless communications facilities with support structures, ground-mounted communications wireless facilities or other wireless communications facilities not already mentioned are a Special Land Use in the A-1, A-1-A, and S Districts and shall be evaluated using the procedures stated in **Subsection C** below.

C. **Special Land Use Approval Procedure.** An application for Special Land Use approval of wireless communications support structures shall include all information required by **§504 (Site Plan Required Data).**

1. After an application for a Special Land Use approval is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.

2. If, before the expiration of the fourteen (14) day period under **Subsection C.1**, the Zoning Administrator notifies the applicant that the application is not administratively complete (specifying the information necessary to make the application administratively complete) or notifies the applicant that a fee required to accompany the application has not been paid (specifying the amount due), the running of the fourteen (14) day period under **Subsection C.1** is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

3. After the application is deemed complete a Public Hearing shall be held. The notice of the Public Hearing shall be given pursuant to **Section 907**.

4. After a Public Hearing is held, the Planning Commission shall conduct a Site Plan Review using the standards in **Section 506** and **Section 604** and the standards contained in **subsection D** below, the Planning Commission shall recommend approval or denial of

the application. The Township Board shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Township Board fails to timely approve or deny the application, the application shall be considered approved and the Township Board shall be considered to have made any determination required for approval.

D. **Development Standards.**

1. **General.** The site, lot or parcel accommodating a wireless communications facility shall meet the minimum lot area, width, accessibility or other standards as required in the district where located.

2. **Setbacks and Height of Buildings.** Buildings shall not be located less than forty (40) feet from any property line and shall be limited to uses associated with the operation of the wireless communications facility. The maximum height of said buildings shall be thirty-five (35) feet.

3. **Setbacks and Height.**

   a. **Towers and Buildings**. Any antennae, towers or masts, including supports or similar structures shall be so located on the lot(s) that the base of the structure shall be no closer to any lot line of a non-participating lot than a distance equal to one and one-half (1 ½) times the height of the structure.

   b. **Height of Tower.** The maximum height of the tower and appurtenances shall be limited to one hundred twenty-five (125) feet.

   c. **Ground-Mounted Wireless Communications Facilities and Other Wireless Communications Facilities (without towers)**. Ground-mounted wireless communications facilities and other wireless communications facilities shall be set back at least one hundred seventy-five (175) feet from the outside edge of the equipment enclosure to each lot line of a non-participating lot. The Planning Commission may reduce the required setbacks if it is determined that such reduction will not adversely affect the neighboring property.

4. **Required Fencing.** The wireless communications facility shall be enclosed with a chain link fence a minimum of six (6) feet in height. Planning Commission may limit the total height of the fence on a case-by-case basis.

5. **FCC and FAA Standards.** All wireless communications facilities shall meet the standards of the **Federal Communications Commission** and the **Federal Aviation Administration**.

6. **Certified and Sealed Drawings.** Site plans, construction plans and as-built drawings shall be certified by and carry the seal of a registered structural and/or civil engineer.

7. **Collocation Capability.** To avoid proliferation of towers, a tower must be capable of and available for accommodating multiple users under a sharing of cost.

8. **Open Storage.** Occasional or temporary parking of service or maintenance vehicles is permitted; however, the parcel shall not be used as an open storage site for equipment, supplies, construction or operating materials.

9. **Lighting.** Tower lighting shall meet the requirements of the **Federal Communications Commission** and the **Federal Aviation Administration**. Other on-premises lighting shall be restricted to the minimum required for safety and shall be down directed as well as shielded. Radar-activated obstruction lighting system shall be utilized, if available, and if approved by the FAA.

10. **Advertisement.** Advertising of any kind shall not be displayed except as required for emergency purposes.

11. **Removal upon Termination of Use.** If a wireless communication facility owner and operator intends to abandon and, in fact, does abandon the wireless communications facility, the facility shall be removed by the property owner or lessee within six (6) months of termination of use. Failure to remove an abandoned wireless communication facility within the six (6) month period provided in this subsection shall be grounds for the Township to remove the wireless communication facility at the owner's expense. The Planning Commission shall require a performance guarantee pursuant to **Section 906** (see subsection D.15).

12. **No Residential Facilities.** There shall be no on-site living facilities.

13. **Harmonious with Site and Surrounding Area.** The tower shall be as harmonious with the site and surrounding area as possible. For example, depending upon site characteristics, the tower may need to be of the "cell phone tree" type to soften its impact on the surrounding area.

14. **Color.** Wireless support structures shall be painted so as to be as unobtrusive as possible. The painting of wireless support structures in alternate bands of color shall be permitted only if specifically required by **Federal Communications Commission (FCC), Federal Aviation Administration (FAA)** or **Michigan Aeronautics Commission (MAC)** regulations. If alternate band painting is required by FCC, FAA, or MAC regulations, the applicant shall provide documentation of such requirements and regulations.

15. **Decommissioning Plan**. A decommissioning plan is required at the time of application.

    a. The decommissioning plan shall include:

        (1) The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing) or restored for viable reuse of the property consistent with the Zoning District.

        (2) The projected decommissioning costs for removal of the Wireless Communications Facility and soil stabilization.

        (3) The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee in the form of surety bond, irrevocable letter of credit or cash deposit) pursuant to Section 906.

    b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years for the life

of the project and approved by the Township Board. A wireless communications facility owner may at any time:

(1) Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or

(2) Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

E. **Small Cell Wireless Facilities**.

1. **Exempt Small Cell Wireless Facilities**. The co-location of a small cell wireless facility and associated support structure within a public right of way (ROW) is not subject to zoning reviews or approvals under this Ordinance to the extent it is exempt from such reviews under the **Small Wireless Communications Deployment, 2018 PA 365**, as amended. In such case, a utility pole in the ROW may not exceed forty (40) feet above ground level without Special Land Use approval and a small cell wireless facility in the ROW shall not extend more than five (5) feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

2. **Approval for Non-Exempt Small Cell Wireless Facilities**. The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with **2018 PA 365**, as amended shall be subject to review and approval by the Zoning Administrator in accordance with the following procedures and standards:

a. The processing of an application is subject to all of the following requirements:

(1) Within thirty (30) days after receiving an application under this Section, the Zoning Administrator shall notify the applicant in writing whether the application is complete. The notice tolls the running of the thirty (30) day period.

(2) The running of the time period tolled under **subsection E.2.a.1** resumes when the applicant makes a supplemental submission in response to the Zoning Administrator's notice of incompleteness.

(3) The Planning Commission shall approve or deny the application and notify the applicant in writing within ninety (90) days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or one hundred fifty (150) days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and Planning Commission.

b. The Planning Commission shall base their review of the request on the standards contained in **Sections 506** and **Section 604** provided, however that a denial shall comply with all of the following:

(1) The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.

(2) There is a reasonable basis for the denial.

(3) The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

c. In addition to the provisions set forth in **subsection E.2.b**, in the Planning Commission's review:

(1) An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

(2) An applicant shall not be required to submit information about its business decisions with respect to any of the following:

(a) The need for a wireless support structure or small cell wireless facilities.

(b) The applicant's service, customer demand for the service or the quality of service.

(3) The Zoning Administrator may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening or landscaping.

(4) The Zoning Administrator may impose spacing, setback and fall zone requirements substantially similar to spacing, setback and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

d. Within one (1) year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the Planning Commission and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required the zoning approval is void.

713 Recreational and Athletic Areas (Golf Driving Ranges, Ball Fields and Similar Uses)

A. Recreational areas and athletic areas may include playgrounds, golf driving ranges, ball fields and similar public or private uses as determined by the Planning Commission.

B. The site, lot, parcel, etc. accommodating such recreational or athletic areas shall have a minimum area of three (3) acres.

C. Buildings shall not be located less than forty (40) feet from all property lines. The maximum height of said buildings shall be thirty-five (35) feet.

D. Retail businesses may be permitted on the facility site when incidental to the principal activity on the premises. Retail services shall be limited to and remain within the confines of the site and be directed to the users of the recreation facility.

E. On-site parking shall be provided in sufficient numbers to eliminate off-site parking as determined by the Planning Commission. Entrance and exit drives shall be provided to permit safe and convenient access between parking areas and approved public or private roadways. Parking areas and drives shall be improved with compacted gravel, stone or a hard surfaced material and shall be well-drained.

F. Any lighting on the premises for parking areas, activity lighting, sign lighting or other similar types of exterior lighting shall be a white, steady light which is not visible off the premises.

G. All parking and service areas which abut a developed or zoned residential lot or parcel shall be screened with an ornamental fence, wall, berm or planted materials. Said screen shall obscure vision and provide separation between the two uses. The type of screening and its height shall be determined by the Planning Commission. Where, in its judgment, such screening shall serve no useful purpose, such requirement may be waived by the Planning Commission.

714 Governmental Administration Facilities, Cemeteries

A. Cemeteries – minimum of ten (10) acres required.

B. Government Administration Building – minimum of two (2) acres.

715 Golf Courses, Public and Private

Golf courses, public and private including clubhouses and structures accessory to the golf course shall be located on a parcel with a minimum of forty (40) acres.

716 Schools

A. Schools shall be located on a parcel with a minimum of ten (10) acres with a forty (40) foot setback from all property lines.

B. Business Schools or Private Schools operated for profit and Charter Schools intending to serve students in grades kindergarten through twelve (12) are subject to the following site standards.

1. For-Profit Schools shall maintain a minimum open space area equal to fifty (50%) percent of the site area (excluding road right-of-way). Open spaces shall not include

buildings, parking lots and/or driveways and other paved or blacktop surfaces other than pedestrian walks.

2. The arrangement of property uses shall consider the impact on scenic views, and if feasible, the site design shall endeavor to mitigate negative impacts related to building size, noise, lighting and traffic.

717 Religious Institutions, Churches, Synagogues, Temples

Religious institutions, churches, synagogues, temples and similar uses shall be located on a parcel with a minimum of two (2) acres.

718 Forestry & Forest Products Processing

Forestry and forest products processing shall be located on a parcel with a minimum of forty (40) acres and all structures shall be set back one hundred (100) feet from the property lines.

719 Kennels

The following regulations shall apply to any premises on which dogs, cats or other household pets are maintained, boarded, bred or cared for in return for remuneration or are kept for the purpose of sale:

A. Kennels shall be located on a parcel with a minimum of four (4) acres with a three hundred (300) foot width and one hundred (100) foot setback from any property line. Maximum structure height shall be thirty-five (35) feet.

B. Animals shall be confined within a building or in a fenced area.

C. Outdoor animal enclosures shall be screened from adjacent properties and/or roads with a wall, opaque fence or an evergreen buffer at least five (5) feet in height.

D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.

E. Animals shall be kept in a building between the hours of 10 p.m. and 8 a.m.

720 Stables

A. **Commercial Stables**. Commercial stables shall maintain a one hundred (100) foot setback from any property line. The maximum structure height is thirty-five (35) feet.

B. **Private Stables.**

1. The site, lot or parcel accommodating a private stable shall have a minimum of ten (10) acres plus at least one (1) acre of additional land for each full grown horse, in excess of two (2).

2. The buildings shall be located not less than one hundred (100) feet from all property lines.

3. All exercise areas, grazing areas and similar areas for the corralling of the horses shall be adequately fenced to ensure the containment of the horses.

721 Site Unit Condominiums

A. **Intent.** The intent of this Special Land Use is to provide minimum standards and guidelines for the review of Site Unit Condominium projects so they will comply with accepted planning and engineering standards applicable to similar forms of development. It is further intended that this permitted use will encourage a more creative approach to development through the planned reduction or grouping of lots while maintaining the overall density of the zoning district.

B. **Plans.** Site Unit Condominiums shall be submitted for site plan review according to the guidelines set forth in **Article 5** of this Ordinance. The plan submitted shall include:

1. Condominium Subdivision plan as described in the Michigan Condominium Act or Site Plan as described in **Article 5** of this Ordinance.

2. A plan delineating all natural features on the site including, but not limited to flood plains, wetlands and woodlands areas.

3. A copy of the Master Deed and any other restrictive covenants concerning the project.

4. A copy of any easements, leases or other agreements involving the project.

C. **Review Procedure.** The review procedure shall consist of the following two steps:

1. **Preliminary Plan Review**. In the preliminary review phase, the Planning Commission shall review the overall plan for the site including basic road and unit configurations and the conformance of the plans with all applicable provisions of the West Traverse Township Zoning Ordinance. Plans submitted for preliminary review shall include information specified in **Subsection B**. A Public Hearing will be scheduled as required in **§907.**

2. **Final Plan Review**. Upon receipt of preliminary plan approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the Planning Commission. Final plans shall include the Condominium Subdivision Plan. Such plans and information shall be reviewed by the Township attorney, planner and engineer where applicable.

D. **Private Streets.** If a project is proposed to have private streets, the Township Planning Commission may require that the private streets be developed to the minimum design, construction, inspection, approval and maintenance requirements of the Emmet County Road Commission. The area dedicated to private roads may be included in the total site area for purposes of density calculations. The area dedicated to public roads shall be excluded.

E. **Master Deed Contents.** All provisions of the project that are approved or required by the Township Planning Commission must be incorporated in the Master Deed for the project.

F. **Zoning District Requirements**

1. The development of all Site Unit Condominiums shall observe all applicable requirements of the zoning district within which the project is located including, but not necessarily limited to, yard setback, minimum floor area, density, accessory buildings and permitted uses, but not including lot size. Setback requirements shall apply to private as well as public roads.

2. For the purposes of these regulations, each condominium unit in a site condominium shall be considered as a single zoning lot and shall comply with all regulations of the zoning district in which it is located.

