

TOWNSHIP OF TORCH LAKE



ANTRIM COUNTY MICHIGAN

ZONING ORDINANCE

Effective Date of August 9, 1983
(Amended through February 8,

2022)

ZONING ORDINANCE

TORCH LAKE TOWNSHIP

ANTRIM COUNTY, MICHIGAN

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS IN TORCH LAKE TOWNSHIP, ANTRIM COUNTY, MICHIGAN IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT, ACT, ACT 110 OF PUBLIC ACTS OF 2006, AS AMENDED, TO PROVIDE FOR THE ADMINISTRATION OF SAID ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

THE PEOPLE OF THE TOWNSHIP OF TORCH LAKE DO ORDAIN:

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CHAPTER I TITLE AND PURPOSE

SECTION 1.01 – TITLE. This Ordinance shall be known as the Torch Lake Township Zoning Ordinance.

SECTION 1.02 – PURPOSE. The fundamental purpose of this Ordinance is to promote the health, safety and welfare of the inhabitants of the Township by:

- A. Promoting the orderly development of the Township;
- B. Encouraging the use of land and resources in the Township in accordance with their suitability;
- C. Promoting the economic progress of the Township and to protect and enhance the property values thereof;
- D. Reducing the hazards to life and property, promoting safety in traffic and providing protection from the spread of fire and other hazards;
- E. Encouraging the use of public funds for public improvement and services to conform with the most advantageous use of lands, properties and resources of the Township.

CHAPTER II GENERAL PROVISIONS

General provisions apply to all zones except as noted therein. Where requirements of a general provision and a zone regulation differ, the more restrictive requirement shall prevail.

SECTION 2.01 - ALTERATION OR CONSTRUCTION OF STRUCTURES. Except and as hereinafter specified, no building, structure, premises, or piece and parcel of land in and throughout the Township shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations and provisions herein specified for the zone in which it is located. Exception located in Chapter 6 – Agriculture Section 6.02 J. (*Amendment effective November 6, 2020*)

SECTION 2.02 - BASEMENT DWELLINGS PROHIBITED. Basement dwellings are prohibited in Torch Lake Township except as provided in SECTION 2.05.

SECTION 2.03 - DAMAGED OR TOTAL DESTRUCTION OF NON-CONFORMING BUILDING. Any building or structure, whether it is nonconforming because of the building itself or the lot on which it is located, may be reconstructed to its original configuration in the event it is destroyed or partially destroyed by explosive, fire or other acts of God, if completed within eighteen (18) months after the damage or destruction. Prior to reconstruction, the owner must have the sewage disposal system and water supply evaluated by the District Department Number Three.

SECTION 2.04 - MOBILE HOMES.

- A. A mobile home may be used in any zone in which a 1-unit dwelling is permitted without application for special approval if the mobile home complies with the definition of "dwelling, 1-unit" as defined in this ordinance. Exception located in Chapter 6 – Agriculture Section 6.02 J. (*Amendment effective November 6, 2020*)
- B. Under-skirting shall be provided from the floor level to the ground level around the entire perimeter of the mobile home.
- C. All mobile homes shall be secured to a minimum of four (4) tie downs; two (2) tie downs per side or according to HUD requirements, whichever are stricter.
- D. A mobile home which does not meet the definition of "dwelling, 1-unit" shall not be permitted in any zone within the township except in a

seasonal trailer park or mobile home park located in the "PRD or PUD" zone and established pursuant to state law applicable thereto and approved by the Planning Commission or unless used for temporary purposes as hereinafter provided. A variance may be secured from the Zoning Board of Appeals to use a mobile home as a temporary residence for a period not to exceed one (1) year; provided that the ability and intent to erect a home on the premises is shown; provided that the mobile home is located on premises having running water and sewage facilities; and provided further that on expiration of the one (1) year period, the Zoning Board of Appeals may renew the permit for an additional period of one (1) year upon sufficient showing that the house construction could not be completed in said one (1) year, but has substantially progressed during such period. Said Board may require a performance bond conditioned upon the removal of the mobile home from the premises from the time limited in an amount satisfactory to said Board. Exception located in Chapter 6 – Agriculture Section 6.02 J. (*Amendment effective November 6, 2020*)

SECTION 2.05 - TEMPORARY DWELLINGS. No cabin, garage, basement, tent or other temporary structure shall be used in whole or in part for dwelling purposes in any zone provided that such structure may be used for a temporary dwelling for a period not to exceed six (6) months upon application to and approval of a permit for such occupancy by the Zoning Administrator upon determination that the following conditions exist and are met (The six month time period may be extended for no more than one additional six month time period by the zoning administrator provided reasonable justification is provided):

- A. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind or other natural calamity or emergency.
- B. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- C. Adequate provision is made for temporary public or private water supply and sewage disposal to and from said structure.
- D. The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of those occupants and the surrounding neighborhood.

SECTION 2.06 - ACCESSORY BUILDING. The front, side and rear yard requirements of each zone shall apply to the location of accessory buildings within each zone.

SECTION 2.07 - STORAGE OF VEHICLES AND EQUIPMENT. No area within any zone shall be used for the open space storage, dismantling, accumulation, or abandonment of dismantled, disabled, wrecked or discarded motor vehicles or machinery, fixtures, appliances, junk or any part thereof.

SECTION 2.08 - ESSENTIAL SERVICES. Essential services shall be permitted as authorized or regulated by law and the Ordinances of this Township in any zone, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this Ordinance.

SECTION 2.09 - HIGHWAY INTERSECTION SETBACKS. Rules and restrictions of the State of Michigan and the County of Antrim apply.

SECTION 2.10 - ANIMALS IN ZONED AREAS. It shall be unlawful to keep animals such as horses, cattle, pigs, goats or poultry on any premises in "R-3", "VR", "VB", "C" or "M" zones provided that the keeping of such animals shall be permitted in an "R-1" and "R-2" zone and residential lots in the Agricultural zone where the size of the lot upon which the same shall be kept shall not be less than five (5) acres in area with a minimum width of two hundred (200) feet and where a total enclosure of fencing is provided. This restriction shall not prohibit the keeping of ordinary household pets in any zone.

SECTION 2.11 - RESTRICTIONS APPLICABLE TO PROPERTY ABUTTING LAKES, RIVERS, AND STREAMS. All regulations, restrictions and ordinances of Torch Lake Township, Antrim County, Michigan Department of Natural Resources and U.S. Army Corps of Engineers shall apply. All lots shall have a minimum of one hundred (100) feet on the water body.

SECTION 2.12 - HOME OCCUPATIONS, COTTAGE INDUSTRY, AND HOME-BASED BUSINESS.

Home Occupations.

- A. Home occupations are permitted as a use by right in all zoning districts in which 1-unit dwellings are permitted as a use by right.
- B. Home Occupations shall be operated in their entirety within the dwelling. The in-dwelling component of the occupation may occupy no more than twenty-five percent (25%) of the dwelling floor area.
- C. Home Occupations shall be conducted only by the person or persons occupying the premises as their principal residence.
- D. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for

dwelling purposes if the home occupation is discontinued.

- E. Home Occupations shall be incidental and subordinate to the principle use of the dwelling which is for residential purpose and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of the Home Occupation other than an unlighted nameplate not to exceed nine (9) square feet in total area. (*Amendment effective February 5, 2011*).
- F. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of a Home Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the dwelling for residential purposes.
- H. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not associated with the conduct of the Home Occupation.
- I. No processes, chemicals or materials shall be used which are contrary to applicable State law. (*Amendment effective February 5, 2011*).

Cottage Industry.

- A. Cottage industries may be permitted as a special use in any zoning district in which 1-unit dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries may be allowed on the basis of individual merit. The special use permit shall be reviewed for compliance with the original permit by the Zoning Administrator on a periodic basis and upon transfer of the property.
- B. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry other than an unlighted nameplate not exceeding nine (9) square feet in area.
- C. A cottage industry may occupy an accessory building provided the floor area contained within the accessory building does not exceed twenty-four hundred (2,400) square feet.

- D. Hours of operation shall be established by the Planning Commission during the review and approval process.
- E. The outdoor storage of vehicles, trailers, goods and/or materials of any kind is prohibited unless screened (tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring properties and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission.
- F. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of cottage industries shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the premises for residential purposes.
- H. Cottage industries initially shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to three additional employees/assistants.
- I. The maximum number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
- J. The activity will be served adequately by essential public services or facilities.
- K. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

Home Based Business.

- A. A home-based business may be permitted as a special use in any zoning district in which 1-unit dwellings are permitted, subject to review and approval by the Planning Commission. Home based businesses will only be allowed on the basis of individual merit. The permit shall be reviewed for compliance with the original permit by the Zoning Administrator on a periodic basis and upon transfer of the property.
- B. Home based businesses shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no

exterior evidence of such business other than an unlighted nameplate not exceeding nine (9) square feet in area.