G. **Set Aside Area.** For all areas gained through the reduction or grouping of lots, an equal area shall be set aside for the exclusive common use of the lot owners or residents within the development. This area shall be under legal procedure which shall grant a covenant or deeded interest therein so that it shall be assured of remaining undeveloped.

722 Reserved

This Section is reserved for future use.

723 Helicopter Landings and Takeoffs

Helicopter landings and takeoffs are permitted within West Traverse only if these activities are performed at a heliport that meets all requirements of the **Federal Aviation Administration (FAA)** and State of Michigan and that is otherwise established as a permitted Special Land Use in accordance with this Ordinance. Such a Special Land Use shall only be considered in the A-1 and A-1-A Agricultural and Forest Districts and in the C-1 Commercial-Light Industrial District of the Township. It shall not be considered or permitted in any other zoning district within the Township.

This Subsection shall not apply to the use of a helicopter relating to emergency evacuation. This Subsection shall also not apply to occasional military, Coast Guard, fire-fighting or police related landings or takeoffs for emergency purposes. However, repetitive landings and takeoffs by any organization shall require the use of a heliport located in accordance with the provisions of this Ordinance.

A. No provision of this subsection of this Ordinance shall contravene or circumvent the Federal Aviation Regulations as they pertain to the operations of helicopters, or the federal reporting requirements stipulated for the establishment of helicopter landing areas.

   Any applications, determinations or other documentation submitted to or provided by the FAA in connection with the proposed establishment of a heliport pursuant to this Ordinance shall be submitted along with any application for a Special Land Use permit under this subsection.

B. A proposed heliport must have an unobstructed takeoff and landing area in accordance with all Federal, State and local regulations. The effect or ground effect of takeoffs, landings, hovering or flights of a helicopter must not create a hazard to the property, structure or growth of an abutting property owner or occupant.

C. A proposed heliport in an agricultural district shall be set back at least five hundred (500) feet from any property lines. A proposed heliport in a commercial district shall be set back at least one hundred (100) feet from any property lines and two hundred-fifty (250) feet from any structure located on any adjacent or nearby property that is for human occupancy. The only permitted exception to these setback requirements shall be if one of the boundaries of the property is a lake, then the setback from that boundary shall be upland of any sand dunes and dune vegetation and at least sixty (60) feet from the ordinary high water mark.

D. No helicopter engine start, run-up, taxiing, takeoff, hovering or landings will be permitted between 7:00 p.m. or one (1) hour before official sunset, whichever is earlier, and 8:00 a.m., all as established by local time.

E. All takeoffs, hovering and landings shall be conducted only under FAA defined visual flight rule (VFR) weather conditions.

F. No more than two (2) takeoffs and two (2) landings per day shall occur at any heliport within the Township, and no more than five (5) takeoffs and five (5) landings per calendar week shall occur at any heliport within the Township.

G. A helicopter shall not have its engine(s) in operation for more than five (5) minutes following any landing and for more than ten (10) minutes upon any startup.

H. Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, the more stringent limitation or requirements shall govern and prevail.

I. Lawfully established prior nonconforming uses of land within the Township for helicopter takeoffs and landings shall be subject to the **Subsections D, F and G** of this Section concerning the times, frequency and duration of helicopter operations. This is applicable to the extent that such prior nonconforming uses have not previously exceeded those Subsections. The provisions of those Subsections shall apply regardless of the zoning district in which any lawfully established prior nonconforming use is located. Furthermore, there shall be no expansion of any prior nonconforming use of land for helicopter takeoffs and landings without full compliance with the provisions of this Ordinance.

J. If any provisions of this Ordinance or the application thereof to any persons or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are declared to be severable.

724 Wind Energy Systems (WES's)

724:1 Wind Energy Systems (On-Site).

Wind Energy Systems (WES's or WES singular) may be located and permitted only if all of the following standards are complied with:

A. **Special Land Use - Planning Commission Review.** On-Site WES's require a Special Land Use Permit pursuant to **§603** following a duly noted Public Hearing and notification of land owners within 300 feet of the parcel upon which the WES will be located.

B. **Minimum Site Area**. The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this Ordinance.

C. **Setbacks.** All WES's shall be set back a distance equal to one and one-half times the height of the WES from the owner's property line (for on-site WES's) or from the property lines of adjacent non-leased properties including public right-of-ways (for utility grid WES's).

D. **Maximum Height.**

1. **WES's up to 120'**. The maximum height for On-site WES's shall be sixty (60) feet from the ground to the top of the blade or tower, whichever is greater. The Planning Commission may approve an increased height for On-site WES's not to exceed one hundred twenty (120) feet, if the following conditions are met:

   a. The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity and/or reduce turbulence.

   b. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the WES given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.

   c. The increased height will not result in increased intensity of lighting on the tower due to FAA requirements.

2. **WES's over 120'.** On-site WES's over one hundred twenty (120) feet in height shall require a Special Land Use Permit and shall be treated as a Utility Grid System, and shall follow all requirements of **§724:2.**

3. The maximum height for Utility Grid WES's and Wind Assessment Systems shall be as described in **§724:2.**

E. **Minimum Rotor Wind Vane or Blade Clearance**. The lowest point of the arc created by rotating wind vanes or blades on a Wind Energy System shall be no less than sixteen (16) feet. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.

F. **Maximum Noise Levels**. Any proposed Wind Energy System shall produce sound pressure levels that are no more than fifty-five (55) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES.

G. **Maximum Vibrations**. Any proposed Wind Energy System shall not produce vibrations humanly perceptible beyond the property on which it is located.

H. **Shadow Flicker.** The facility shall be designed such that shadow flicker will not fall on or in an existing off-site dwelling. Shadow flicker expected to fall on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:

   1. The flicker will not exceed thirty (30) hours per year; and

   2. The flicker will fall more than one hundred (100) feet from an existing residence; or

3. The traffic volumes are less than five hundred (500) vehicles per day on the roadway.

I. **Transmission Lines**. The on-site electrical transmission lines connecting the Wind Energy System to the public utility electricity distribution system shall be located underground.

J. **Interference with Commercial/Residential Reception**. Any Wind Energy Systems shall be constructed and operated so that they do not interfere with television, microwave, navigational or radio reception.

K. **Landscaping**. Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.

L. **State or Federal Requirements**. Any proposed Wind Energy System shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the State or Federal government with the authority to regulate Wind Energy Systems or other tall structures in effect at the time the permit is approved.

M. **Safety.** All WES's shall have automatic braking, governing or a feathering system to prevent uncontrolled rotation or over speeding. All WES's shall have lightning protection.

N. **Visual Impact**. All WES's shall meet the following requirements:

1. In order to minimize visual impact, each WES shall be a non-obtrusive color to blend with the natural surroundings.

2. Each WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.

3. Each WES shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. Each WES shall be designed to aesthetically complement the color and design of any existing WES within a one (1) mile radius.

O. **Complaint Resolution**. The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude West Traverse Township from acting on a complaint.

724:2 Utility Grid Wind Energy System(s) and Wind Site Assessment Systems.

(Amended 6/13/23; Effective 6/30/23)

Utility Grid WES's are designed and built to provide electricity to the electric utility grid. Utility Grid WES's shall be considered a Special Land Use and require a Special Land Use Permit according to **Article 6** of this Zoning Ordinance. Utility Grid WES's applications and projects, and Wind Site Assessment systems, shall comply with the following standards.

A. **Site Plan Review.** A site plan and a site plan review, meeting the requirements of **Article 5** of the West Traverse Zoning Ordinance, shall be required. The application shall also include information which shows how the WES will meet the following standards:

1. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

2. A copy of the Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

3. Maps shall be presented showing all of the following:

   a. The physical features and land uses of the project area, both before and after construction of the proposed project.

   b. Project area boundaries.

   c. The location, height, dimensions, color and materials of all existing and proposed structures and fencing.

   d. The location, grades and dimensions of all temporary and permanent on-site and access roads from the nearest County or State maintained road.

   e. All new infrastructure above ground related to the project.

4. **Insurance**. Proof of the applicant's public liability insurance. This insurance shall be maintained throughout the life of the project

5. **Sound Pressure Level**. Copies of modeling and analysis report.

6. **Certifications.** Certification that applicant has complied with or will comply with all applicable State and Federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at time of the application.

7. **Visual Impact.** Visual simulations of how the completed project will look from a minimum of four viewable angles.

   Each WES, except for anemometer towers, shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. Anemometer towers may, for up to three (3) years, be lattice type towers and may use guy wires.

8. **Shadow Flicker.** The applicant shall provide a shadow flicker model for any proposed WES. The model shall:

   a. Map and describe within a one-mile radius of the proposed project site the topography, existing residences, locations of other structures, wind speeds and directions, existing vegetation and roadways.

   b. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speeds.

   c. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations.

   d. Calculate the total number of hours per year of flicker at all locations.

   e. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems, including, but not limited to, a change in siting of the facility, a change in the operation of the facility or grading or landscaping mitigation measures.

      The facility shall be designed such that shadow flicker will not fall on or in any existing dwelling. Shadow flicker expected to fall on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:

      (1) The flicker will not exceed thirty (30) hours per year; and
      (2) The flicker will fall more than one hundred (100) feet from an existing residence; or
      (3) The traffic volumes are less than five hundred (500) vehicles per day on the roadway.

9. **Height.** The minimum vertical blade tip clearance from grade shall be forty (40) feet for a WES employing a horizontal axis rotor. The maximum height for Utility Grid Wind

Energy Systems and Wind Site Assessment Systems shall be one hundred ninety-nine (199) feet from grade.

10. **Maximum Noise Levels**. Any proposed Wind Energy System shall produce sound pressure levels that are no more than fifty-five (55) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES. A noise report shall be prepared by a qualified professional and shall include the following, at a minimum:

    a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation.

    b. Description and map of the noise sensitive environment, including any sensitive noise receptors, i.e. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance within two (2) miles of the proposed facility.

    c. A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise (including seasonal variation) and the affected sensitive receptors located within two (2) miles of the proposed project site. Potential sensitive receptors at relatively less windy or quieter locations than the project shall be emphasized and any problem areas identified.

    d. A description and map of the cumulative noise impacts with any problem areas identified.

    e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.

11. **Soil Conditions**. A proposal for any Wind Energy System or anemometer tower shall be accompanied by a report of the soils present on the site based on soil borings, and a description of the proposed foundation size, materials and depth.

12. **Sign.** A sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the WES. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. No Wind Energy System tower or anemometer tower or site shall include any advertising sign.

13. **Lighting.** WES's shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen shall be the lowest intensity allowable under FAA regulations in addition to the following:

a. Radar-activated obstruction lighting system shall be utilized, if available and if approved by the FAA.

b. All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.

c. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.

d. May be a red top light that does not pulsate or blink.

e. Where acceptable to the FAA, the Township will approve white lights over red lights, and steady lights over strobed or intermittent lights.

f. The Planning Commission may require design changes in order to lessen the visual clutter associated with the siting of multiple wind turbines with non-complementary, inconsistent design within sight of each other.

B. **Removal of Abandoned or Unsafe WES's.** If a WES owner or operator intends to abandon and, in fact, does abandon a WES by not operating it for a continuous period of twelve (12) months, it shall be considered abandoned. Any WES found by the Planning Commission to be unsafe or not in compliance with the standards related to noise or shadow flicker shall be found to be in violation of the permit. The owner of any WES that is abandoned or in violation of the permit shall remove the same within twelve (12) months of receipt of notice from the Township of such abandonment or violation. In addition to removing the Wind Energy System or anemometer tower, the owner shall restore the site of the WES to its original condition prior to location of the WES, subject to reasonable wear and tear. Any foundation associated with a WES shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned WES within the twelve (12) month period provided in this subsection shall be grounds for the Township to remove the WES at the owner's expense. The Planning Commission shall require the applicant to provide a performance guarantee equal to the reasonable cost of removing the WES and attendant accessory structures as a condition of a permit given pursuant to this Section pursuant to **Section 906** (see **subsection D** below).

C. **Complaint Resolution**. The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude West Traverse Township from acting on a complaint.

D. **Decommissioning Plan**. A decommissioning plan is required at the time of application.

(1) The decommissioning plan shall include:

a. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed,

retained (e.g. access drive, fencing) or restored for viable reuse of the property consistent with the Zoning District.

b. The projected decommissioning costs for removal of the WES and soil stabilization.

c. The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee in the form of surety bond, irrevocable letter of credit or cash deposit).

(2) A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project and approved by the Township Board. A wind energy facility owner may at any time:

a. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or

b. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

725 Outdoor Wood Furnaces

725:1 Intent.

Outdoor Wood Furnaces are a leading cause of citizen complaints and, if not operated properly, release many toxic chemicals, including dioxin, metals, benzene, mercury, lead, hydrogen cyanide and sulfur dioxide. These furnaces are designed for long burn times between loading and typically have chimney heights less than ten (10) feet. Restricted airflow, low operating temperatures and large fuel loads frequently result in excessive smoke and toxic air pollutants laden with particulates, which can cause both acute and chronic health problems. Therefore, these Outdoor Wood Furnace regulations are adopted in order to protect the health, safety and welfare of West Traverse Township residents.

725:2 Regulations for Outdoor Wood Furnaces.

A. No person shall, from the effective date of this Ordinance, construct, install, establish, operate or maintain an Outdoor Wood Furnace other than in compliance with the applicable sections of this Ordinance

B. A zoning permit shall be obtained from the Township prior to the construction, installation or operation of an Outdoor Wood Furnace.

C. Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Ordinance. In the event of a conflict, the requirements of this Ordinance shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

D. **Nonconforming Outdoor Wood Furnaces**. All existing Outdoor Wood Furnaces that are nonconforming uses because they are not allowed in the district in which they are located may be replaced by a new Outdoor Wood Furnace provided they are on the list of EPA-certified units and comply with all regulations within this Section.

E. The owner of any new Outdoor Wood Furnace shall produce the manufacturer's owner's manual or installation instructions to the Township Zoning Administrator to review prior to installation.

F. All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.

G. If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, as defined by local or State law, the following steps shall be taken by the owner:

1. Modifications made to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace or both.

2. Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

725:3 Substantive Requirements.

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

A. All newly installed Outdoor Wood Furnaces shall be on the list of **EPA-certified units** at the time of installation and shall meet all EPA performance standards which are in effect at the time of installation.

B. Fuel burned in any Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.

C. The following fuels are strictly prohibited in new and existing Outdoor Wood Furnaces:

1. Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.

2. Rubbish or garbage, including but not limited to food wastes, food packaging and food wraps.

3. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.

4. Rubber including tires or other synthetic rubber-like products.

5. Newspaper, cardboard or any paper with ink or dye products unless used as a starting fuel.

6. Any other items not specifically allowed by the manufacturer or this Section.

7. Lawn clippings, leaves or plants.

8. Waste petroleum products.

9. Paint and paint thinners.

10. Manure and/or fecal matter of any kind.

11. Asphalt products.

D. **Setbacks and Chimney Heights**.

1. The Outdoor Wood Furnace shall be located at least fifty (50) feet from the property line.

2. The Outdoor Wood Furnace shall be located at least one-hundred (100) feet from any residence that is not served by the Outdoor Wood Furnace.

3. The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

4. The chimney of any new Outdoor Wood Furnace shall extend at least two (2) feet above the peak of any residence not served by the Outdoor Wood Furnace located within three-hundred (300) feet of such Outdoor Wood Furnace.

E. Outdoor wood-pellet furnaces shall be installed per the manufacturers' recommendations.

F. Outdoor Wood Furnaces shall not be installed or used in the **R-2**, **S-1**, or **C-1** Districts.

G. Outdoor Wood Furnaces shall not be installed or used in the **I-1** District unless the furnace receives Planning Commission approval or conditional approval under **§604**, Standards for Special Land Uses and Structures, of the West Traverse Township Zoning Ordinance.

726 Medical Marihuana Primary Caregiver

726:1 Intent and Purpose.

As a result of the enactment of the **Michigan Medical Marihuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, *et seq.*, and its administrative rules, R 333.101, *et seq.*,** West Traverse Township intends to provide reasonable land use regulations associated with the medical use of marihuana in accordance with the **MMMA** to:

A. Protect public health, safety and welfare.

B. Provide adequate separation of primary caregiver facilities from schools, churches and any other areas where children congregate including, but not limited to, day care facilities, public beaches and athletic fields.

C. Mitigate negative secondary impacts associated with medical marihuana use and handling in residential areas.

726:2 Regulations for Qualifying Patients.

The medical use of marihuana by a qualifying patient in that qualifying patient's dwelling is hereby recognized as an accessory use to the principal residential use of the dwelling and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

A. The qualifying patient must be issued and at all times must maintain a valid registry identification card by the Michigan Department of Community Health, or any successor agency, under the provisions of **MMMA**.

B. All marihuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the qualifying patient.

C. If a room with windows within the dwelling is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties and must not be visible from adjacent streets or public ways.

D. All activities of the qualifying patient shall be in strict accord with all State law and regulations.

726:3 Regulations for Primary Caregivers.

The medical use or handling of marihuana by a primary caregiver at a dwelling in which a primary caregiver resides is hereby authorized as an accessory use to the principal residential use of the dwelling and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

A. The primary caregiver must be issued and at all times must maintain a valid registry identification card by the **Michigan Department of Health and Human Services**, or any successor agency, under the provisions of the **MMMA**, and all activities of the primary caregiver shall be in strict accord with all State law and regulations.

B. All marihuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the primary caregiver.

C. If a room with windows within the dwelling is utilized to grow marihuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

D. No more than one (1) primary caregiver shall be permitted to provide primary caregiver services to qualifying patients within a dwelling.

E. No marihuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients, except to a qualifying patient who resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marihuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. In addition, all marihuana for medical use delivered to a qualifying patient shall be packaged so the public cannot see or smell the marihuana.

F. No marihuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients, except by a qualifying patient who resides with the primary caregiver at the dwelling.

G. A dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients shall display indoors and in a manner legible and visible to his/her qualifying patients, a notice that no dispensing or consumption of marihuana for medical use shall occur at a dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients, except to or by a qualifying patient who resides with the primary caregiver at the dwelling.

H. A dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients shall not have any outdoor signage, symbols, pictures or similar features visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the dwelling.

I. No primary caregiver facility shall be located in violation of any of the following spacing requirements:

1. 500 feet from any church or place of worship and its accessory structures.

2. 1,000 feet from any public or private school.

3. 1,000 feet from any preschool, child care or daycare facility and its accessory structures.

4. 500 feet from any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers and other public places where children may congregate.

The above spacing requirements shall be from lot line to lot line.

J. The portion of a dwelling in which a primary caregiver is providing primary caregiver service to qualifying patients, including any room or area utilized to grow marihuana for medical use, shall contain electrical service and wiring meeting the applicable requirements of the electrical code in effect in Emmet County.

726:3 Relationship to Federal Law.

Nothing within this Section is intended to grant, nor shall it be construed as granting immunity from Federal law. Further, nothing in this Ordinance permits activities that are otherwise illegal under State or local law.

726:4 Prohibited Facilities

All commercial medical marihuana facilities including Provisioning Centers, Growers, Processors, Secure Transporters, and Safety Compliance Facilities as defined in the **Medical Marihuana Facilities Licensing Act 2016 PA 281, as amended,** are prohibited.

727 Planned Unit Development (PUD)

727:1 Authorization.

A PUD may be authorized in the A-1, A-1-A, R-1, R-1-A and R-2 Districts through the approval of a Special Land Use as regulated in **Article 6** of this Ordinance, in addition to the requirements of this **§727**.

727:2 Intent.

It is the intent of this Special Land Use to provide a more desirable living environment by retaining the rural and natural character of the Township through the preservation of open spaces, woodlands, streams, ponds, water frontage, hills and similar natural assets. It is further intended that this use encourage a more creative approach to residential development through the planned reduction or grouping of lots while maintaining the overall density of the zoning district. Planned Unit Developments (PUDs) must be structured and designed to advance the following goals:

A. To encourage a more imaginative planned community through the application of comprehensive land use planning techniques at the project level.

B. To provide for a controlled mix of compatible land use types when coordinated into an overall property use plan without the incidence of spot zoning.

C. To allow clustering of uses to reduce development costs and provide more protection for prime farmland, natural features, open spaces, historic resources and to enhance the character of the community.

D. To coordinate development and encourage efficiency with respect to land use, natural resources, energy, roads, pedestrian ways, public services and utilities.

E. To encourage a necessary balance between physical improvements, community needs and site amenities such as scenic views, open space, recreation areas and environmentally sensitive areas.

F. To encourage innovation in land use in variety and design, layout or type of structures constructed.

G. To allow more flexibility in land development with respect to building setbacks, building densities and other standard zoning requirements.

H. To encourage a unified and hence potentially more desirable development of large areas of land based on a Project Master Plan.

I. To provide a forum for communication between the developer, community officials and the public concerning PUD projects.

727:3 General Provisions.

In addition to all other requirements to which any Special Land Use must conform, any PUD shall meet the following standards:

A. The development shall be administered and developed as an integral unit by one or more proprietors who separately or collectively own the project.

B. Residential density shall not exceed the maximum for the zoning district in which it is located. In the A-1 and A-1-A Districts, the maximum density is one dwelling per two (2) acres. In the R-1 and R-1-A Districts, the maximum density is one dwelling per one (1) acre. In the R-2 District, the maximum density is one unit per 22,000 square feet.

C. The area dedicated to private roads may be included in the total site area for purposes of density calculations. The area dedicated to public roads shall be excluded.

D. For all area gained through the reduction or grouping of lots, an equal area shall be set aside for the exclusive common use of the lot owners, residents within the development or for

the general public. This area shall be under legal procedure which shall grant a covenant or deeded interest therein so that it shall be assured of remaining undeveloped.

E. The proposed Planned Unit Development shall minimally meet all standards in **Section 604** as well as Federal, State, County and Township laws or ordinances including the provisions of this Ordinance except as specifically exempted.

727:4 Permitted Uses And Structures.

Except as noted, PUD uses and structures may include any of the range of uses and structures allowed by right or by Special Land Use within the zoning district(s) where the PUD is proposed. Such uses may be placed either singularly or in combination. In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

Within any PUD, no structure shall hereafter be used, erected, converted or externally altered in whole or in part, if said use is not in accordance with the approved PUD plan.

727:5 Area Regulations.

Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a State agency, all structures shall meet the following area regulations:

A. **Perimeter Setbacks.** The setback maintained along the perimeter of the PUD shall be at least a fifty (50) foot buffer strip. The Planning Commission may require a greater perimeter setback in order to assure that the use does not negatively impact adjoining property outside the PUD. The Planning Commission may also reduce the required perimeter setback on the road side upon finding that the reduced setback will not be detrimental to the public health, safety or welfare of future occupants of the PUD, the surrounding neighborhood or the Township as a whole.

   No parking areas shall be allowed in the perimeter setback. With the exception of access drive, non-motorized trails, lighting, sidewalks and curbing, the perimeter setbacks shall be landscaped and maintained. Access drive shall not be routed in the setback area like a perimeter road, but can go through or cross the PUD setback.

B. **Open Space.** A PUD project shall have open space of no less than thirty (30) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. A covenant or deeded interest for this open space area shall be recorded with the County Register of Deeds so that it shall be assured of remaining undeveloped. Copies of recorded documents shall be filed with the Zoning Administrator.

   Dedicated open space does not include parking lots, private or public roads or public right of ways, but may include flood plain areas and wetlands up to a maximum of twenty (20) percent of the required open space. In addition, landscaped areas devoted to perimeter

setbacks can be included as dedicated open space.

C. **Height Regulations.** The height of all buildings and structures within a PUD project shall not exceed thirty-five (35) feet.

D. **Other Dimensional Regulations**. To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, alter the other dimensional regulations, as required by the zoning district, including, but not limited to minimum lot size, density and setbacks within the PUD project.

1. The Planning Commission may approve changes in dimensional regulations, if and only if it finds that the proposed dimensional regulations will not be detrimental to the public health, safety or welfare of future occupants of the PUD, the surrounding neighborhood or the Township as a whole.

2. Prior to approving a change in dimensional regulations, the Planning Commission may require the applicant to demonstrate through bonafide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments and infrastructure impact studies, that the change will not result in significant impacts to the PUD project and PUD occupants, the surrounding area and the Township as a whole.

3. Density increases may be approved for the creation and/or preservation of open space, the protection of the natural environment or for conservation of natural resources and energy. In no case shall densities be increased by more than fifteen (15) percent. The following table shall be used as a guide:

Open Space	Density Increase
30%	0%
35	5
45	10
55	15

Density bonuses are subject to Northwest Michigan Community Health Agency approval for water supply and sewage disposal.

4. Required parking shall not be reduced by more than thirty (30) percent of the parking normally required of the proposed use. In no case shall detached single family dwellings have less than two (2) on site (off street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.

727:6 Environmental Design Requirements.

The Planning Commission may require that the site be designed to preserve and protect, to the greatest extent feasible, existing natural or unique features such as, but not limited to, mature

trees, significant vegetation, waterways, steep slopes or scenic views. The Planning Commission may also require additional plantings to be added and maintained in order to minimize erosion potential or to increase aesthetic appearance of the development. Plantings that do not survive must be replaced no later than the next nearest planting season.

727:7 Traffic Circulation.

Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access and separation of vehicles from pedestrians and enhance the overall physical design of the PUD. Emergency design and safety standards should be adhered to. These standards apply to the location of residences relative to the community and the overall design of the PUD.

727:8 Private Streets.

Private streets must be designed to accommodate anticipated traffic loads including volume, vehicular weight and size, speed, emergency vehicles and turning radius. The following residential street standards shall be adhered to, unless the Planning Commission permits modifications. The Planning Commission may approve modifications to these private street standards if it finds that the proposed changes will not be detrimental to the public health, safety or welfare of future occupants of the PUD, the surrounding neighborhood or the Township as a whole. All dead end streets shall have turnarounds adequate to serve emergency vehicles and snowplows.

Type of Street	Users Served	Required R-O-W (feet)	Width of Pavement (feet)
Residential dead end or Local Street	1-6 dwellings	30	20
	7-20 dwellings	35	20
	21-50 dwellings	40	20

727:9 Pre-Application Conference.

A. **Pre-Application Conference Mandatory.** A pre-application conference shall be held with the Planning Commission and/or Zoning Administrator for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Township with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's or Zoning Administrator's initial, but unofficial, response to the application. In no case shall any

representations made by the Planning Commission or Zoning Administrator at the pre-application conference be construed as an endorsement or approval of the PUD.

B. **Request for Pre-Application Conference.** A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time for the pre-application conference at a Planning Commission meeting. As part of the pre-application conference, the applicant shall submit nine (9) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation and proposed land use for the entire site.

727:10 Preliminary PUD Plan.