- C. A home-based business may occupy an accessory building provided the floor area contained within the accessory building does not exceed twenty-four hundred (2,400) square feet.
- D. Hours of operation shall be established by the Planning Commission during the review and approval process.
- E. The outdoor storage of vehicles, trailers, goods and/or materials of any kind is prohibited unless screened (tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring properties and road rights-of-way. The type of screening shall be approved by the Planning Commission.
- F. Home based businesses shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Employee or other traffic for the pickup and delivery of goods or equipment shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of home-based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the premises for residential purposes.
- H. Home based businesses initially shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to three additional employees.
- I. The maximum number of vehicles that may be parked on the property at any given time shall be established by the Planning Commission during the review and approval process
- J. The activity will be served adequately by essential public services or facilities.
- K. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

SECTION 2.13 – LAKE ACCESS AND USE REGULATIONS. (Amendment effective October 8, 2008).

- A. Intent. The following regulations are intended to limit the number of non-riparian or non-littoral land parcels, site condominiums, or condominium units that have legal access to a body of water in order to preserve the long-term quality of the adjacent waters, to promote safety, and to preserve the quality of recreational use of all waters adjacent to the township. These regulations are intended to control funneling activity – the granting or existence of a legal property right benefitting non-riparian or non-littoral land parcels, site condominiums, or condominium units which authorizes the use of a riparian or littoral land parcel, or a portion thereof, to gain access to a body of water, whether such waterfront access is gained by easement; a common element or a limited common element in a condominium development; a covenant running with the land; a lease; or another legally recognized property interest. A riparian or littoral land parcel that is a lawful nonconforming lot of record as defined in Section 4.01. A of this Ordinance shall be allowed to provide the same lake access and shall be subject to the same regulations as riparian or littoral land parcels under this section.
- B. **Shared Waterfront Access.** In all zoning districts any riparian or littoral land parcel providing shared waterfront access shall have no less than a front lot line of 100 feet, or a greater front lot line when so required under this Ordinance, whichever is greater, and shall be no less than the minimum lot area for the zoning district in which located. Except as provided herein, a total of not more than two (2) non-riparian or non-littoral land parcels, site condominiums, or condominium units, wherever located, may be benefited with legal access to a body of water over a riparian or littoral land parcel. For each non-riparian or non-littoral land parcel, site condominium, or condominium unit in excess of the two (2) benefited with the legal right to access a body of water over a riparian or littoral land parcel, the riparian or littoral land parcel providing the shared waterfront access shall have a front lot line with an additional fifty (50) feet and an additional area equal to one-half ($\frac{1}{2}$) the minimum lot area for the zoning district in which located.
- C. **Waterfront Use Regulations.** The following use regulations shall apply in all zoning districts to any riparian or littoral land parcel regardless of whether the riparian or littoral land parcel provides shared waterfront access:
1. Except as provided in subsection 3 below, no person or entity may erect or maintain or cause to be erected or maintained more than one (1) dock and more than one (1) swim raft or other similar recreational devices or structures for each one hundred (100) feet of the front lot line. The length of the dock shall be limited to the length

necessary to reach a continuous water depth of four (4) feet. Any portion of a dock located on any riparian or littoral land parcel which is situated parallel or approximately parallel to the shore of said parcel shall not exceed 50 percent of the front lot line. No dock located on any riparian or littoral land parcel or swim raft or other similar recreational device or structure shall be erected or maintained in a manner which will impede the reasonable use of the waters by the owners of adjoining riparian or littoral land parcels or the general public lawfully using the water surface. The locations of all docks, hoists, permanently moored boats and swim rafts or other recreational devices or structures shall comply with the side yard setbacks from the riparian boundary lines as determined under Michigan law. Docks or swim rafts or other recreational devices or structures shared by the owners of adjoining riparian or littoral land parcels shall be allowed within the setbacks of the common lot line.

2. Except as provided in subsection 3 below, no person or entity shall moor or cause to be moored in a manner other than temporary mooring or anchorage as an incident of navigation more than three (3) registered watercraft for every one hundred (100) feet of the front lot line. For the purpose of determining the number of registered watercrafts permitted under this Ordinance, no more than four (4) personal watercraft, as defined in this Ordinance, shall be used for such calculations.
3. For each additional 100 feet of the front lot line in excess of the first 100 feet of front lot line provided for in subsections 1 and 2 above, one (1) additional dock and one (1) additional swim raft or other similar recreational devices or structures may be erected or maintained and three (3) additional registered watercraft may be moored.

D. Exception. The above regulations concerning docks, however, shall not apply to public access sites (public road endings) under the jurisdiction of the township.

SECTION 2.14 - DESIGNATION OF CERTAIN SWAMPY WETLANDS. Any parcel or parcels of land within the Township may be so designated if said parcel is generally swampy and satisfies any one of the following minimum requirements:

1. The major portion of the natural ground level is less than six (6) feet higher than the water level of an adjoining lake, river or stream.
2. The maximum groundwater elevations are within six (6) feet of the natural ground surface during winter, spring, or periods of prolonged rainfall.
3. The area does not meet the minimum criteria for certification of sewage facilities established by the District 3 Sanitary Code or District 3 Health Department based upon seasonal high-water levels.
4. The soil is predominately made up of "somewhat poorly" drained and/or

"poorly drained" organic and/or mineral soils as defined by the Cooperative Soil Survey of the U.S. Department of Agriculture.

SECTION 2.15 - SHORELANDS PROTECTION ZONE. Certain lands in the Township abut Lake Michigan and have been designated as "high risk" erosion areas under the Shorelands Protection Act. Construction within any zone shall comply with the rules and regulations adopted under the Shorelands Protection Act and the height, area and width requirements contained within the zone in which the use would otherwise be allowed will be applicable.

SECTION 2.16 - GENERAL LOT AND YARD AREA REQUIREMENTS FOR ALL ZONE DISTRICTS. *(Amendment effective July 28, 2017)* *(Amendment effective September 23, 2021)*

- A. NONDUPLICATION. In determining lot and lot line setback requirements, no area shall be counted as setback area to more than one principal structure or use, and no area necessary for compliance with the open space requirements for one structure or use shall be counted in the calculation of requirements for any other structure or use.

- B. FRONT, SIDE, & REAR LOT LINE SETBACK AREA USES. Every part of every front, side and rear lot line setback area shall be open and unobstructed by structures from the ground up to the sky. No structure may be located within 50 feet of the high water mark of 590.8 feet above sea level of Torch Lake or within 50 feet of the Ordinary High-Water Mark of Lake Michigan. The following exceptions apply to these setback requirements. *(Amendment effective March 19, 2021)* *(Amendment effective September 23, 2021)*
 - 1. One stairway per parcel with a maximum width of 48 inches is allowed in setback areas. The stairway may include landing(s) with a width not exceeding 48 inches and an area(s) not exceeding 48 square feet.
 - 2. Ground level walkways with a maximum width of 48 inches are allowed in setback areas. Walkways may reasonably traverse gullies, ditches, dune ridges, and other such depressions at a height more than ground level if they meet Antrim County building code requirements for safety and do not impede pedestrian travel along the shore of Lake Michigan.
 - 3. So as to not impact the dark night sky, lighting on decks, walkways and stairways shall only be illuminated by shielded, downwardly directed types of tread lighting.

- C. DWELLING PER LOT. No more than one (1) dwelling shall be erected on a lot in the R-1 or V zones. In all other zones where residential uses

are allowed, a second dwelling may be constructed provided sufficient land is present to meet all frontage, lot area, parking, and setback requirements for each dwelling should the parcel be split at a later date. Where a lot is being developed as a Site Condominium Project, more than one Building Site may be located on a lot provided that sufficient land is present to meet all requirements as though each Building Site were a separate lot.

SECTION 2.17 - WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES. Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwelling, recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system, and with means for collecting and disposal of all human excreta and of all water carried domestic, commercial, industrial, and other wastes that may adversely affect health conditions. The written approval of such facilities by the District Health Department 3 shall be filed with the application for a Zoning Permit as hereinafter provided. Temporary sanitation facilities used for more than two (2) days may be permitted by signed approval by the Zoning Administrator and must be properly screened from public view.

SECTION 2.18 - GRADING. No premises shall be filled or graded so as to increase the amount or velocity of surface water run off onto adjoining parcels.

SECTION 2.19 - USE OF RECREATIONAL VEHICLES AS TEMPORARY DWELLINGS. 1. Recreational vehicles shall be owned and registered to the owner of the property. 2. One (1) recreational vehicle may be used as a temporary dwelling for not more than one (1) thirty (30) consecutive day period in a year. A zoning permit is required. This shall be for personal use and not rented or leased to occupant. (Amended July 20, 2021)

SECTION 2.20 LOT WIDTH TO DEPTH RELATIONSHIP. All lot or building sites shall have minimum dimensions at least as deep as wide.

SECTION 2.21 - LOT OR SITE CONDOMINIUM UNIT CREATION. All lots or building sites hereafter created shall be of sufficient size and configuration to meet the requirements of this Ordinance.