The preliminary PUD plan can be more general than the final plan, but shall contain adequate information and detail for Planning Commission analysis. Nine (9) copies of the preliminary PUD Plan shall be submitted, plus one (1) reduced size copy suitable for reproduction on the Township copier and one (1) electronic copy, along with a payment of a fee as established by resolution of the Township Board. At a minimum, the preliminary PUD plan shall contain the following:

A. Legal description of property.

B. A statement of the objectives of the planned development.

C. Explanation of the relationship of the PUD to the Township's Master Plan.

D. Phasing of all components of the project as well as future selling and/or leasing intentions.

E. Preliminary sign information, including location and size.

F. Required setbacks of the zoning districts.

G. An existing conditions map, including:

1. A property location map.

2. Property dimensions and boundaries.

3. Major tree stands and rock outcrops.

4. Bodies of water (streams, rivers, lakes, ponds).

5. Generalized soil conditions.

6. Other natural features.

7. Human made features including existing roads within and bordering the project, buildings, easements and utilities.

8. All major environmental features, such as major stands of trees and other vegetation, wetlands (both regulated and unregulated), flood plains, drainage ways, outcroppings, slopes of ten percent (10%) or more gradient and/or other surface features.

H. Location and type of proposed lighting on the site.

I. A site plan which meets the requirements of **Article 5.**

727:11 Final PUD Plan.

Within a period of not more than one (1) year from the date of approval of a preliminary PUD plan, the applicant must present to the Zoning Administrator the final PUD development plan. A Public Hearing shall be held by the Planning Commission, following the regulations of **Section 907.** All requirements and provisions of **Article 6, Special Land Uses**, shall be complied with. The Planning Commission may permit both a preliminary and final PUD plan review to occur at the same meeting for simple, single use PUDs. No PUD project can be approved until a Final Master Plan has been reviewed and given final approval and recommendation by the Planning Commission to the Township Board, who shall be the final reviewing and approval agency.

Prior to Planning Commission final review, the applicant must submit copies of the preliminary plan to government review agencies, as applicable, to gain compliance with health laws, drain laws, environmental laws, as well as rules governing road construction. Local fire protection agencies must also be contacted prior to the Planning Commission final review.

Drawings and plans presented in a general fashion in the preliminary phase shall be presented in detail for the final plan. The final PUD plan shall meet the requirements of **§504**, include all the elements of the preliminary PUD plan, all the changes and/or conditions stipulated by the Planning Commission, plus all of the following:

A. Payment of a fee as established by resolution of the Township Board.

B. A narrative statement describing, at a minimum:

1. The objectives of the proposed PUD and how they relate to the intent of a PUD as described in **§727:2** above.

2. The relationship of the proposed PUD to the Township's Master Plan.

3. Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.

4. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.

5. Location, type and size of areas to be dedicated for common open space.

6. Tabulation of land area ratios.

7. An impact statement meeting the requirements of **§504:2** of the Ordinance.

C. Nine (9) copies of the development plan in addition to one (1) reduced size copy suitable for reproduction on the Township copier and one (1) electronic copy. If the PUD is to be developed in phases, the development plan shall show all phases. The development plan shall contain all of the following:

1. Applicant's name, address and telephone and/or fax numbers.

2. Name, address, telephone and fax numbers of the individual and firm who prepared the plan.

3. Name of development, scale of the plan drawing and north arrow.

4. Location, shape, area and dimension of the lot, lots or acreage to be used, including a legal description of the property and the tax identification number(s) for the property.

5. Present zoning of the subject property and adjacent properties.

6. All public and private right-of-ways and easement lines located on and adjacent to the subject property which are proposed to be continued, created, relocated or abandoned, including the proposed use(s) and width(s) of all right-of-ways and easements. If the project is proposed to have private streets, the Township Planning Commission may require that the private streets be developed to the minimum design, construction, inspection, approval and maintenance requirements of the Emmet County Road Commission.

7. Location and total number of curb cuts, driveways, off street parking spaces and loading spaces, including the dimensions of a typical parking space and the location(s) of barrier free parking spaces.

8. Proposed exterior building dimensions, both horizontal and vertical, gross floor area, number of floors and proposed uses.

9. Location, dimensions and uses of all existing and proposed structures, walks, malls, open areas, walls, fences, screen plantings and/or other landscaping.

10. Existing and proposed sewer, water and other utility lines, plus location and type of sewage treatment facility, water source and fire hydrants.

11. Area of subject property to be covered by buildings.

12. Location, size, height and orientation of all signs.

13. Final plans for surface water drainage, including surface and subsurface facilities.

14. Percentage of the total site devoted to open space and the proposed uses of that open space.

15. Proposed PUDs that include residential uses shall include the following additional information:

    a. Minimum floor area of dwelling units.
    b. Total number of dwelling units proposed.
    c. Number of bedrooms per dwelling unit.

D. Final landscape plans.

E. Final building plans.

F. Final sign plans.

G. All common open space areas, greenbelts, transition areas and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.

H. All designated and required open space shall be under legal procedure which shall grant a covenant or deeded interest therein so that it shall be assured of remaining undeveloped.

I. The PUD's ownership, management and construction shall have been determined and documented and, where phased, a plan to demonstrate development continuity shall be presented.

J. All arrangements for design, construction, maintenance and operation of utility, septic or waste treatment systems, soil erosion and storm water control shall be presented.

K. On site circulation routes for vehicles, pedestrians, parking lots, bicycles and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.

L. Any existing or proposed deed restrictions, easements, agreements, condominium documents, Articles of Incorporation or covenants pertinent to the project property shall be presented. Actual final filing of the documents need not occur until after final site plan review, but before a zoning permit is issued.

M. Site plans and applicable engineering drawings shall be sealed by a professional engineer, surveyor, architect or landscape architect.

N. Such other information regarding the development area that may be required to determine conformance with this Ordinance.

727:12 Public Hearing and Notices.

Following receipt of a complete preliminary application, the Planning Commission shall hold at least one (1) public hearing pursuant to **§907**. A public hearing shall be held at both the preliminary and final PUD reviews. The Planning Commission, in certain cases as stipulated in **§727:11** above, may allow the preliminary and final review to occur at the same meeting.

727:13 Planning Commission Review of Final PUD Plan.

Following the public hearing of the final PUD plan, the Planning Commission shall review the PUD application and shall postpone for more information or recommend to the Township Board approval, denial or conditional approval. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on the standards. *Amended 3/23/21; Effective 4/8/21*

727:14 Standards for PUD Approval and Waiver of Standards.

A. **General Standards.**

1. The Planned Unit Development shall be consistent with the Township Master Plan.

2. The Planned Unit Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

3. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement.

4. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation, if dead, shall be replaced.

5. The Planned Unit Development shall not change the essential character of the surrounding area, unless such change is consistent with the Township Master Plan.

6. The Planned Unit Development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff odors, light, glare or other nuisance.

7. The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements which will increase the capacity sufficient to service the development have already been scheduled for completion.

8. The Planned Unit Development shall be designed to preserve public vistas and existing important natural, historical and architectural features of significance within the development.

9. The Planned Unit Development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.

10. The Planned Unit Development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.

11. The Planned Unit Development shall not result in greater storm water runoff to adjacent property after development than before development for up to a 50 year storm. The open space shall be provided with ground cover suitable to control erosion and vegetation that no longer provides erosion control shall be replaced.

12. The design of the Planned Unit Development shall exhibit a reasonably harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and façade materials so as to create an adverse effect on the stability and value of the surrounding area.

13. The design of the Planned Unit Development shall ensure that outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.

14. The Planned Unit Development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services and drainage or erosion control.

15. A copy of the development plan, along with a copy of all related documentation, shall be delivered to the Fire Chief for review as relates to Public Safety and Fire related issues. The Fire Chief shall have the responsibility to ensure all streets and access routes, public or private, are adequate for emergency vehicle turning radius, vehicle

weight and vehicle size. In the event the development plan provides for a combination of four (4) or more dwellings, commercial and/or industrial structures within any given area, the Fire Chief may require that an in-ground water holding tank be installed by the developer(s), at their sole cost, for use by the Fire Department for fire suppression purposes. Additional water holding tanks may be required depending upon the overall size or volume of the proposed development. The Fire Chief shall provide the developer(s) specifications covering any required water holding tank(s).

16. The Planned Unit Development shall meet the standards of other governmental agencies, where applicable.

17. Where a proposed development is of sufficient complexity or there are circumstances where a reasonable visual inspection may not be able to confirm compliance with approved plans (for example, in instances of underground improvements, critical grading or slope change, complex curves, areas of critical tolerances or other practical difficulties), the Planning Commission may require the applicant provide a set of the approved plans bearing the seal of the project's engineer or architect and certification by the project's engineer or architect that the project has been completed in compliance with the approved plans.

B. **Waiver of PUD Standards.** The Planning Commission and/or the Township Board may waive any of the standards for a PUD contained in **§727:14 (A)** above where all of the following findings are documented along with the rationale for the decision:

1. No good public purpose shall be achieved by requiring conformance with the standards sought by the applicant to be waived.

2. The spirit and intent of the PUD provisions will still be achieved.

3. No nuisance will be created.

727:15 Continuing Adherence to Approved PUD Application.

Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

727:16 Recording of Action.

The applicant shall record an affidavit, acceptable to the Township attorney, with the Emmet County Register of Deeds that contains the full legal description of the project site, specifies the date of final Township approval, specifies the description or identification number which the Township has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Township approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the Township attorney that contains all of the information described above, describes the amendment,

specifies the date the Township approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Emmet County Register of Deeds and copies of recorded documents filed with the Zoning Administrator.

727:17 Planned Unit Development Permit.

Following final approval of a PUD application and submittal, to the Zoning Administrator, of all recorded documents required in subparagraph 16 above, a permit may be obtained from the Zoning Administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable County, State and Federal permit requirements. The failure of the applicant to obtain any required County, State or Federal permit shall render the PUD permit issued under this subsection void.

727:19 Expiration of Approved PUD; Extension.

A. An approved PUD shall expire one (1) year following final approval by the Township, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:

   1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and

   2. The PUD requirements and standards that are reasonably related to the development have not changed.

B. If the PUD approval expires pursuant to **Subsection A** above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the Township, following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

727:18 Amendment of an Approved PUD.

An amendment to an approved PUD may be made pursuant to **§507**.

728 Sexually Oriented Businesses

728:1 Intent.

A. **Purpose.**

It is the purpose of this Article to regulate sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of West Traverse Township, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the Township. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

B. **Findings and Rationale.**

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Township Board of Trustees, and on findings, interpretations and narrowing constructions incorporated in the cases of *City of Littleton v Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v Pap's A.M., 529 U.S. 277 (2000); City of Renton v Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v American Mini Theatres, 427 U.S. 50 (1976); Barmes v Glen Theatre, Inc., 501 U.S. 560 (1991); California v LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v Bellanca, 452 U.S. 714 (1981); Deja Vu of Nashville, Inc. v Metropolitan Gov't of Nashville and Davidson County, 2006 WL 2882969 (6th Cir. 2006); Sensations, Inc. v City of Grand Rapids, No. 1:06-cv-300, R. 73, Opinion (W.D. Mich. Oct. 23, 2006); 729, Inc. v Kenton County, 2006 WL 2842884 (E.D. Ky. 2006); Deja Vu of Cincinnati, L.L.C. v Union Township Bd. of Trustees, 411 F.3d 777 (6th Cir. 2005) (enbanc); Fantasy Ranch, Inc. v City of Arlington, 459 F.3d 546 (5th Cir. 2006); City of Chicago v Pooh Bah Enterprises, Inc., 2006 WL 2827608 (Ill. 2006); Sensations, Inc. v City of Grand Rapids, 2006 WL 2504388 (W.D. Mich. 2006); Andy's Restaurant & Lounge, Inc. v City of Gary, 2006 WL2873027 (7th Cir. 2006); 181 South, Inc. v Fischer, 454 F.3d 228 (3rd Cir. 2006); Broncho's Entertainment, Ltd. v Charter Twp. of Van Buren, 421 F.3d 440 (6th Cir. 2005); Charter Twp. of Van Buren v Garter Belt, Inc., 258 Mich. App. 594 (2003); Jott Inc. v Clinton Twp., 224 Mich. App. 513 (1997); Michigan ex rel. Wayne County Prosecutor v Dizzy Duck, 449 Mich. 353 (1995); Z.J. Gifts D-2, L.L.C. v City of Aurora, 136 F.3d 683 (10th Cir. 1998); ILQ Investments, Inc. v City of Rochester, 25 F.3d 1413 (8th Cir. 1994); Kentucky Restaurant Concepts, Inc. v City of Louisville, 209 F. Supp. 2d 672 (W.D. Ky. 2002); Restaurant Ventures v Lexington-Fayette Urban County Gov't. 60 S.W. 3d 572 (Ky. Ct. App. 2001); World Wide Video of Washington, Inc. v City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Deja Vu of Nashville, Inc. et al. v Metropolitan Government of Nashville and Davidson County, 274 F.3d 377 (6th Cir. 2001); Ben's Bar, Inc. v Village of Somerset, 316 F.3d 702 (7th Cir. 203); Ctr. for Fair Public Policy v Maricopa County, 336 F.3d 1153 (9th Cir. 2003); Bigg Wolf Discount Video Sales, Inc. v Montgomery County, 256 F.*

Supp. 2d 385 (D. Md. 2003); Kentucky Restaurant Concepts, Inc. v Metro Gov't. Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); DLS, Inc. v City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Brandywine, Inc. v city of Richmond, 359 F.3d 830 (6th Cir. 2004); Currence v city of Cincinnati, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); Broadway Books v Roberts, 642 F. Supp. 486 (E.D. Tenn. 1986); Bright Lights, Inc. v City of Newport, 830 F. Supp. 378 (E.D. Ky. 1993); Richland Bookmart v Nichols, 137 F.3d 435 (6th Cir. 1998); Bamon Corp. v City of Dayton, 923 F.2d 470 (6th Cir. 1991); Triplett Grille, Inc. v City of Akron, 40 F3d 129 (6th Cir. 1994); O'Connor v City and County of Denver, 894 F.2d 1210 (10th Cir. 1990); Threesome Entertainment v. Strittmather, 4 F. Supp. 2d 710 (N.D. Ohio, 1998); Lady J. Lingerie, Inc. v City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); Gammoh v City of La Habra, 395 F.3d 1114 (9th Cir. 2005); In re Tennessee Public Indecency Statue, 172 F.3d 873 (6th Cir. Jan. 13, 1999)(table); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991, Houston, Texas – 1983, 1997; Phoenix, Arizona – 1979, 1995-98; Chattanooga, Tennessee – 1999- 2003; Los Angeles, California – 1977; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997, Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Amarillo, Texas – 1977; New York, New York Times Square – 1994; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota).