SECTION 2.22 - LOT AND BUILDING SITE CREATION. All lots or condominium building sites proposed to be created which are subject to the provisions of the Subdivision Control Act or the Condominium Act shall require site plan approval pursuant to the requirements of Chapter XVIII.

SECTION 2.23 - HOME OCCUPATION, MEDICAL MARIJUANA. (Amendment effective February 5, 2011).

A. Intent and Purpose. The purpose of this section is to implement land use regulations to address medical marijuana as authorized by the Michigan

Medical Marihuana Act (hereinafter referred to as the “MMMA”), Initiated Law 1 of 2008, M.C.L. 333.26423 *et seq.* It is the intent of the Township Board to limit the rights of individuals under this portion of the zoning ordinance to include only those rights created as a result of enactment of the Michigan Medical Marihuana Act on February 5, 2011. It is also the intent of the Board that it chooses to not opt into any of the available options included in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101. Therefore, those options included in the MMFLA are hereby prohibited in Torch Lake Township.

- B. Conditions and Regulations. Functioning as a registered primary caregiver of medical marijuana is allowed as a Home Occupation pursuant to Section 2.12 of the Torch Lake Township Zoning Ordinance provided that each of the following standards is met:
1. No use, which purports to have functioned as a registered primary caregiver of medical marijuana prior to the enactment of this Section, shall be deemed to have been a legally established use under the provisions of the Zoning Ordinance and such use shall not be entitled to claim legal nonconforming status.
 2. The registered primary caregiver of medical marijuana shall be licensed in good standing and at all times in compliance with all applicable state laws, rules, and regulations.
 3. Functioning as a registered primary caregiver of medical marijuana shall not be allowed within 1,000 feet of any other home occupation functioning as a registered primary caregiver of medical marijuana or within one thousand (1,000) feet of any of the following uses:
 - a. Any church or place of worship and its accessory structures.
 - b. Any public or private school, having a curriculum including kindergarten or any one or more of the grades one through twelve, including accessory structures.
 - c. Any preschool, child care or day care facility and accessory structures.
 - d. Any public facility, such as libraries, museums, parks, playgrounds, public beach, community centers, and other public space where children congregate.
 4. All marijuana plants or products must be contained within the main building in an enclosed, locked facility that permits access only by the registered primary caregiver of medical marijuana or registered qualifying patient. Functioning as a registered primary caregiver of medical marijuana and any associated activities, including but not limited to growing, storage, processing, and the sales of related items shall be done indoors.
 5. No more than one (1) registered primary caregiver of medical marijuana shall be permitted to function as a home occupation servicing qualifying medical marijuana patients within a dwelling.

6. No more than two (2) qualifying patients are allowed at any one time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation.
7. Qualifying medical marijuana patient visits are restricted to between the hours of 7 a.m. and 8 p.m.
8. Consumption of medical marijuana shall not be allowed within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation unless such consumption is by an occupant of a dwelling who is also a registered qualifying patient.
9. No qualifying patients under the age of eighteen (18) shall be permitted at any time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian.
10. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall display indoors and, in a manner, legible and visible to the qualifying patients:
 - a. Notice that qualifying patients under the age of eighteen (18) are not allowed in the dwelling except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian
 - b. Notice that no consumption of medical marijuana shall occur at a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, other than that allowed in Section 2.23.H. above.
11. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall not have any outdoor signage evidencing such home occupation.
12. If a room with windows within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation is utilized to grow medical marijuana, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, must not be visible from adjacent streets or public ways, nor add to the visual light pollution of neighboring properties or the sky above.
13. If the registered primary caregiver of medical marijuana is not the owner of record of the dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, written consent must be obtained from the property owner to ensure their knowledge and consent with the use.
14. Relationship to Federal Law. Nothing within Section 2.23 of the Torch Lake Township Zoning Ordinance, or any companion regulatory provision, is intended to grant nor shall it be construed as granting immunity from federal law.

SECTION 2.24 - SHORT TERM RENTALS. Short term rentals shall not be allowed

in the R-1, R-2, or R-3 districts (*Amendment effective July 15, 2014*).

SECTION 2.25 - TEMPORARY STRUCTURES. (*Amendment effective January 21, 2015*)

- A. A temporary structure shall be permitted by the Zoning Administrator in any district for a period not to exceed six (6) months. A permitted structure shall not be more than one (1) story high nor have a floor area greater than four hundred (400) square feet. All such structures must comply with setbacks as set forth in the Zoning Ordinance. A temporary structure must be entirely removed upon permit expiration unless it is lawfully converted to a Temporary Dwelling in accordance with Section 2.05 or an Accessory Building in accordance with Section 2.06 and with a land use permit issued by the Township.
- B. The temporary land use permit shall have a maximum time limit of one-hundred and eighty (180) days; the specific time allowed shall be stated on the permit. Three (3) extensions may be granted by the Zoning Administrator for a period of ninety (90) days each if the applicant demonstrates that progress is being made on construction. The temporary structures shall be removed when a County occupancy permit is issued for the primary building under construction unless it is lawfully converted to a Temporary Dwelling in accordance with Section 2.05 and an Accessory Building in accordance with Section 2.06 with a land use permit issued by the Township.
- C. Refer to Section 2.19 regarding use of Recreational Vehicles as temporary dwellings with Torch Lake Township.

SECTION 2.26: WINERIES, CIDERIES & MEADERIES. (*Amendment effective July 15, 2015*).

SECTION 2.26.1. - Intent. This Chapter intends to allow and guide the establishing of wineries, vineyards, cideries, meaderies, tasting rooms and sales rooms as well as necessary wine, cider or mead storage facilities.

SECTION 2.26.2. Regulations. Wineries, cideries, meaderies and associated uses are permitted as a Permitted Use within the Agricultural (A) District, provided that:

- A. Wineries, Meaderies and Cideries, must be licensed by the U.S. Treasury, Bureau of Alcohol, Tobacco & Firearms; and the Michigan Liquor Control Commission, and is in compliance with the regulations of the Michigan

Liquor Control Commission, the Michigan Department of Agriculture & Rural Development, and the Michigan Department of Environmental Quality, and in compliance with Health District of Northwest Michigan regulations.

- B. The lot area is at least ten (10) acres. The minimum lot width shall be at least three hundred and thirty (330) feet.
- C. Wineries, meaderies and cideries parcels shall have a minimum of five (5) planted acres of fruit or other wine, cider and mead-related crops maintained pursuant to generally accepted management practices.
- D. The total land area covered by buildings and structures used for beverage processing, storage and sales does not exceed two (2) percent of the contiguous lot area. If the total land area covered by buildings and structures used for wine processing, storage and sales, exceeds thirty thousand (30,000) square feet, the project is subject to the site plan review process.
- E. The above ground portion of any individual building shall not be greater than twenty thousand (20,000) square feet.
- F. All buildings shall be set back at least fifty (50) feet from any lot line. If a building is open to the public, that building shall be set back at least one hundred (100) feet from any adjoining lot line. For buildings that are already on-site at the time of the application, these set back requirements may be reduced by the Planning Commission provided that any use of any such existing building do not adversely affect neighboring property. As a condition of granting a setback reduction, the Planning Commission may require landscaping, berms or buffering which is designed to reduce any adverse impacts on neighboring property.
- G. Retail sales of wine, cider, mead and/or related beverages; wine, cider, mead- related products; be and limited food service as permitted by this Ordinance are considered accessory uses. Indoor retail sales and food service areas shall occupy no more than twenty-five (25%) percent of the floor area devoted to wine, mead or cider processing and storage, or no more than four thousand (4,000) square feet, whichever is less.
- H. Food provided for sale shall be limited to hors d'oeuvres and snacks which must be prepared off-site. No food shall be prepared on-site for retail sale or for activities associated with wineries, meaderies and cideries as authorized by this Ordinance. A winery, meadery or cidery may sell products by the glass as authorized and regulated by the Michigan Liquor Control Commission. Sale of food at wineries, meaderies and cideries in the Agricultural Zone only shall not exceed 50% of the gross sales of

licensed products.

SECTION 2.26.3. Activities Associated with Wineries, Meaderies and Cideries (i.e., Associated Activities).