The Township Board of Trustees finds:

1. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter and sexual assault and exploitation.

2. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

3. Each of the foregoing negative secondary effects constitutes a harm which the Township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Township's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the Township's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the Township. The Township finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

728:2 Location of Sexually Oriented Businesses.

A. Sexually oriented businesses shall not be required to obtain a Special Land Use permit.

B. It shall be unlawful to establish, operate or cause to be operated a sexually oriented business in West Traverse Township in any zoning district other than the C-1 or I-1 zoning district.

C. No sexually oriented business may be established, operated or maintained within any PUD unless such use is or has been specifically noted as allowable in the PUD pursuant to appropriate notices, hearings and on site location plans.

D. No sexually oriented business may be established, operated or maintained within five hundred (500) feet of a residential zoning district per **§§ 306, 307 and 308**.

E. No sexually oriented business may be established, operated or maintained within one thousand (1,000) feet from any recognized house of worship, state licensed child care facility, public library, public park, public or private educational facilities serving persons age seventeen (17) or younger, cemetery or public assembly buildings including government offices. This buffer standard applies to any listed use, within or outside of the zoning boundaries of this Ordinance.

F. No sexually oriented business may be established, operated or maintained within one thousand (1,000) feet of a parcel occupied by any other sexually oriented business.

G. For the purpose of this Section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right of way associated with any of the land use(s) or zoning district identified in **Subsections D, E, and F** above.

H. No sexually oriented business may be established, operated or maintained in West Traverse Township if a person with an influential interest in the business has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Article.

I. No sexually oriented business may be established, operated or maintained in West Traverse Township if a person with an influential interest in the business has, in the previous five (5) years, had an influential interest in another sexually oriented business that (at a time during which the applicant had the influential interest in the other sexually oriented business) was declared by a court of law to be a nuisance.

728:3 Unlawful Activities; Scienter Required; Penalty; Equitable Remedies.

A. Nothing contained in this Article is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or municipal ordinance. It is unlawful and a violation of this Article for an operator to knowingly or intentionally violate the provisions of this Article or to allow, either knowingly or intentionally, an employee or a patron to violate

the provisions of this Article. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.

B. No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

C. No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six (6) feet from all patrons on a fixed stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.

D. A sexually oriented business which exhibits on the premises, through any mechanical or electronic image producing device, a film, video cassette, digital video disc or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements: the interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

E. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this Section, shall be given one hundred eighty (180) days from the effective date of this Ordinance to comply with the stage and building requirements of this Section. During said one hundred eighty (180) days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six (6) feet from all patrons.

F. No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

G. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

H. No person shall knowingly or intentionally sell, use or consume alcoholic beverages on the premises of a sexually oriented business.

I. No person shall knowingly allow a person under the age of eighteen (18) years on the premises of a sexually oriented business.

J. **Scienter.** This Section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Section. Notwithstanding anything to the contrary, for the purposes of this Section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this Section only if an officer, director or general partner, or a person who managed, supervised or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

K. **Sanctions; Equitable Remedies**. Any person, business, or entity violating or refusing to comply with any provisions of this Section shall be responsible for a municipal civil infraction. The sanction for a violation of this Section which is a municipal civil infraction shall be a civil fine in the amount provided in **§908** of this Ordinance, as amended, which is adopted by reference, plus costs, damages, expenses, and other sanctions as authorized under **Chapter 87 of the Revised Judicature Act, 1961 PA 236, as amended**. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling or other structure in which a sexually oriented business, as defined in this Article, is repeatedly operated or maintained in violation of the provisions of this Article, shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by West Traverse Township in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation. Notwithstanding the foregoing, the Township may employ any remedy available under the law or in equity to prevent or remedy a violation of any provision of this Article.

728:4 Severability.

This Article and each Section and provision of said Article hereunder, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Article, or the application thereof to any person or circumstance is held to be invalid, the remaining Sections or provisions and the application of such Sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such Sections and provisions would have been passed independently of such Section or provision so known to be invalid. Should any procedural aspect of this Article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Article.

729 Outdoor Storage of Materials/Goods for Sale & Storage of Accessory Equipment

A. **Display of goods to be sold at retail.** Such display is not to be storage, but only a sample of some items for sale at retail. The site plan shall indicate the proposed location and size of this display area.

B. **Outside Storage.** Outside storage of materials or goods for sale, currently licensed cars, trucks, equipment and materials necessary as an accessory to the principal use shall comply with the following conditions:

1. All storage will be located not less than fifty (50) feet away from any adjacent residential district.

2. All storage shall be in the rear yard except for retail sample display which may be in the front yard.

3. **Screening.** A fence, wall or screen of planted material shall enclose the storage area of non-retail display materials or goods, equipment, cars and trucks.

   1. **C-1 District.** The height and choice of fence, wall or screening and the requirements of decorative slats to be used with the fence to most appropriately screen the stored materials from view, shall be determined by the Planning Commission upon site plan review.

   2. **I-1 District.**

      a. The height and choice of fence, wall or screening and the requirements of decorative slats to be used with the fence to most appropriately screen the stored materials from view, shall be determined by the Planning Commission upon site plan review. Required screening shall be no less than five (5) feet in height and may be required to be eight (8) feet in height. The Planning Commission may reduce the screening requirement if the following conditions are met:

         (1) Public health, safety, comfort and general welfare will be protected and;

         (2) The visible storage shall not cause substantial injury to the value of property in the neighborhood and will not be detrimental to existing and/or permitted land uses in the area.

      b. It is mutually understood by the applicant and the Planning Commission that whenever a different material than agreed upon in the original request is to be stored, a new approval shall be required from the Planning Commission.

c. Accumulated scrap material shall be removed from the premises prior to the storage container or storage area overflowing. If questions arise regarding adequate removal, the Planning Commission shall determine a removal schedule.

730 Pet Shops, Pet Care, Dog Grooming and Veterinary Hospitals/Clinics

A. **C-1 District.** All activities for any of the above uses shall be conducted within an enclosed building with no outside facilities.

B. **I-1 District.** All activities for any of the above uses shall be conducted within an enclosed building with no outside facilities abutting residential districts.

731 Group Child Care Facilities

A Special Land Use Permit for a Group Child Care Home shall be issued if is not located closer than fifteen hundred 1,500 feet to any of the following:

A. Another licensed group day care home.

B. An adult foster care home or large group home licensed under the **Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737**.

C. A facility offering substance abuse treatment and rehabilitation service for seven (7) or more people licensed under **Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523.**

D. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

732 Biofuel Production Facilities on Farms

A. In conformance to the **Michigan Zoning Enabling Act**, the following regulations shall apply to biofuel production facilities:

1. A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel is a permitted use of property and is not subject to Special Land Use approval if all of the following requirements are met:

   a. The biofuel production facility is located on a farm.

   b. The biofuel production facility is located not less than one hundred (100) feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all applicable setback requirements of the Zoning Ordinance.

c. On an annual basis, not less than seventy-five (75) percent of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than seventy-five (75) percent of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

2. Each of the following requires Special Land Use approval under Subsections (3) to (5):

   a. A biofuel production facility with an annual production capacity of not more than 100,000 gallons of biofuel that meets the requirements of Subsection (1)(a) and (b) but that does not meet the requirements of Subsection (1)(c).

   b. A biofuel production facility with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel that meets the requirements of Subsection (1)(a) and (b).

3. An application for Special Land Use approval for a biofuel production facility described in Subsection (2) shall include all of the following:

   a. A site plan including a map of the property and existing and proposed buildings and other facilities.

   b. A description of the process to be used to produce biofuel.

   c. The number of gallons of biofuel anticipated to be produced annually.

   d. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.

   e. For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the **National Environmental Policy Act of 1969, 42 USC 4321 to 4347**, and the Federal **Water Pollution Control Act, 33 USC 1251 to 1387.**

   f. Information that demonstrates that the biofuel production facility will comply with the requirements of Subsections (2) and (5).

   g. Any additional information requested by the Planning Commission or Zoning Administrator.

4. The Township shall hold a hearing on an application for Special Land Use approval under Subsection (2) not more than 60 days after the application is filed.

5. Special Land Use approval of a biofuel production facility described in Subsection (2) shall be made expressly conditional on the facility's meeting all of the following requirements before the facility begins operation and no additional requirements:

    a. Buildings, facilities and equipment used in the production or storage of biofuel comply with local, State and Federal laws.

    b. The owner or operator of the biofuel production facility provides the Township with proof that all necessary approvals have been obtained from the Department of Environmental Quality and other State and Federal agencies that are involved in permitting any of the following aspects of biofuel production:

        (1) Air pollution emissions.

        (2) Transportation of biofuel or additional products resulting from biofuel production.

        (3) Use or reuse of additional products resulting from biofuel production.

        (4) Storage of raw materials, fuel or additional products used in, or resulting from, biofuel production.

        (5) The biofuel production facility includes sufficient storage for both of the following:

        (6) Raw materials and fuel.

        (7) Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale or other legal use.

6. This Section does not authorize biofuel production facilities that are not located on farms.

733 Commercial Event Facilities

(Amended 5/12/20; Effective 5/27/20)

A. Restaurants with banquet facilities where commercial event facilities are accessory to the restaurant shall not be subject to this Section.

B. **Parking**. No vehicles associated with the event shall be permitted to be parked on public roadways. All vehicle parking shall be maintained "on site." "On site" is defined as at least one hundred (100) feet from the property boundaries of the parcel on which the event is permitted. Adequate parking shall be provided for the guests of the event and those employed in support of the event. At a minimum, at least one (1) parking space for every

four (4) persons attending the event shall be provided for on-site parking. The Planning Commission is authorized to take into account, to the extent it deems practicable, the joint use of parking spaces that may exist for a golf course, public restaurant or other operations on the property during the time of events. The Planning Commission may approve, in its discretion, the use of off-site parking as an alternative with transportation provided to the site by attendees through a commercial transportation service.

C. **Minimum Size of Parcel**. Commercial Event Facilities shall only be located on parcels which are at least twenty (20) acres in size.

D. **Setbacks.** The general event area (the actual location(s) in which the gathering is to occur) shall be located three hundred (300) feet from adjacent owners' property lines. All activities associated with the use are to be included within the general event area, the only exception being the parking as allowed by Subsection B above.

E. **Hours of Operation**. Year-round operations may be authorized. Events shall commence no earlier than 10 AM and shall terminate no later than 10 PM. However, the Planning Commission shall have the power to modify the commencement and termination times for a particular site based upon the specifics of the application. For purposes of this Section, "termination" shall mean the termination of food, drinks, service and entertainment, with the understanding that attendees and servers will need a reasonable amount of time after termination to exit the premises.

F. **Amplified Sound**. Outdoor speakers, outdoor public address systems, or similar sound devices shall not be operated without written consent of the Planning Commission as part of site plan review. The Planning Commission shall determine that no public nuisance will be established. Sources of amplified sound, including but not limited to recorded music, live musical performances, and spoken word, shall commence no earlier than 12:00 PM, shall be terminated by 10:00 PM. Enclosed buildings, tents, pavilions and other open/non-enclosed structures shall be considered an acceptable location for the source of amplified sound as referenced in this Section. Strict consideration shall be afforded to the maintenance of ambient outdoor noise levels at the property boundaries. Sources of amplified sound (such as speakers) shall be located no less than one thousand (1,000) feet from the property boundary.

G. **Overnight Accommodations.** No overnight accommodations shall be provided in temporary structures such as tents or recreational vehicles. Any Commercial Event Facility which provides overnight accommodations must comply with all applicable codes and laws related to the provision of said accommodations.

H. **Capacity.** The number of persons allowed at each proposed Commercial Event Facility shall be compatible with the proposed facilities and infrastructure for each site.

I. **Sanitary Facilities.** Adequate permanent and/or temporary sanitary restroom facilities shall be provided on site, and the type and location of such facilities shall be subject to the approval of the Planning Commission and the Health Department of Northwest Michigan.

J. **Number of Events.** The Planning Commission may limit the number of events allowed per year.

K. **Ingress/Egress.** The site of the Commercial Event Facility shall have at least two (2) means of egress, at least one (1) of which is adequate for emergency vehicles, as determined by the Planning Commission in consultation with emergency responders and the Emmet County Road Commission, based on its width, length, surface and ability to support the gross vehicle axle weight of emergency vehicles.

L. **Buffers.** The Planning Commission may require appropriate buffers between the Commercial Event Facility and adjoining properties given the size of parcel, the natural topography, and vegetative cover.

M. **Outdoor Seating.** Seating for events may occur outdoors, under a fabric structure temporarily constructed on the property, or in an event barn or other structure.