Subject to compliance with Michigan regulations (i.e., outdoor service, specific purpose, dance, and/or entertainment permits and/or food establishment license) and the requirements listed below, the following activities are permitted as accessory uses at a winery, meadery or cidery; wine, cider, mead appreciation and/or education seminars, fundraising benefits for a legal entity that has tax-exempt, non-profit status under State and Federal law, weddings, private parties, harvest festivals, wine, mead or cider appreciation member activities, agricultural research and similar uses. These accessory uses may be undertaken provided:

- A. Parking area must be off-road, forty (40) feet from all lot lines and screened and maintained from neighboring property. Light sources shall be downward directed and shielded to prevent light being directed off the premises.
- B. The owner/operator must have a written statement from the Health Department of Northwest Michigan indicating the maximum number visitors that can be accommodated with existing permanent on-site toilet facilities. Additional portable toilets must be provided for any guests exceeding the aforementioned number. This statement must be filed with the zoning administrator. Only one statement need be filed as long as the existing permanent on-site toilet facilities do not change.
- C. Food or non-wine, cider or mead-related beverages provided for the activity must be prepared off site.
- D. Any music or entertainment provided related to the activity must be for background purposes and not a featured item of the activity. Noise emanating from any activity or event shall not result in the unreasonable interference with the comfortable use and enjoyment of another's property.
- E. Outside activities shall be completed during daylight hours.
- F. Prior to a winery, meadery or cidery engaging in any activities associated with wineries, meaderies or cideries—as described above, an Applicant shall obtain all required Michigan permits and Site Plan Review approval of the Planning Commission for Winery, Meadery or Cidery Associated Activities pursuant with this Section and Chapter XVIII of the Torch Lake

Township Zoning Ordinance. Only one Site Plan Review is required prior the commencement of the first activity. If the Site Plan is approved, no other reviews are required provided that the information or circumstances described in the Site Plan approval have not changed. In addition to the requirements of Section 18: Site Plan Review a Winery, Meadery or Cidery Site Plan must contain the following information.

1. Existing uses on adjacent properties (especially churches and schools as defined by and 436.1107(7) and MCL 436.1111(8), respectively and distance of dwellings within five hundred (500) feet of the property boundary.
2. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshall.
3. Location of temporary toilet facilities, which may be required.
4. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no unreasonable adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
5. There is adequate provision for the temporary event parking of vehicles so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Parking associated with a winery, meadery or cidery must possess, provide and maintain safe ingress and egress from and to a public road. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
6. Should a planned event or associated activity at a winery, meadery or cidery require the erection of temporary structures, such as tents, these temporary structures shall be erected and dismantled and removed from the winery, meadery or cidery within a timely manner following the completion of an event.
7. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to mitigate and/or minimize adverse impacts on adjacent properties.

SECTION 2.26.4. Winery, Meadery and Cidery Associated Activity Log:

- A. An Applicant, who receives a Site Plan and Special Land Use approval for

a winery, meadery or cidery shall maintain a written log of all Associated Activities for each calendar year. The log shall contain at least the following:

1. A description of the type of each gathering that was held at the winery, meadery or cidery during the preceding calendar year, such as wine, cider or mead appreciation and/or education seminars, vineyard harvest festival, non-profit benefit, wedding, etc.
 2. For each Associated Activity, the date of occurrence, group identity, times and number of guests.
- B. As a condition of the conditional land use permit for the winery, meadery or cidery the Applicant shall keep each log for three (3) years and shall permit the Zoning Administrator to review and copy any or all of the logs upon request. There shall be no more than two (2) requests per calendar year for any logs. Information obtained from the logs shall be used for planning purposes, administrative or enforcement purposes only.

SECTION 2.27: FENCES (*Effective June 1, 2018*).

Purpose. Fences are meant to protect the Township's rural character, protect property values and provide privacy, protection and security.

SECTION 2.27.1 General requirements:

- A. For Commercial, Village Business and Industrial Districts, when located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
1. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
 2. Equipment at Grade: When located on, or close to the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
- B. For districts within which outdoor storage is allowed, it must be screened on all sides by a solid wall or fencing.
- C. Public utility substations where allowed shall be screened on all sides by a solid wall or fencing, and landscaping.
- D. All fences in all zoning districts shall be well-maintained, kept in good condition and repaired as necessary.

- E. The outer face of fences (i.e., the face away from the use which is to be fenced-in) shall be the smooth side of the fence with posts, supports, etc. on the interior.

SECTION 2.27.2 Residential (R1& R2), Multi-family Residential (R3) and Village Residential (VR) Districts (Amendment effective March 19, 2021):

- A. No side lot fence, gate or screen shall be placed closer than fifty (50) feet from the water's edge of Torch Lake or the federal ordinary high-water mark of Lake Michigan.
- B. Side yard fences and gates may be continuous or in sections and shall not be greater than eight (8) feet in height. Vegetation should not be removed to conform to the foregoing setback requirement.
- C. A continuous gate across a driveway is permitted. Such fences and gates shall be constructed of "see-through" materials/style, i.e., shall not be solid and shall possess 40 percent or more opacity.
- D. When a residential lot borders a lake shore, a side lot fence shall not exceed four (4) feet in height and shall be constructed of "see-through" materials/style, i.e., shall not be solid and shall possess 40 percent or more opacity.
- E. Solid fencing, not to exceed eight (8) feet in height, is permitted along the side of a lot bordering a public road that ends at the water's edge or ordinary high-water mark. If a natural fence is planted in this location, its height is not limited.
- F. Fences and gates adjacent to private or public road easements shall not be closer than ten (10) feet from a road easement and shall not be greater than four (4) feet in height.

SECTION 2.27.3. Agricultural (A-1) and Timber Reserve (TR) Districts:

- A. Fences used for residential purposes within the A-1 and TR Districts shall comply with Section 2.27.2.
- B. Fences used for horticultural or agricultural purposes:
 - 1. Woven wire, chain link, or similar fences used to enclose parcels are not limited in height.

2. Barbed wire and/or electric pulse fencing are permitted when used for controlling animals.

SECTION 2.27.4. Industrial, Village Business and Commercial Districts:

- A. Unless otherwise specified or determined by the Zoning Administrator or Planning Commission at the time of site plan review, fencing and screening is to be six (6) feet in height.
- B. A solid wall or fencing is to be located on the side and rear property lines of any site that abuts another zoning district or land use.

SECTION 2.27.5. Exceptions to fencing and screening requirements.

- A. Buildings abutting property lines. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
- B. Invisible pet fencing. Pet fencing using buried electric barrier technologies are exempt from this Section.
- C. Safety fencing. Safety fences, permanent or temporary, e.g., surrounding swimming pools, excavations, and similar features shall be exempt if erected for safety purposes only.
- D. Temporary fencing, i.e., portable, snow, construction-related barriers, and garden fences, etc. are exempt from this Section.
- E. Garden fences. Garden fences and fences erected for keeping small animals are exempt from Section 2.27.
- F. Location adjustment. Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Zoning Administrator.
- G. Existing screening. Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair

in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.

- H. Planning Commission and Zoning Administrator modification. Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission or Zoning Administrator first makes a written finding that specifically identified characteristics of the site or site vicinity which would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
- I. Zoning Board of Appeals. The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering requirements as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

SECTION 2.27.6. Materials for Screening Fences. Fences used as screening between parcels may consist of masonry walls, excluding fences within the R-1, R-2 and R-3 regulated under Section 2.27.2(d) and 2.27.2(e). Sheet metal, metal piling material and earthen berms are not allowed.

SECTION 2.27.7. Vegetated Buffer. A vegetated buffer shall be required for any commercial or industrial use that abuts a residential use on either the side or rear setback. In all instances, this may be provided as part of the side or rear setback requirements.

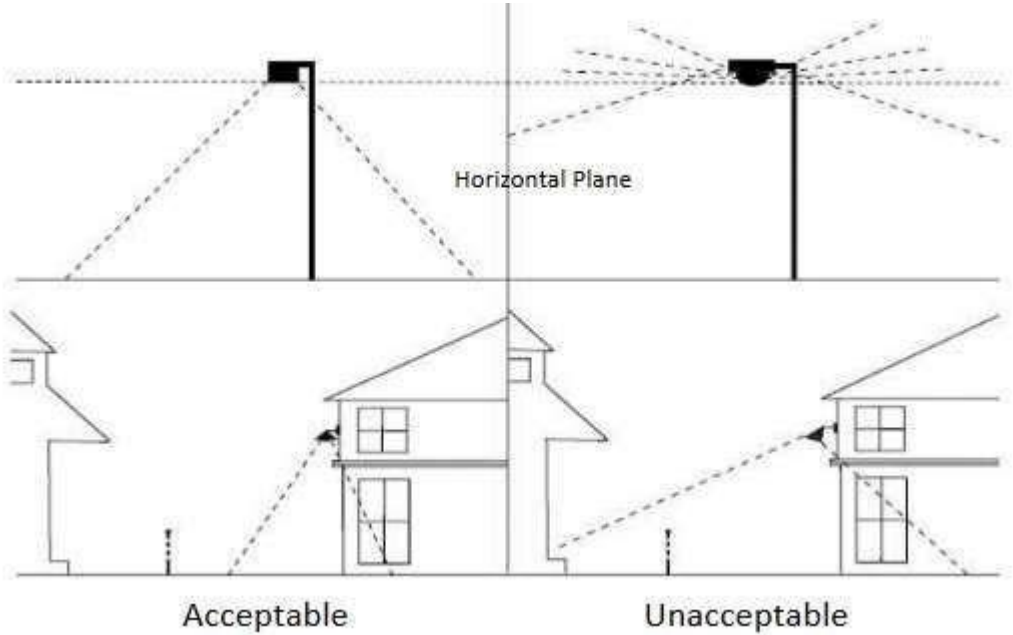
SECTION 2.28. LIGHTING. *(Effective November 6, 2020)*

Intent: To preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow,” and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties.