N. **Submittal Requirements.**

1. In addition to the requirements in **Section 504**, the site plan must show the area of event, parking, temporary structures, and sanitary restroom facilities.

2. **Event Management Plan.** An event management plan shall be prepared and submitted to the Planning Commission for review and approval. The plan shall include provisions for traffic and parking management, hours of operation, noise abatement, sanitary restroom facilities and maximum number of guests. The plan shall also include a list of contacts for emergency situations.

   a. Hours of operation must include setup and takedown times.

   b. The event plan must provide expected maximum number of persons intended to use the property at one time and collectively, including organizers, employees, vendors, exhibitors and spectators/participants.

   c. The event plan must provide the expected number of automobiles and other vehicles intended to use the property at one time and collectively.

   d. The event plan must provide certification that the property where the event is to take place is not subject to any covenant or restriction limiting its use, or if the use is restricted by easement or otherwise, a copy of a survey or diagram depicting the easement area and any reserved area where development rights are intact.

   If a change to the approved event management plan is requested by the applicant at any time after the approval of the special use permit, a new special use permit process shall be required.

O. The Planning Commission may grant a deviation from any of the Subsections A through M above upon the following findings:

1. Granting the deviation will not cause a substantially adverse effect on neighboring properties and will not produce nuisance conditions to occupants of nearby properties.

2. Granting the deviation will not otherwise impair the public health, safety and general welfare of the residents.

3. Granting the deviation will uphold the spirit and intent of this Ordinance.

A request for deviation shall be considered as part of the special use permit process. The need/reason for the deviation shall be provided, in writing, by the applicant. If a deviation is requested at a later date, a new special use permit process shall be required.

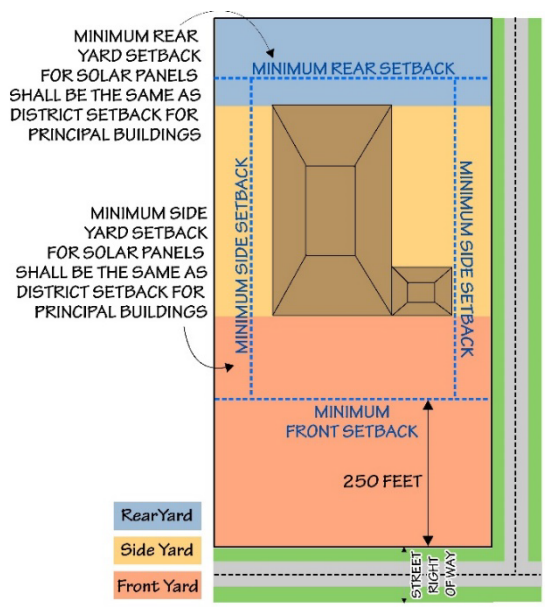
734 Solar Energy

(Amended 6/9/20; Effective 6/24/20); (Amended 6/13/23; Effective 6/30/23)

Section 734:1 Solar Energy Panels (On-Site Accessory).

Solar energy panels shall be allowed as an accessory use in all zoning districts subject to the requirements below. Accessory solar energy panels shall not be located on a lot without a principal building. For freestanding solar energy panels, a plot plan pursuant to **Section 502** shall be submitted to the Zoning Administrator. A zoning permit is required following Special Land Use Review by the Planning Commission pursuant to **Section 603**. Repair or replacement of an existing panel does not require a review or permit provided there is no change in size, height, or coverage area. Building-mounted solar energy panels are a Permitted Use and, while no zoning permit is required, compliance with this Section is required.

Figure A



A. **Height**.

1. Ground-mounted accessory solar energy panels shall not exceed twenty (20) feet in height when oriented at maximum tilt (measured from the ground at the base of the equipment).

2. Building-mounted accessory solar energy panels shall not exceed the maximum allowed building height in any zoning district.

B. **Yard Location and Setbacks**.

1. Ground-mounted accessory solar energy panels located in the rear or side yard shall adhere to district setbacks for the

principal building. A minimum setback of two hundred fifty (250) feet shall be required for ground-mounted or pole-mounted accessory solar energy panels located in the front yard. For the purposes of this Section, the front yard shall be defined as the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. (See **Figure A**).

2. Building-mounted accessory solar energy panels shall adhere to district setbacks for a principal building.

C. **Glare.** Panels shall not result in glare onto adjoining properties or public rights of way.

D. **Coverage and Size.** Roof-mounted or building-mounted accessory solar energy panels shall allow for adequate roof access for fire-fighting purposes. Ground-mounted or pole-mounted accessory solar energy panels shall not exceed twenty (20) percent of the building footprint for the principal building.

E. **Nonconformities**.

1. A building-mounted accessory solar energy panel installed on a nonconforming building or nonconforming use shall not be considered an expansion of the nonconformity.

2. Ground-mounted accessory solar energy panels installed on a nonconforming lot or nonconforming use shall not be considered an expansion of the nonconformity.

F. **Building-Integrated Solar Panels**.

Building-Integrated solar energy panels are subject only to zoning regulations applicable to the structure or building and not subject to accessory ground or building-mounted standards in subsections A through D above.

G. **Installation**.

1. Solar energy panels that are building-mounted shall be permanently and safely attached to the building or structure.

2. Solar energy panels that are ground-mounted shall be safely attached to the ground.

3. Solar energy panels that are mounted on the roof of a building shall be safely supported by the roof according to the manufacturer's specifications.

4. Solar energy panels shall be installed, maintained, and used only in accordance with the manufacturer's specifications.

5. Solar energy panels shall comply with building code, electrical code and all other applicable regulations.

Section 734:2 Solar Energy Facilities – Utility-Scale or Commercial.

A. **Minimum Size of Parcel**. Solar Energy Facilities (Utility-Scale or Commercial) shall only be located on parcels which are at least twenty (20) acres in size. Adjacent parcels under the same ownership or which are leased by the owner of the Solar Energy Facility may be considered in combination to satisfy the minimal parcel size. However, the parcels considered in combination shall not thereafter be separated throughout the life of the solar energy facility.

B. **Reflection/Glare.** Solar collection devices, or combination of devices, shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. This may be accomplished by both the placement and angle of the collection devices as well as human-made or environmental barriers. Glare intensity is considered an issue if it measures more than twenty (20) percent of the incident sun intensity. Plans to reduce glare may be required as part of the site plan submitted.

C. **Impervious Surface/Stormwater.**

1. If more than eight thousand (8,000) square feet of impervious surface will be located on the site, the application shall include a drainage plan prepared by a registered civil engineer showing how stormwater runoff will be managed. If detergents will be used to clean solar panels, details on the type of detergent, frequency and quantity of use, and groundwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.

2. If groundcover (such as conservation cover, pollinator habitat, forage cover, or agrivoltaics) is utilized a drainage plan is not required. The Planning Commission may require soil stabilization through groundcover.

D. **Height**. Solar collection devices shall not exceed twenty (20) feet in height when oriented at maximum tilt (measured from the ground at the base of the equipment).

E. **Noise**. Sound produced from the solar energy facility shall not exceed fifty-five (55) decibels at the property line (except during initial construction, routine maintenance and repairs, and final decommissioning of the site).

F. **Screening.** Solar collection devices shall be screened from view from any public street or residential district by use of a masonry screen wall, evergreen vegetation or other screening of a similar effectiveness and quality, if determined as necessary by the Planning Commission. Screening shall be installed which screens the facility fully from view from the time of planting or installation. Screening shall be maintained throughout the life of the facility including replacing dead vegetation within six (6) months or at the earliest feasible time of year dependent on the weather.

G. **Setbacks**. The setbacks of all solar collection devices and ancillary equipment shall be at least two hundred fifty (250) feet from all property lines of non-participating lots. Solar collection devices will be kept at least five hundred (500) feet from any residence.

H. **Electrical Transmission Lines**. All electrical service and transmission lines on the site of the solar energy facility shall be located underground with the exception of the following: any above-ground wiring within the footprint of the solar energy facility which cannot be placed underground shall not exceed the height of the solar array at maximum tilt.

I. **Installation**. Solar collection devices shall be installed, maintained and used only in accordance with the manufacturer's specifications.

J. **Sound.** The sound pressure level of a solar energy facility and all ancillary solar equipment shall not exceed fifty-five (55) dBA (Leq (1 hour)) at the property line of an adjacent non-participating lot. The Site Plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.

K. **Land Clearing.** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.

L. **Fencing.** Solar Energy Facilities may be secured with perimeter fencing to restrict unauthorized access. Fencing is not subject to setbacks in subsection G. The Planning Commission may require wildlife-friendly fencing.

M. **Other Standards**. In addition to the standards listed within this **Section 734**, **Section 506** (Site Plan Review Standards), and **Section 604** (Special Land Use Approval Standards), the Planning Commission shall consider the following factors when reviewing the proposal:

1. **Visual impact and lighting**. Solar Energy Facility lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.

2. **Waste and hazardous materials**.

3. **Access/service Roads**. New access drives within the Solar Energy Facility shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for temporary roadways during the construction of the Solar Energy Facility is permitted, provided that the geotextile fabrics and gravel are removed from those temporary roadways once the Solar Energy Facility is in operation.

4. **Public safety**.

N. **Repowering**.

1. In addition to repairing or replacing solar energy components to maintain the system, a solar energy facility may at any time be repowered, without the need to apply for a new Special Land Use permit, by reconfiguring, renovating, or replacing the solar energy components to increase the power rating within the existing project footprint.

2. A proposal to change the project footprint of an existing solar energy facility shall be considered a new application, subject to the ordinance standards at the time of the

request. Expenses for legal services and other studies resulting from an application to modify a solar energy facility will be reimbursed to the Township by the solar energy facility owner in compliance with established escrow policy.

O. **Reports**. Solar energy production summary reports by month shall be provided annually for each solar facility to the Township Planning Commission and the Township Clerk, by January 31st each year, for the preceding year.

P. **Abandonment.** If a solar energy facility owner or operator intends to abandon and, if fact, does abandon a solar energy facility by not operating it for a period of six (6) months, the solar energy facility shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the township and requested to dismantle the site and return it to its original state. If there are mitigating circumstances as to why the site has not been used, the applicant/permit holder may contact the township and request a six (6) month extension. If a site has been deemed abandoned and no request for an extension is received, the applicant/permit holder will again be notified to dismantle the site and return it to its original state. If the applicant/permit holder does not do this, the township will have the removal and restoration done at the owner/applicant's expense. Removal shall include removing posts, equipment, panels, foundations and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

Q. **Performance Guarantee.** The Planning Commission may require the applicant to furnish the Township with a performance guarantee pursuant to **Section 906** in an amount equal to the estimated costs associated with dismantling the site and returning it to its original state in the event of abandonment.

R. **Decommissioning Plan**. A decommissioning plan is required at the time of application.

1. The decommissioning plan shall include:

   a. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.

   b. The projected decommissioning costs for removal of the solar energy facility (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands.

   c. The method of ensuring that funds will be available for site decommissioning and stabilization (performance guarantee in the form of surety bond, irrevocable letter of credit, or cash deposit – pursuant to **Section 906**).

2. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every five (5) years, for the life of the project, and approved by the Township Board. An solar energy facility owner may at any time:

a. Proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan; or

b. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.

S. **Agricultural Protection.** For sites where agriculture is a permitted use in a district, solar energy facilities shall be sited to minimize impacts to agricultural production through site design and accommodations including:

1. The ground mounting of panels by screw, piling, or a similar system that does not require a footing, concrete, or other permanent mounting in order to minimize soil compaction.

2. Siting panels to avoid disturbance and compaction of farmland by siting panels along field edges and in nonproduction areas to the maximum extent practicable and financially feasible.

3. Maintaining all drainage infrastructure on site, including drain tile and ditches, during the operation of the solar energy facility.

4. Siting the solar energy facility to avoid isolating areas of the farm operation such that they are no longer viable or efficient for agricultural production, including, but not limited to, restricting the movement of agricultural vehicles/equipment for planting, cultivation, and harvesting of crops, and creating negative impacts on support infrastructure such as irrigation systems or drains.

5. Voluntarily purchasing agricultural conservation easements from an equivalent number of prime farmland acres consistent with a purchase of development rights ordinance adopted in the Township.

735 Food Trucks

Amended 7/9/24; Effective 7/25/24

A. **Scope**. Food trucks regulated by this Section are intended to be stationary establishments. These regulations do not apply to mobile food trucks which distribute food and drink as they are driving throughout the community (i.e. mobile ice cream truck). These regulations apply to food trucks on private property. Food trucks on public property are not regulated by this Ordinance.

B. **Approval**.

1. A zoning permit is required for food trucks. The food truck may apply for a zoning permit for a permanent, stationary location or to rotate between multiple, stationary locations. The zoning permit shall state all locations at which the food truck is permitted to operate. If the location changes, they may apply for an amended zoning permit.

a. The Zoning Administrator is authorized to review the site plan and issue approval, approval with conditions, or disapproval in instances in which one (1) food truck is planned for one (1) property or for multiple properties.

b. The Planning Commission is authorized to review the site plan and issue approval, approval with conditions, or disapproval in instances in which a food truck park is planned for one (1) property.

2. The property owner shall submit a site plan pursuant to **§504**. The site plan shall show the planned parking for any food trucks on a lot as well as all planned outdoor seating.

3. A zoning permit may be transferred to a new food truck that is replacing the one designated in the zoning permit. The new food truck shall comply with all standards and conditions as the original food truck.

4. Food trucks and food trucks parks are only permitted within the C-1 and I-1 Zoning Districts.

5. A food truck shall not operate on private property without first obtaining written consent to operate from the affected private property owner.