- A. Exterior lighting shall be shielded, arranged so that it projects and illuminates in a downward direction, positioned so as not to adversely affect any neighboring residence and is shielded to prevent light being directed off the premises. See illustration. Lighting should not add visual light pollution of neighboring properties or the dark night sky above.
- B. The light from any illuminated source shall be designed so that the light

intensity or brightness at any property line shall not exceed one (1) foot candle.

- C. Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site. See illustration.



- D. Illuminating the American Flag and lighting associated with agricultural operations are exempt.
- E. There shall be no permanent lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.

CHAPTER III A SIGNS

SECTION 3A.01 - PURPOSE The purpose of regulating signs is to prevent the obstruction or undue distraction of vision, to ensure safe travel by pedestrians, motorized and non-motorized vehicles, in addition to serving to protect and maintain the aesthetics and rural character of Torch Lake Township.

SECTION 3A.02 - AUTHORIZED SIGNS ON PRIVATE PROPERTY (without a Permit required): The following signs are permitted on private property in any zone and may be erected and maintained, as provided for herein, without a permit being required.

- A. **RESIDENTIAL IDENTIFICATION SIGNS:** On-premises signs to identify the name and/or address of the occupants of a residence, a permissible home occupation conducted within the premises or the name of a permitted bed and breakfast establishment.

Number Limitation: One (1) per lot or parcel.

Size Limitation: Nine (9) square feet.

Time Limitation: Limited to the duration of the home occupation or bed and breakfast, otherwise none.

Location: Freestanding or attached to the structure. Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

- B. **REALTOR OR BUILDER SIGNS:** On-premises signs identifying premises for sale or lease or under construction.

Number Limitation: One (1) for every two hundred (200) feet of road frontage

Size Limitation: Nine (9) square feet

Time Limitation: May continue until the premises are sold, leased or completed and occupied.

Location: Freestanding or attached to the structure. Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

- C. **REALTOR OR BUILDER LEAD-IN SIGNS:** All signs placed off-premises that lead or direct a potential buyer or supplier to a remotely located residence or construction site.

Number Limitation: A total of two (2) signs per intersection (one per corner

with the second sign located on the diagonal corner). In the case of multiple structures at remote locations being advertised for sale, a generic sign shared by all parties selling homes shall be utilized.

Size Limitation: Nine (9) square feet
Time Limitation: May continue until the premises are sold, leased or completed and occupied.
Location: Freestanding signs may be located up to the lot line but shall not be located within any right of way and shall only be installed with the permission of the property owner, except as addressed in Section 3A.02I.

D. NEW SUBDIVISION (Lots for Sale) SIGNS: On-premises signs advertising lots for sale in a new plat or other development.

Number Limitation: One (1) for each public road on which the development contains frontage.
Size Limitation: Fifty (50) square feet
Time Limitation: May remain until ninety (90%) percent of the lots are sold.
Location: Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

E. GARAGE SALE, YARD SALE OR PRIVATE SALE SIGNS: All signs identifying such sales are permitted under the Yard Sale Ordinance provisions.

Number Limitation: Two (2) signs per lot or parcel
Size Limitation: Nine (9) square feet each
Time Limitation: Shall not be erected more than seven (7) days prior to the beginning of the sale and shall be removed upon completion of sale.
Location: Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

F. FARM STAND OR FARM MARKET SIGNS: All signs identifying such markets are permitted seasonally on the premises upon which such markets are conducted.

Number Limitation: One (1) sign for each one hundred (100) feet of road frontage to a maximum of three (3) signs.
Size Limitation: Twenty (20) square feet each.
Time Limitation: None.
Location: Must be located on the farm where the market is

located. One of the signs may be attached to the structure from which the merchandise is sold. If all three signs are freestanding, no advertising legible from the road shall be placed upon the structure. Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

G. ELECTION CAMPAIGN SIGNS: Signs supporting, opposing or otherwise taking a position on a candidate or ballot issue.

Number Limitation: None

Size Limitation: A maximum of sixty (60) square feet of election signs will be allowed at any one time on any parcel of property.

Time Limitation: Shall be removed within ten (10) days following the election at which the issue is decided.

Location: Freestanding or attached to the structure. Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

H. POSTED SIGNS: On premises signs designating areas where no hunting or trespassing upon the property is allowed.

Number Limitation: None

Size Limitation: Two (2) square feet

Time Limitation: None

Location: Must not be located within the road right-of-way

I. AFFECTED VISIBILITY: In instances where visibility is affected by excess vegetation or other natural obstructions, the sign may be located the greatest distance possible from the road way, while at the same time providing for sign visibility.

J. LICENSED UPLAND GAME BIRD HUNTING PRESERVES:

1. On premises sign designating the property which is licensed by the Michigan Department of Natural Resources as a licensed upland game bird hunting preserve.

Number Limitation: None

Size Limitation: Two (2) square feet

Time Limitation: None

Location: Signs notifying the public of the presence of the hunting preserve shall be located along the property line. If the property line falls within a road right-of-way, the signs shall be located

along the edge of the right of way. Signs denoting a safety zone shall be located at the preserve boundary.

2. On premises sign advertising the use of the property as a licensed upland game bird hunting preserve.

Number Limitation: Two

Size Limitation: Twenty (20) square feet.

Time Limitation: None

Location: Freestanding signs may be located up to the lot line but shall not be located within any right of way, except as addressed in Section 3A.02I.

SECTION 3A.03 - AUTHORIZED SIGNS IN THE HIGHWAY RIGHT-OF-WAY of US-31 and M-88 (without a Township Zoning Permit): The following signs may be placed within highway right-of-way of US-31 or M-88 in any zone subject to the following regulations and the requirements of the Michigan Department of Transportation and the Antrim County Road Commission.

- A. OFFICIAL SIGNS: All signs placed on behalf of a governmental unit or political subdivision for the purpose of identifying public buildings or properties, street names, traffic control, or providing directions to public facilities and Tourist Oriented Signs.

Number Limitation: None

Size Limitation: None

Time Limitation: None

Location: No restrictions

- B. The following types of signs may be located within the right-of-way of US-31 and M-88:

RESIDENTIAL IDENTIFICATION SIGNS

REALTOR OR BUILDER SIGNS

NEW SUBDIVISION

GARAGE SALE, YARD SALE OR PRIVATE SALE SIGNS

ELECTION CAMPAIGN SIGNS

REAL ESTATE SALES LEAD IN SIGNS

Number Limitation: As specified in Section 3A.02

Size Limitation: Nine (9) square feet.

Time Limitation: As specified in Section 3A.02 with the stipulation that at such time as the sign or a sign conveying the same message can be located outside of the right-of-way with adequate visibility (as determined by the zoning administrator) the sign shall be moved out of the right-of-way.

Location: The sign shall be located the greatest distance possible from the roadway, while at the same time providing for sign visibility. The zoning administrator

shall require the sign to be located further from the road surface if in his opinion the sign can be located further from the road and enable the purpose of the sign to be fulfilled. The purpose in allowing signs within the right-of-way is to eliminate the need to remove woody vegetation from the right-of-way and private property to provide for sign visibility. With the exception of realtor lead in signs, all signs must be located within the right-of-way directly between the highway and the property upon which the sign is intended to publicize.

SECTION 3A.04 - AUTHORIZED SIGNS REQUIRING A PERMIT: The following signs are permitted in any zone specified and may be erected and maintained, as provided for herein, after having obtained all required permit(s).

A. **SUBDIVISION OR RESORT AREA IDENTIFICATION SIGNS:** On-premises signs which identify a subdivision or other collection of vacation, residential or resort properties.

Number Limitation: One (1) located at each intersection of a subdivision or resort road and an existing street or public highway.

Size Limitation: Fifty (50) square feet

Time Limitation: None

Location: Freestanding signs should be located a minimum of 1/2 of the required setback distance from the lot line in the district in which the sign is located. The Planning Commission may approve the placement of signs closer to the front property line during the site plan review process to protect significant stands of vegetation or other natural obstructions that would otherwise need to be removed to ensure visibility of the signage.

B. **BUSINESS IDENTIFICATION SIGNS:** On-premises signs that identifies business or other commercial enterprise.

Number Limitation: One (1) per lot or parcel

Size Limitation: Fifty (50) square feet

Time Limitation: None

Zones Allowed In: VB, VR, C, M, PRD and PUD

Location: Freestanding signs should be located a minimum of 1/2 of the required setback distance from the lot line in the district in which the sign is located. The Planning Commission may approve the placement of signs closer to the front property line during the site plan review process to protect significant stands of vegetation or other natural obstructions that would otherwise need to be removed to ensure visibility of the

signage.

- C. **ADVERTISING AND DISPLAY SIGNS:** On-premises signs that advertise goods or services offered or provided on the premises.
Number Limitation: Two (2) per lot or parcel
Size Limitation: Twenty-five (25) square feet each
Time Limitation: None
Zones Allowed In: VR, VB, C, M, PRD and PUD
Location: Freestanding signs shall be located a minimum of 1/2 of the required setback distance from the lot line in the district in which the sign is located. The Planning Commission may approve the placement of signs closer to the front property line during the site plan review process to protect significant stands of vegetation or other natural obstructions that would otherwise need to be removed to ensure visibility of the signage.
- D. **OFF-PREMISES COMMERCIAL SIGNS:** All signs that identify a business, service, facility or event; situated or offered from a location other than where the sign is.
Number Limitation: The total number allowed in the township irrespective of ownership shall be regulated via the spacing requirements below.
Size Limitation: Sixty-four (64) square feet
Time Limitation: None
Zones Allowed In: A, R-3, VR, VB, C, M, PRD, PUD,
Permitted routes: US-31 and M-88
Spacing: Off premises signs (with the exception of realtor lead in signs) shall not be placed within two thousand (2,000) feet of another off-premises sign along the same road regardless as to which side of the road the off-premises signs may be located.

SECTION 3A.05 - PERMIT PROCEDURE: All required permits for signs are to be obtained from the Zoning Administrator with the completion of a Sign Permit Application that shall require at least the following information:

- A. The name, address and telephone number of the applicant's, and the owner of the property if different from the applicant.
- B. The property tax identification number and legal description of the property.
- C. A drawing to scale showing the proposed location of the sign(s) on the property.

- D. A scale drawing of the proposed sign.
- E. A written description of materials from which the sign will be constructed.
- F. The name, address and telephone number of the party erecting the sign as well as the party responsible for the maintenance and upkeep of the sign.
- G. Detailed information regarding the type, intensity, direction and hours of lighting.
- H. Such other information as may be required by the Zoning Administrator to enable a determination of compliance with this ordinance be made and that the health, safety and general welfare of the township will be preserved.

SECTION 3A.06 - PERMIT FEE: The fee for the issuance of a sign permit shall be provided for in the fee schedule as adopted by the Torch Lake Township Board.

SECTION 3A.07 - SITING AND HEIGHT REQUIREMENTS:

- A. Signs shall comply with the side lot line setback. For those districts not having side lot line setback requirements, a minimum thirty (30) foot side lot line setback shall be required.
- B. The top of the sign must not exceed twenty (20) feet in height above the natural ground level.

SECTION 3A.08 - GENERAL REGULATIONS RELATING TO SIGNS:

- A. No sign or its supporting structure shall extend into any highway, street or public right-of-way other than as permitted above (see section 3A.02I.).
- B. No sign shall impede traffic or obstruct any view of the same from any sidewalk, driveway or roadway.
- C. No sign shall remain if obsolete by virtue of identifying or advertising a business, product, or activity which no longer exists.
- D. No sign shall remain if not maintained in good repair.
- E. Any source of sign illumination shall be shielded, downward directed, and positioned so as not to adversely affect any neighboring residence, shine into a road right-of-way or into the sky. (*Amendment effective March 29, 2013*).
- F. All signs that project in excess of one (1) foot from the side of a building shall have no portion of the sign located within eight feet of ground level.

- G. All electrical signs shall be erected and maintained according to all applicable codes.
- H. All references to square footage include the frames and borders in addition to the sign face. Signs which are painted on, consist of raised letters or symbols attached to the surface of a building or otherwise are a part of a building or awning shall be calculated by determining the dimensions of a rectangle which would completely enclose the letters or symbols or other message area contained upon the building or awning.
- I. No sign shall be erected or maintained on the property of another without written permission of that property owner.
- J. Signs featuring flashing, strobe or other varied lighting effects are prohibited.
- K. No signs shall contain moving parts or have the appearance of movement.

CHAPTER III B WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

SECTION 3B.01 - PURPOSE: The purpose of regulating Wireless Telecommunications Towers and Antennas is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Section include:

- A. To protect residential areas and land uses from potential adverse impacts of towers and antennas;
- B. To encourage the location of towers in non-residential areas;
- C. To minimize the total impact of towers throughout the community;
- D. To strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- E. To encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- F. To encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- G. To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- H. To consider the public health and safety of communication towers;
- I. To avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, Torch Lake Township shall give due consideration to the Torch Lake Township master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

SECTION 3B.02 – APPLICABILITY

- A. New Towers and Antennas. All new towers or antennas in Torch Lake Township shall be subject to these regulations, except as provided in Sections 3B.02 B. through 3B.02 D., inclusive.
- B. Amateur Radio Stations and/or Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under

seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

- C. Pre-Existing Towers or Antennas. Pre-Existing towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 3B.03 F. and 3B.03 G.
- D. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

SECTION 3B.03 - GENERAL REGULATIONS RELATING TO WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

- A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with zoning regulations, (including but not limited to setbacks, lot-coverage, and other such requirements), the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of existing towers and antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Torch Lake Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate towers or antennas within the jurisdiction of Torch Lake Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics. Towers and antennas shall meet the following requirements:
 - 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding building.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance.
- F. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Torch Lake Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Torch Lake Township irrespective of township boundaries.
- I. Non-Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted

as essential services, public utilities, or private utilities.

- J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in Torch Lake Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- K. Public Notice. For purposes of this ordinance, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 3B.05 B.5. a.2, Table 2, in addition to any notice otherwise required by the Zoning Ordinance.
- L. Signs. No signs shall be allowed on an antenna or tower.
- M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 3B.06 A. through D.
- N. Multiple Antenna/Tower Plan. Torch Lake Township requires the users of towers and antennas, to submit in a single application, their proposed plan for towers and antenna to be located in the township.

SECTION 3B.04 – PERMITTED USES.

- A. General. The uses listed in this Section are deemed to be permitted uses and shall not require a special use permit.
- B. Permitted Uses. The following uses are specifically permitted:
 - 1. Antennas or towers located on property owned by Torch Lake Township provided a lease authorizing such antenna or tower has been approved by the Torch Lake Township Board.

SECTION 3B.05 – SPECIAL USE PERMITS

- A. General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:
 - 1. For towers not located on township property, a special use permit shall be required, for the construction of a tower, or the placement of an antenna on an existing tower when the antenna will extend above the top of the existing tower, in all zoning districts.

2. Applications for special use permits under this Section shall be subject to the procedures and requirements of Chapter XVII of the Zoning Ordinance, except as modified in this Section.
3. In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on neighboring properties.
4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
5. Filing fees as set forth in the Township Fee Schedule.

B. Towers and Antennas.

1. Information required. In addition to any information required for applications for special use permits pursuant to Chapter XVII of the Zoning Ordinance, applicants for a special use permit for a tower shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, Master Plan classification of the site and all properties within the applicable separation distances set forth in Section 3B.05 B.5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Commission to be necessary to assess compliance with this ordinance.
 - b. Legal description of the parent tract and leased parcel (if applicable).
 - c. The distance between the proposed tower and the nearest residential dwelling unit or property which is zoned as any of the districts that allow residential development.
 - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 3B.03 C. shall be shown on the site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s).
 - e. Landscape plan showing specific landscape materials.
 - f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - g. A description of compliance with Sections 3B.03 C. through M., and Section 3B.05 B. 4 and 5 and all applicable federal, state or local laws.

- h. A notarized statement by the applicant regarding the ability of the tower as proposed to accommodate the co-location of additional antennas for future users.
 - i. Identification of the entities providing the back-haul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k. A description of the feasible location(s) of future towers or antennas within the Torch Lake Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
2. Factors Considered in Granting Special Use Permits for Towers. In addition to any standards for consideration of special use permit applications pursuant to Chapter XVII of the Zoning Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:
- a. Height of the highest part of the tower or antenna which extends above the top of the tower must not exceed the heights as specified in Section 3B.06;
 - b. Proximity of the tower to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress
 - h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 3B.05 B.3 of this ordinance.
3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can

accommodate the applicant's a proposed antenna. An applicant shall submit information as to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro-cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
4. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:
- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

5. Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.
 - a. Separation from off-site uses/designated areas.
 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 2. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

<u>Off-site Use/Designated Area</u>	<u>Separation Distance</u>
1 or 2-unit dwellings	200 feet or 300% height of tower*, whichever is greater.
Vacant 1-unit or 2-unit residentially zoned land which is either platted or has preliminary subdivision plan approval which has not expired.	200 feet or 300% height of tower, whichever is greater.
Vacant unplatted residentially zoned lands**.	100 feet or 100% height of tower, whichever is greater.
Existing 3 or more-unit dwellings.	100 feet or 100% height of tower, whichever is greater.
Non-residentially zoned lands or non-residential uses.	None; only setbacks apply

* Separation measured from base of tower to closest building setback line.

**Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any 3 or more units residentially zoned land.

- b. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

Existing Tower - Types

	Lattice	Guyed	Monopole 75 ft. in height or greater	Monopole than 75 ft. in height
less				
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft. in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft. in height	750	750	750	750

6. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.
7. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.
 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

Section 3B.06 – TOWER AND ANTENNA HEIGHT

A. The maximum height of any tower or antenna in those instances when the antenna extends above the top of the tower shall be limited as provided below:

Table 3:

District	Height	Height Bonus for Co-Located Antennas	
		Additional Height	No. of Users Antennas (Co-located)
Agricultural	100'	30'	2 or more users
R-1, R-2 & R-3	100'	0'	Not dependent on number of users
VR & VB	100'	30'	2 or more users
Commercial	100'	30'	2 or more users
		60'	3 or more users
		90'	4 or more users
Timber	100'	30'	2 or more users
		60'	3 or more users
Manufacturing	100'	30'	2 or more users
		60'	3 or more users
		90'	4 or more users
PUD and PRD	100'	30'	2 users

SECTION 3B.07 – BUILDINGS OR OTHER EQUIPMENT STORAGE

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

1. Shall be located on the ground or roof of the structure but in no instance shall the top extend more than thirty-five (35) feet above ground level. The cabinet or equipment structure shall not contain more than one hundred (100) square feet of floor area if located on the ground.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.
 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following.
1. In residential districts, the equipment cabinet or structure location shall comply with all setback requirements and shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
 2. In commercial or industrial districts, the equipment cabinet or structure shall be located a minimum of 10 feet from any lot line and be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by solid fence six feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 10 square feet of gross floor area or be more than 6 feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- D. Modification of Building Size Requirements. The requirements of Sections 3B.07 A. through C. may be modified by the Planning Commission in the case of uses permitted by special use to encourage co-location.

SECTION 3B.08 – BONDS AND FEES. Various costs may be incurred by the Township which shall be defrayed in the following manner:

- A. A bond shall be required to be posted with the Township to provide for any and all costs associated with the removal of a tower should it be abandoned as specified in Section 3B.09 or otherwise becomes a hazard to the health, safety or general welfare of the residents or properties of Torch Lake Township. The applicant shall provide sufficient funds to the Township to allow for the acquisition of independent technical and

engineering expertise for the purpose of evaluating the proposed towers and/or antennas. These funds shall be deposited in an escrow account by the township with the funds drawn upon as necessary. Remaining funds shall be refunded to the applicant.

SECTION 3B.09 – REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

Any antenna or tower that is unused for a continuous period of twelve (12) months for the purpose for which it was constructed shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Torch Lake Township notifying the owner of such abandonment. Should the owner of a tower located on leased land be unable or unwilling to remove the tower, the land owner shall be responsible for the removal of the tower. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

SECTION 3B.10 – NONCONFORMING USES.

- A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Pre-existing towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 3B.10., a bona fide nonconforming tower or antenna that is damaged or destroyed may be rebuilt in its original configuration without having to first obtain approval or a special use permit and without having to meet the separation requirements specified in Sections 3B.05 B.4 and 3B.05 B.5. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility. Building permits to rebuild such facility shall comply with the current applicable building codes and shall be obtained within thirty (30) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 3B.09.

CHAPTER III C SMALL WIND ENERGY CONVERSION SYSTEMS (WECS)
(Amendment effective March 12, 2011)

SECTION 3C.01 INTENT. It is the purpose of this Chapter to promote the safe, effective, and efficient use of small wind energy conversion systems (WECS) installed to enable the on-site production of electricity and/or mechanical energy.

SECTION 3C.02 REGULATIONS. Small WECS are a permitted use by right in any district if they meet the standards and regulations of this Chapter.

- A. Small WECS Height. The total small WECS height, as defined in this Ordinance, shall be limited to one-hundred and ten (110) feet.
- B. Increase in Allowable Small WECS Height. The Zoning Administrator may allow for an increase in allowable small WECS height by up to an additional thirty (30) feet where site conditions dictate, impact on neighboring properties is minimal, and all other requirements of this Chapter are met, including the setback provisions.
- C. Small WECS Setback. Small WECS tower setbacks shall be the fall zone, as defined in this Ordinance. If any portion of the fall zone is located on an adjacent lot, the owner(s) of the adjacent lot may consent in writing to the reduced setback and if so shall agree to place deed restrictions. Such deed restrictions shall run with the land on his/her/their adjacent lot prohibiting the construction of any structure on the adjacent lot within the fall zone for as long as the WECS is erected. The deed restrictions shall be in recordable form and shall be subject to the approval of the township attorney. In no event shall the small WECS setback, including any guy wires, be less than that required within the zoning district in which a small WECS is located.
- D. Noise. The applicant shall provide evidence that a small WECS will not cause sound in excess of 60 dB (A-scale) as measured at any property line.
- E. Electrical Wires. Other than the wires necessary to connect the small WECS to the tower wiring, lightning protection, tower guy wires and wiring affixed to the tower itself, all wires shall be placed in conduit and located underground as required by the Antrim County Building Inspections Department.
- F. Additional WECS. Up to three (3) small WECS may be permitted at a single parcel of land if all other requirements of this Chapter and the Torch Lake

Township Zoning Ordinance are met, and the electric generation capacity of all small WECS on the site does not exceed a total of thirty (30) kilowatts (KW).

- G. Approval Required. Small WECS shall obtain all permits required from the Antrim County Building Inspections Department. The applicant shall demonstrate to the Torch Lake Township Zoning Administrator that all components of the proposed WECS meet all applicable safety standards and that a grid interconnection, if any, is Underwriter Laboratories, Inc. (UL) certified.
- H. Utility Notification. No small WECS intended to be connected to the grid shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Small WECS that connect to the electric utility shall comply with the Michigan Public Service Commission's "Rules for Interconnecting Distributed Generation Facilities." Off-grid small WECS shall be exempt from this requirement.
- I. Shadow Flicker. The applicant shall provide evidence to demonstrate that no shadow flicker will fall on adjacent properties. If a shadow flicker zone is projected to fall on any adjacent lots, the owner(s) of the adjacent lots may consent in writing to the presence of the shadow flicker zone and if so may agree to place deed restrictions. Such deed restrictions shall run with the land on his/her/their adjacent lot acknowledging the existence of a shadow flicker zone. The deed restrictions shall be in recordable form and shall be subject to the approval of the township attorney.
- J. Signs. No signs shall be permitted on a small WECS and no signs shall be permitted on the site of a small WECS, except [a sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational injuries and] a job site sign no more than four (4) square feet in area which may be maintained between the time a contract is signed for the construction of the small WECS and thirty (30) days after construction is substantially complete.
- K. Lighting. A small WECS shall not be artificially lighted.
- L. WECS Tower Color. WECS towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

- M. Minimum Rotor Vane or Blade Clearance. Blades or rotor vanes on small WECS shall have a minimum clearance from the ground or adjacent structures of ten (10') feet for a Vertical Axis WECS Turbine (VAWT), and fifteen (15') feet for a Horizontal Axis WECS Turbine (HAWT).
- N. Abandonment. A small WECS that is inoperable and has not functioned for at least twelve (12) continuous months shall be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a small WECS that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Zoning Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides adequate information that demonstrates the small WECS has not been abandoned. If the small WECS is determined to be abandoned, the owner of a small WECS shall remove the small WECS, tower, guy and electrical wires, and any associated concrete bases(s) and/or anchor(s) at the Owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator and associated infrastructure, including the tower, the Zoning Administrator and Township may pursue a legal action to have the small WECS removed at the Owner's expense.
- O. Small WECS Safety Measures.
1. Each small WECS shall be equipped with controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
 2. Any small WECS tower, system regulator, control/conversion and other electronic devices, and guy wires shall be grounded to safely sustain natural lightning strikes in conformance with the national Electrical Code.
 3. All ground mounted and electrical control equipment shall be labeled and secured to prevent unauthorized access.
 4. Any small WECS facility shall be equipped with anti-climbing devices to a height eight (8) feet above grade.
- P. Meteorological Towers (METS). METS shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small WECS.

SECTION 3C.03 ADDITIONAL REQUIREMENTS FOR SMALL WECS PERMIT APPLICATION.

In addition to the information required to be submitted under Section 19.03 of this Ordinance, an application for a zoning permit for a small WECS shall contain all of the following information, unless the Zoning Administrator waives a particular information requirement of this section upon a finding that the information is not applicable to the proposed small WECS and the information is not needed to determine whether the proposed small WECS meets the requirements of this Ordinance:

- A. Any overhead utility lines and utility easements;
- B. Small WECS specifications, including manufacturer and model, rotor diameter, tower height, tower type (i.e., free standing or guyed), WECS and tower color;
- C. Tower foundation blueprints or drawings;
- D. Tower blueprint or drawing;
- E. A shadow flicker analysis to demonstrate expected areas of shadow flicker throughout the year; and
- F. A small WECS maintenance plan and any other information deemed necessary by the Zoning Administrator to demonstrate compliance with the standards and requirements of this Chapter.

CHAPTER III D COMMERCIAL KENNELS
(Amendment effective July 15, 2014)

SECTION 3D.01 - INTENT.

This Chapter intends to allow and guide the establishing of commercial kennels and associated uses and facilities.

SECTION 3D.02 - REGULATIONS.