6. Food trucks may be placed as stand-alone units on a property without a principal building or may be placed on a lot in conjunction with a principal building.

7. The food truck/food truck park shall be located in an area with an improved surface with adequate drainage so that rain water will not stand in pools or puddles.

8. Parking. A minimum of two (2) parking spaces are required per food truck.

9. Waste receptacles shall be available.

10. All areas of the lot upon which the food truck is placed shall be kept clean and free of debris.

11. The applicant shall provide the Zoning Administrator with copies of all other required permits and approvals prior to the issuance of a zoning permit.

12. Modification or Waiver of Standards. Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this **§735**, the Planning Commission may waive or modify said standards on a case-by-case basis subject to Planning Commission review and notifications to property owners within three hundred (300) feet. Notification of property owners shall be given at least fifteen (15) days prior to the meeting at which the issue will be discussed.

Article 8
Zoning Board of Appeals

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801 Purpose

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of the Ordinance, that the health, safety and welfare of the public be secured and that justice be done, there is hereby established a Township Zoning Board of Appeals (ZBA). The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the **Michigan Zoning Enabling Act, 2006 PA 110, as amended**.

802 Creation and Membership

802:1 Membership.

The West Traverse Township Board shall appoint a Township Zoning Board of Appeals to consist of five (5) members.

A. The first member of such Board of Appeals shall be the chairman of the Township Planning Commission or his/her designated representative from the Planning Commission.

B. The second member shall be a member of the Township Board.

C. The three (3) remaining members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township.

802:2 Employees.

No employee or contractor of the Township Board may serve simultaneously as a member of the Township Zoning Board of Appeals.

802:3 Alternates.

The Township Board may further appoint two (2) alternate members as prescribed by State law, to sit on the Zoning Board of Appeals whenever a regular member expects to be absent. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

802:4 Officers.

The Zoning Board of Appeals shall annually elect a Chairperson, Vice-Chairperson and Secretary. The member who is a member of the Township Board shall not serve as Chairperson of the Zoning Board of Appeals.

802:5 Terms of Office.

The terms of office for members of the Zoning Board of Appeals shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment.

802:6 Removal of a Member.

Members of the Zoning Board of Appeals shall be removable by the Township Board for misfeasance, malfeasance or nonfeasance upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

803 Rules of Procedure

803:1 Rules and Regulations.

The Board shall adopt rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Township Clerk.

803:2 Meetings.

Meetings of the ZBA shall be open to the public and shall be held at the call of the Chairperson and at such times as the ZBA may determine. The Chairperson, or Acting Chairperson, may compel the attendance of witnesses.

803:3 Conduct of Business.

A. Three (3) members of the ZBA shall constitute a quorum for the conduct of its business. Pursuant to **§805:5**, the concurring vote of a majority of the members of the full ZBA membership - three (3) members - shall be necessary to reverse any order, requirement, decision, determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which the ZBA is required to consider under this Ordinance or to grant variances from the requirements of this Ordinance. The concurring vote of a majority is calculated on full ZBA membership not on those ZBA members that are present at a meeting.

B. A member of the Zoning Board of Appeals who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

803:4 Records.

Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become a public record and as such be filed in the office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant and to the Zoning Administrator.

804 Duties and Powers

The Township Zoning Board of Appeals shall have the following specified duties and powers:

804:1 Review.

The Zoning Board of Appeals shall hear and decide appeals from any review, any order, requirement, decision or determination made by the Zoning Administrator in the administration of this Ordinance.

804:2 Interpretation.

A. The Zoning Board of Appeals shall hear and decide upon appeals for the interpretation of the provisions of this Ordinance.

B. The Zoning Board of Appeals shall determine the precise location of the boundary lines between zoning districts when there is disagreement with a decision on such subject made by the Zoning Administrator.

C. The Zoning Board of Appeals shall determine the off street parking and loading space requirements of any use which is not mentioned in the West Traverse Township Zoning Ordinance.

804:3 Variance Standards.

(Amended 6/13/23; Effective 6/30/23)

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish and provide findings of fact for all of the following:

A. The variance accomplishes substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

B. The variance will not cause any adverse effect to property values in the vicinity of the zoning district, or the Township.

C. The variance affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property in the vicinity such as narrowness, shallowness, shape, water or topography and is not due to the applicant's personal or economic hardship

D. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

E. The need for the requested variance has not resulted from any act of the applicant (self-created).

804:4 Special Land Uses and Planned Unit Developments.

A. The Township Zoning Board of Appeals shall have no jurisdiction over Special Land Use or Planned Unit Development decisions of the Township Planning Commission and no appeal from such Planning Commission decisions in regard thereto shall be taken to the Board of Appeals.

B. The Board of Appeals shall have no jurisdiction to hear appeals concerning an Ordinance amendment, text and/or map, as duly enacted by the Township Board.

805 Appeals Procedure

805:1 Notice of Appeal.

A. Appeals to the Zoning Board of Appeals may be made by any person aggrieved or by an Officer or Board of the Township.

B. Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after issuance of the ruling. The persons making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

805:2 Fee.

Pursuant to **§905**, a fee, as established by the Township Board, shall be paid to the Zoning Administrator at the time the petitioner files an application with the Zoning Administrator or the ZBA. No fee shall be charged if the Township or any official body of the Township is the moving party. If an applicant requests and receives a postponement of the hearing subsequent to the mailing of notices and advertisement of public hearing, said applicant shall pay the necessary expenses incurred by the Township to re-notice the hearing.

805:3 Hearings.

When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the secretary or the secretary's designated official shall immediately place said request for appeal upon the calendar for hearing and shall cause notices stating the time, place and purpose of the hearing to be served personally or by mail addressed to the parties to the appeal at least fifteen (15) days prior to the date of the scheduled hearing. The Zoning Board of Appeals may recess such hearing from time to time and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. All meetings of the Zoning Board of Appeals shall be subject to the **Open Meetings Act, 1976 PA 267 of 1976, as amended**.

805:4 Representation.

Any party may appear in person, by agent or by attorney at a hearing considering his request or appeal.

805:5 Decisions.

A. **Decision Time Limit.** The Zoning Board of Appeals shall return a decision upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the appealing party. Decisions made by the Zoning Board of Appeals will be transmitted, in writing, to the appealing party and to the Zoning Administrator.

B. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit.

C. The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision or determination of the Administrative Official or Body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the Zoning Ordinance, or to grant a dimensional variance in the Zoning Ordinance.

D. **Findings of Fact**. In granting or denying a variance, the ZBA shall state in a written statement of Findings of Fact, the grounds upon which it justifies the granting of a variance. Copies of the written Findings of Fact shall be supplied to the Township Board, Planning Commission, and the applicant.

E. **Decision Final**. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Circuit Court of Emmet County.

805:6 Conditions.

In granting the variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the permit.

805:7 Termination of Variance.

Any variance granted by the Zoning Board of Appeals which has not been implemented or initiated within one (1) year shall be null and void.

805:8 Resubmittal.

No application for the variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except

on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the ZBA to be valid in which case a rehearing may be granted pursuant to **§910.**

806 Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of the appeal shall have been filed with him/her that, for reasons of fact stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court on notice to the Officer from whom the appeal is taken and on due cause shown.

807 Circuit Court

A. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court for Emmet County.

B. If the Court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the Court may order further proceedings on conditions that the Court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the Court. The Court may affirm, reverse, or modify the decision.

C. An appeal from a decision of a Zoning Board of Appeals shall be filed within whichever of the following deadlines that comes first:

(1) thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the Chairperson, if there is a Chairperson, or signed by the members of the Zoning Board of Appeals, if there is no Chairperson, or

(2) within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The Court may make other orders as justice requires.

C. An appeal from a decision of a Zoning Board of Appeals shall be filed within whichever of the following deadlines that comes first:

(1) thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the Chairperson, if there is a Chairperson, or signed by the members of the Zoning Board of Appeals, if there is no Chairperson, or

(2) within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The Court may make other orders as justice requires.

Article 9
Administration

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901 Administrator and Enforcement

The provisions of this Ordinance shall be administered in accordance with the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, M.C.L. 125.3101, et. seq.**

A. The Township Board shall appoint a Zoning Administrator and may appoint an Assistant Zoning Administrator.

B. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator and Assistant Zoning Administrator. The Assistant Zoning Administrator shall act in the capacity of Zoning Administrator in all situations where the Zoning Administrator is unable to act by reason of absence, illness, attention to other responsibilities or any other disability or when requested to so act by the Zoning Administrator or Township Board.

C. When the Assistant Zoning Administrator is acting in the capacity of the Zoning Administrator, then all sections of this Ordinance that apply to the Zoning Administrator shall also apply to the Assistant Zoning Administrator.

902 Township Planning Commission

The West Traverse Township Planning Commission was created by West Traverse Township Ordinance 1 of 2010 pursuant to the authority granted the Township Board under the **Michigan Planning Enabling Act, 2008 PA 33, M.C.L. 125.3801 et. seq.** to establish a Planning Commission. The Planning Commission shall perform the duties provided by the **Michigan Planning Enabling Act, 2008 PA 33, as amended, M.C.L. 125.3801 et. seq.** and the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, M.C.L. 125.3101, et. seq.** including authority to act on all matters requiring the approval or recommendation of such Planning Commission.

903 Duties and Limitations of the Zoning Administrator

903:1 Powers of the Zoning Administrator.

The Zoning Administrator shall have the power to grant permits, to conduct final inspection and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

903:2 Application.

A zoning permit shall be required for excavation, construction, moving, alteration or change in type of use or type of occupancy. Every application for a zoning permit shall be accompanied by a Plot Plan or Site Plan in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed work or use is in conformance with the provisions of this Ordinance. Site Plan and Plot Plan requirements are listed in **Article 5**.

903:3 Permits to be Issued.

If the proposed excavation, construction, moving, alteration or use of land as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a permit. However:

A. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance.

B. The Zoning Administrator, under no circumstances, is permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.

C. The Zoning Administrator, under no circumstances, is permitted to make changes in this Ordinance or to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.

D. The Zoning Administrator shall issue a permit when the imposed conditions of this Ordinance are complied with by the applicant regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.

E. If any application for such permit is not approved, the Zoning Administrator shall state, in writing, the cause for such disapproval.

F. No zoning permit shall be required for a fence or wall; however such structures shall comply with the provisions of **§409** of this Zoning Ordinance.

G. A zoning permit shall be valid for a period not to exceed one (1) year from date of issuance unless construction has started and proceeds to completion. The Zoning Administrator may grant an extension, thereof, for a period not to exceed one (1) year.

904 Certification Upon Final Inspection

904:1 Required for Non-Residential Property.

No building, structure, zoning lot or part thereof, other than a single family residence which is subject to the provisions of this Ordinance, shall be used or occupied or changed in its use or principal occupant until the Zoning Administrator has performed a final inspection to determine compliance has been made with all of the provisions of this Ordinance. However, certification upon final inspection shall in no case be construed as waiving any provision of this Ordinance.

904:2 Final Inspection Notification.

The holder of every zoning permit pursuant to **§904:1** shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit for a final inspection. Final inspection by the Zoning Administrator shall ensure compliance with this Ordinance and the approved Site Plan.

904:3 Existing Buildings.

Upon written request from the owner or tenant, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of enactment of this Ordinance certifying, after inspection, the extent and kind of use made of the buildings or premises and whether such use conforms to the provisions of this Ordinance.

904:4 Illegal Use or Occupancy.

No permit or certificate shall be issued for any illegal use or occupancy existing at the time of the adoption of this Ordinance.

905 Fees

The Township Board shall establish, by resolution, fees pursuant to **905:2**.

905:1 Purpose of Standard Fees.

A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the Township, the Township Board shall adopt by resolution a Fee Schedule establishing basic zoning fees.

B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.

905:2 Fee Types.

A. **Inspection and certification.** Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this Ordinance, shall be collected by the Zoning Administrator in advance of the issuance of such permits or certificates.

B. **Appeals**. Any person appealing under this Article of the Ordinance, in all cases, shall pay the established fixed fee plus such additional fees as may be deemed reasonable by the Township Board for expert services necessary to render a proper decision.

C. **Reviews**. Fees for the review of site plans, special land use approval or other matters requiring Planning Commission or Township Board review under the terms of this Ordinance, shall be paid to cover the cost of such reviews including planner, engineer and other such professional services.

D. **Rezoning**. Any petition for the rezoning of land requiring an amendment of the West Traverse Township Zoning Ordinance shall be accompanied by a fee payable by the applicant. Said fee shall be utilized to defray all costs including necessary expert opinions in conjunction with the legislative review of the applicant.

E. **Other**. Fees for special resolutions pertaining to any matter relevant to this Ordinance or for the cost of special meetings of the Planning Commission or the Board of Appeals, shall be paid by the recipient or applicant prior to said resolution or meeting.

905:3 Additional Fees.

If the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys or other professionals is necessary, then the applicant shall deposit with the Zoning Administrator such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit, and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unused funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or prior to the final decision on an appeal.

906 Performance Guarantee

A. The Planning Commission may require the applicant to furnish West Traverse Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public improvements and site improvements.

   1. Public improvements include but are not limited to roads, parking lots and water and sewer systems which are located within a project's boundaries or which the applicant has agreed to construct even though located outside of the project's boundaries.

   2. Site improvements mean landscaping, buffering and the completion of conditions imposed by the Planning Commission which are located within the project's boundaries.

   3. The costs covered by the performance guarantee shall include all of the following:

      a. The purchase, construction and/or installation of the improvements.

      b. Architectural and engineering design, testing fees and related professional costs.

c. An amount for contingencies consistent with generally accepted engineering and/or planning practice.

B. The performance guarantee shall be deposited with the Township Zoning Administrator at or before the time the Township issues the permit authorizing the project, or, if the project has been approved in phases, then the performance guarantee shall be deposited with the Township Zoning Administrator prior to the commencement of construction of the first phase. The performance guarantee shall ensure completion of the project's public improvements and site improvements in accordance with the plans approved by the Township.

C. Any cash deposit or certified funds shall be refunded for the project or each phase of the project in the following manner:

1. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public improvements and site improvements.

2. An additional third of the cash deposit after completion of two-thirds (2/3) of the public improvements and site improvements; and

3. The balance at the completion of the public improvements and site improvements.

D. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a project is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this subsection for each phase of the project. If an applicant has contracted with a third party to construct the public improvements and site improvements and the third party has provided a bond meeting the requirements described above and the bond also names the Township as a third party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this subsection.

907 Public Notification

All applications for development approval requiring a public hearing shall comply with the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, M.C.L. 125.3101, et. seq.,** and provisions of this Section with regard to public notification.

907:1 Published Notice.

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in West Traverse Township and mailed or delivered as provided in this Section.

907:2 Content.

All mail, personal and newspaper notices for public hearings shall:

A. **Describe the nature of the request**. Identify whether the request is for a rezoning, text amendment, Special Land Use, Planned Unit Development, variance, appeal, Ordinance interpretation or other purpose.

B. **Location.** Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street(s), or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.

C. **When and where the request will be considered**. Indicate the date, time and place of the public hearing(s).

D. **Written comments**. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

E. **Disabled access**. Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

907:3 Personal and Mailed Notice.

A. **General**. When the provisions of this Ordinance or State law require that personal or mailed notice be provided, notice shall be provided to:

1. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.

2. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within West Traverse Township. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a building, except that if a building contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single building containing more than four (4) dwelling units or other distinct spatial areas owned or leased by

different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the building who shall be requested to post the notice at the primary entrance to the building.

3. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice.

   (a) Any neighborhood organization, public utility company, railroad or any other person may register with the Township Clerk to receive written notice of all applications for development approval or written notice of all applications for development approval within the zoning district in which they are located. The Township Clerk shall be responsible for providing this notification, as established by the Township Board.

   (b) The requesting party must provide the Township Clerk information to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.

B. **Notice Deemed Given**. Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, properly addressed and postage paid. Zoning staff shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

907:4 Timing of Notice.

Unless otherwise provided in the **Michigan Zoning Enabling Act, 2006 PA 110, as amended**, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

For a public hearing on an application for a rezoning, text amendment, special land use, Planned Unit Development, variance, appeal or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.

908 Violations

908:1 Violation and Complaints.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis of the violation and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided for by this Ordinance.

908:2 Penalty.

A. The Zoning Administrator may issue a citation for violation of this Ordinance. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not more than

$500.00, in addition to all other costs, damages, expenses and other fees and remedies provided or allowed by law.

B. Each and every day such violation continues shall be deemed a separate and distinct violation. Whoever assists in the commission of such violation shall be responsible for a separate violation. The owner of any building or structure, lot or land or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, corporation, entity or person employed in connection therewith and who assists in the commission of such violation shall also be responsible for a separate violation.

908:3 Abatement.

The issuance of a citation for a municipal civil infraction shall not in any way limit the Township from seeking enforcement of this Ordinance in any other manner, including, but not limited to an action to abate any nuisance created by a violation of this Ordinance and to recover any costs, expenses, damages and fees, including attorney fees, that may be permitted or allowed by law, in connection with such abatement and the enforcement of this Ordinance.

909 Conditions

The Planning Commission may recommend and the Township Board may impose conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

A. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will engage in the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.

B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

C. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

D. Any conditions imposed with respect to the approval of a Special Land Use or activity shall be recorded in the record of the approval actions.

910 Rehearing Process

910:1 Rehearing Performed by Planning Commission or Zoning Board of Appeals.

The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:

A. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.

B. There has been a material change in circumstances which occurred after the site plan review meeting or public hearing.

C. The Township attorney, by written opinion, states that in the attorney's professional opinion, the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

910:2 Rehearing Procedure.

A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

A. **Time Limit**. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from issuance of the decision for which the rehearing is being requested.

B. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.

C. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements in **§907** have been met.

911 Action Table

The following table summarizes administrative actions under this Ordinance:

Type of action	Parties who may initiate action	Body making decision	Public hearing required?	Published notice(s) and mailed notices required	Body to which applicant may appeal a denial
Fences	No permit required (fences must comply with §409)				
Single- & Two-Family Dwellings, Change of Use, Signs	Applicant	Zoning Administrator	No	-----	Zoning Board of Appeals
Accessory Buildings	Applicant	Planning Commission	No	-----	Zoning Board of Appeals
Site plan approval	Applicant	Planning Commission	No	-----	Zoning Board of Appeals
Special Land Use & Planned Unit Development	Applicant	Township Board (after recommendation from Planning Commission)	Yes	Not less than 15 days	Circuit court
Variance	Applicant	Zoning Board of Appeals	Yes	Not less than 15 days	Circuit court
Interpretation	Applicant, Planning Commission or Zoning Administrator	Zoning Board of Appeals	Yes	Not less than 15 days	Circuit court
Appeal from decision of Planning Commission or Zoning Administrator	Any aggrieved party	Zoning Board of Appeals	Yes	Not less than 15 days	Circuit court
Amendment (Rezoning or Text Change)	Applicant, Planning Commission	Step 1: Planning Commission recommends to Township Board	Yes	Not less than 15 days	-----
		Step 2: Review by Emmet County Planning Commission	No	------	-----
		Step 3: Township Board adopts amendment and publishes Notice of Adoption in newspaper (within 15 days after adoption). Amendment goes into effect on the 8th day after publication.			
Zoning Ordinance Enforcement	Zoning Administrator	------	------	------	Zoning Board of Appeals

Article 10

Amendment & Adoption

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1001 Amendment to this Ordinance

The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the **Michigan Zoning Enabling Act, 2006 PA 110, as amended, M.C.L. 125.3101, et. seq.**

A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the West Traverse Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Planning Commission.

B. Proposals for amendments, supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.

C. Application for amendment shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be refundable to a petitioner. No fee shall be charged when the amendment is initiated by the West Traverse Township Planning Commission or Township Board.

1002 Amendment Procedure

1002:1 Application.

A Petitioner shall submit a completed and signed application for Ordinance amendment, along with the appropriate fees, to the Zoning Administrator. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.

1002:2 Action of Zoning Administrator.

The Zoning Administrator shall review the application form to ensure it is complete. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission.

1002:3 Notice of Hearing.

(Amended 6/13/23; Effective 6/30/23)

After transmitting the amendment application to the Planning Commission, the Zoning Administrator shall establish a date for a public hearing on the application. The public hearing shall be conducted by the Planning Commission within sixty (60) days of the date of application being determined to be complete. The Zoning Administrator shall give notice of the public hearing pursuant to **§907**.

1002:4 Application Information.

When the petition involves a change in the Zoning Map, the applicant shall submit the following information to the Zoning Administrator:

A. A legal description of the property.

B. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.

C. The name and address of the applicant.

D. The applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner.

E. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

F. The desired change and reasons for such change.

1002:5 Planning Commission Consideration.

The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.

1002:6 Rezoning Standards.

The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.

A. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?

B. Will there be an adverse physical impact on surrounding properties?

C. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?

D. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with existing regulations?

E. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

F. What is the impact on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?

G. Is the rezoning consistent with the goals and objectives of the Master Plan?

H. Were there errors in the original zoning of the property?

1002:7 Findings of Fact.

The Planning Commission shall submit a final report indicating findings of fact/recommendation to the Township Board along with a summary of the comments received at the public hearing.

1002:8 Outside Agency Review.

In determining the above-mentioned findings of fact the Planning Commission may solicit information and testimony from officials of, but not limited to, the following:

1. Emmet County Planning and Zoning Department.

2. Health Department of Northwest Michigan.

3. Emmet County Road Commission.

4. Emmet County Drain Commissioner.

1002:9 Township Board Review.

A. The Township Board may hold a public hearing if it considers it necessary or if otherwise required. Notice of such hearing shall be published using the procedures in **§907**. The Township Board shall grant a hearing on a proposed Ordinance amendment to a property owner who requests a hearing by certified mail, addressed to the Zoning Administrator. Notice of such hearing shall be published using the procedures in **§907**.

B. After receiving the recommendations of the Planning Commission, the Township Board, at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the full membership of the Township Board. The Township Board may refer any proposed amendments to the Planning Commission for consideration and comment. The Planning Commission shall have sixty (60) days from such referral to make further recommendations to the Township Board. In the event that an application is referred back to the Planning Commission, the Township Board shall make specific mention of their objections to the Planning Commission's findings and recommendations. In order to lessen the possibility of adverse litigation concerning the zoning district decisions of the Township Board, the Township Board shall make a written record of the rationale for the action taken on each application for amendment to this Ordinance.

1002:10 Publication.

Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) business days after publication or at a later date as may be specified by the Township Board at the time of adoption.

1002:11 Re-Submittal of Application for Rezoning.

An owner of property, his/her authorized agent, or other person, shall not initiate action for rezoning affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that conditions affecting the property have changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

1003 Interpretation and Conflicts

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare of West Traverse Township. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

1004 Validity/Severance Clause

Should any Section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

1005 No Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

1006 Repeal and Savings Clause

A. This Ordinance repeals and replaces any previous West Traverse Township Zoning Ordinance in its entirety.

B. The repeal of any previous Zoning Ordinance, as provided, shall not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted. Said Ordinance or Ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

1007 Enactment and Effective Date

A. This Ordinance was adopted on February 13, 2018 by the West Traverse Township Board and will be effective March 1, 2018. The foregoing Zoning Ordinance and Map of Zoning Districts were presented at a public hearing before the West Traverse Township Planning Commission on November 8, 2017.

B. Within fifteen (15 days) of adoption by the West Traverse Township Board, a notice of adoption of said amendments or revisions shall be published in accordance with **Section 401 the Michigan Zoning Enabling Act, 2006 PA 110, as amended, M.C.L. 125.3101, et. seq**.

C. Amendments or revision to this Ordinance shall become effective on the 8th day after publication or at a later date specified by the West Traverse Township Board.

I hereby certify that the above Ordinance was adopted by the West Traverse Township Board at a regular meeting held on February 13, 2018.

Cindy Baiardi
Township Clerk

Published: February 21, 2018 Effective Date: March 1, 2018

Affidavit of Publication Required.

CLICK FOR ZONING MAP

West Traverse Township Zoning Amendments			
Summary of Amendment	**Sections**	**Adopted Date**	**Effective Date**
1. Added Commercial Event Facilities, Agri-Tourism Businesses, and Wineries, Cideries and Distilleries.	202, 305, 306:2, 309:2, 310:2, 733	5/12/20	5/27/20
2. Added definitions and regulations for solar energy panels (accessory) and solar energy facilities (utility scale or commercial). Amended definition of essential services.	202, 305, 306:2, 307:2, 308:2, 309:2, 310:2, 311:2, 734	6/9/20	6/24/20
3. Amended definitions of accessory building or structure, attached structure, common wall, deck, and shipping container. Added shipping containers to regulations for Nontraditional Storage Facilities.	202, 407:2	7/14/20	7/29/20
4. Amended circumstances which require plot plan; plot plan administrative procedure; circumstances which require site plan; site plan submittal and approval procedures; special use submittal and approval procedures; C-1 Commercial District; I-1 Industrial-Commercial District; home offices, home occupations, and home based businesses; and planned unit developments.	502:1, 502:3, 503, 505:2, 505:3, 505:7, 603:1, 603:3, 309:2, 310:2, 704:5, 704:6, Table 704A, and 727:13	3/23/21	4/8/21
5. Amended definitions aggrieved party, adult day care facility, family child care home, group child care home, child caring institution, escort agency, farm stay, hotel/motel, human, non-participating lot, participating lot, principal building or structure, rooming/boarding house, solar energy definitions, small cell wireless facility, wireless communication facility, and wireless communication facility (ground-mounted).	202	6/13/23	6/30/23
6. Amended Article 3 to add rooming/boarding houses, adult day care, child caring institution, wireless communications (ground-mounted), and small cell wireless	305, 306, 307, 308, 309, 311	6/13/23	6/30/23
7. Amended Nonconforming Uses and Structures	410:2 and 410:3	6/13/23	6/30/23

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8. Amended Article 7 – Wireless Communications, Wind Energy Systems, and Solar Energy	712, 724, 734	6/13/23	6/30/23
9. Amended Article 8 – Variance Standards	804:3	6/13/23	6/30/23
10. Amended Article 10 – Notice of Hearing	1002:3	6/13/23	6/30/23
11. Amended definitions of Accessory Dwelling Unit, Driveway, Food Trucks and Food Truck Parks, Private Access Way, Right-of-Way, and Private Road	202	7/9/24	7/25/24
12. Amended Article 3 to add Food Trucks and Food Truck Parks and Accessory Dwelling Units	305	7/9/24	7/25/24
13. Amended access requirements to include the phrase “private access way.”	404.1	7/9/24	7/25/24
14. Amended Accessory Buildings for Residential Uses (Number, Size and Height Allowed). Added standards for Accessory Dwelling Units	407.1	7/9/24	7/25/24
15. Amended Fences and Walls to address fence height, waterfront lots, materials, and property line determination.	409	7/9/24	7/25/24
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17. Added section containing standards for Food Trucks	735	7/9/24	7/25/24
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