- A. Commercial kennels shall be subject to Chapter XVIII - Site Plan Review; Chapter XVII - Special Land Uses; Chapter IIIA – Signs; and Chapter XVI – Off-street Parking and Unloading.
- B. The minimum lot area shall be five (5) acres for the first five (5) animals, and an additional five thousand (5,000) square feet for each animal in addition to the first five (5). The Torch Lake Planning Commission may reduce this requirement based on site conditions.
- C. Buildings and/or the use shall not exceed twenty-five (25%) percent of the lot except as open space for animals.
- D. The applicant shall declare as part of the Special Land Use application, the maximum number of animals intended to be housed at the facility. The Torch Lake Planning Commission shall establish the maximum number of animals to be housed. For the purposes of this paragraph, newborn animals not yet weaned shall not be counted toward such maximum.
- E. Buildings where animals are kept, dog runs, tethers and exercise areas shall not be located nearer than fifty (50) feet from any adjoining property line.
- F. Dog runs and exercise areas shall not be located within any front yard.
- G. All principal use activities, other than outdoor dog runs, tethers or exercise areas, shall be conducted within a totally enclosed building.
- H. An animal waste management plan shall be provided by the applicant. Animal waste must be managed in a manner so as not to be a hazard to health or a nuisance to neighbors.

- I. All required state and local licenses and permits shall be obtained and maintained in good standing at all times.
- J. Noise emanating from a kennel shall not cause the unreasonable interference of the comfortable use and enjoyment of an adjoining property.

SECTION 3D.03 ACTIVITIES ASSOCIATED WITH COMMERCIAL KENNELS (ASSOCIATED ACTIVITIES).

Subject to compliance with all relevant federal, Michigan and local regulations and the requirements listed below, the following activities are permitted as accessory uses at a commercial kennel: pet appreciation events, competitions, shows, and/or education seminars; fund raising benefits for a legal entity that has tax-exempt, non-profit status under State and Federal law; and similar uses. These accessory uses may be undertaken provided:

- A. The owner/operator must have a written statement from the Health Department of Northwest Michigan indicating the maximum number visitors that can be accommodated with existing permanent on-site sanitary facilities. Additional portable toilets must be provided for any guests exceeding the aforementioned number. This statement must be filed with the zoning administrator. Only one statement need be filed as long as the existing permanent on-site sanitary facilities do not change.
- B. Food and beverages provided for the activity must be prepared off site.
- C. Any music or entertainment provided related to the activity must be for background purposes and not a featured item of the activity. Noise emanating from any activity or event shall not result in the unreasonable interference with the comfortable use and enjoyment of another's property.
- D. Outside activities shall be completed during daylight hours.
- E. Prior to a commercial kennel engaging in any activity as described above, an Applicant shall obtain all required federal, Michigan and local permits and Site Plan Review approval of the Planning Commission for such activities pursuant with this Section and Chapter XVIII of the Torch Lake Township Zoning Ordinance. Only one Site Plan Review is required prior the commencement of the first activity. If the Site Plan is approved, no other reviews are required provided that the information or circumstances described in the Site Plan approval have not changed. In addition to the

requirements of Section 18: Site Plan Review a commercial kennel must contain the following information.

1. Existing uses on adjacent properties and distance of dwellings within five hundred (500) feet of the property boundary.
2. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshall.
3. Location of temporary sanitary facilities, which may be required.
4. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no unreasonable adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
5. There is adequate provision for the event related, temporary parking of vehicles so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Parking associated with a commercial kennel must possess, provide and maintain safe ingress and egress from and to a public road. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
6. Should a planned event at a commercial kennel require the erection of temporary structures, such as tents, these temporary structures shall be erected and dismantled and removed from the commercial kennel within a timely manner following the completion of an event.
7. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to mitigate and/or minimize adverse impacts on adjacent properties.

SECTION 3D.04 COMMERCIAL KENNEL ASSOCIATED ACTIVITY LOG:

- A. An Applicant, who receives Township approval for a commercial kennel shall maintain a written log of all Associated Activities for each calendar year. The log shall contain at least the following:
 1. A description of the type of each gathering that was held at the commercial kennel during the preceding calendar year.
 2. For each Associated Activity, the date of occurrence, group identity, times and number of guests.

- B. As a condition of the conditional land use permit for the commercial kennel, the Applicant shall keep each log for three (3) years and shall permit the Zoning Administrator to review and copy any or all of the logs upon request. There shall be no more than two (2) requests per calendar year for any logs. Information obtained from the logs shall be used for planning purposes, administrative or enforcement purposes only.

CHAPTER III E MICRO-BREWERIES AND MICRO-DISTILLERIES
(Amendment effective July 15, 2015)

SECTION 3E.01 – INTENT.

This Chapter intends to allow and guide the establishing of Micro-breweries and Micro-distilleries and associated uses and facilities.

SECTION 3E.02 – REGULATIONS.

Subject to compliance with Michigan regulations (i.e., outdoor service, specific purpose, dance, and/or entertainment permits and/or food establishment license) and the requirements listed below, the following activities are permitted as accessory uses at a micro-brewery or micro-distillery: beer or spirits appreciation and/or education seminars, fund raising benefits for a legal entity that has tax-exempt, non-profit status under State and Federal law, weddings, private parties, harvest festivals, beer or spirits appreciation member activities, agricultural research and similar uses. These accessory uses may be undertaken provided:

- A. Parking area must be off-road, forty (40) feet from all lot lines and screened and maintained from neighboring property. Light sources shall be downward directed and shielded to prevent light being directed off the premises.
- B. The owner/operator must have a written statement from the Health Department of Northwest Michigan indicating the maximum number visitors that can be accommodated with existing permanent on-site toilet facilities. Additional portable toilets must be provided for any guests exceeding the aforementioned number. This statement must be filed with the zoning administrator. Only one statement need be filed as long as the existing permanent on-site toilet facilities do not change.
- C. Food or non-beer or spirits related beverages provided for the activity must be prepared off site.
- D. Any music or entertainment provided related to the activity must be for background purposes and not a featured item of the activity. Noise emanating from any activity or event shall not result in the unreasonable interference with the comfortable use and enjoyment of another's property.
- E. Outside activities shall be completed during daylight hours.

- F. If events or “associated activities” are planned as described above, prior to the micro-brewery or micro-distillery engaging in any such events or associated activities, an Applicant shall obtain all required Michigan permits and Site Plan Review approval of the Planning Commission for Micro-brewery or Micro-distillery Activities pursuant with this Section and Chapter XVIII of the Torch Lake Township Zoning Ordinance. Only one Site Plan Review is required prior the commencement of the first activity. If the Site Plan is approved, no other reviews are required provided that the information or circumstances described in the Site Plan approval have not changed. In addition to the requirements of Section 18: Site Plan Review a Micro-brewery or Micro-distillery Site Plan must contain the following information.
1. Existing uses on adjacent properties (especially churches and schools as defined by and 436.1107(7) and MCL 436.1111(8), respectively and distance of dwellings within five hundred (500) feet of the property boundary.
 2. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshall.
 3. Location of temporary toilet facilities, which may be required.
 4. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no unreasonable adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.
 5. There is adequate provision for the temporary event parking of vehicles so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Parking associated with a micro-brewery or micro-distillery must possess, provide and maintain safe ingress and egress from and to a public road. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
 6. Should a planned event at a micro-brewery or micro-distillery require the erection of temporary structures, such as tents, these temporary structures shall be erected and dismantled and removed from the micro-brewery or micro-distillery within a timely manner following the completion of an event.

7. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to mitigate and/or minimize adverse impacts on adjacent properties.
- G. An Applicant, who receives a site plan and special land use approval for a micro-brewery or micro-distillery under Section F above, shall maintain a written log of all Associated Activities for each calendar year. The log shall contain at least the following:
1. A description of the type of each gathering that was held at the microbrewery or micro-distillery during the preceding calendar year, such as beer and spirits appreciation and/or education seminars, harvest festivals, non-profit benefits, weddings, etc.
 2. For each Associated Activity, the date of occurrence, group identity, times and number of guests.
 3. As a condition of the conditional land use permit for a micro-brewery or micro-distillery the Applicant shall keep each log for three (3) years and shall permit the Zoning Administrator to review and copy any or all of the logs upon request. There shall be no more than two (2) requests per calendar year for any logs. Information obtained from the logs shall be used for planning purposes, administrative or enforcement purposes only.
- H. Micro-breweries, brew-pubs and micro-distilleries through their operations shall not cause nuisance conditions, including but not limited to noise, odors, traffic/parking, vibration, dust, waste handling/management, product storage/handling/management, water use, etc. Nuisance conditions result in the unreasonable interference with the comfortable use and enjoyment of another's real property.

SECTION 3.E.03 MICRO-BREWERY OR MICRO-DISTILLERY ASSOCIATED ACTIVITY LOG:

- A. An Applicant, who receives a site plan and special land use approval for a micro-brewery or micro-distillery shall maintain a written log of all Associated Activities for each calendar year. The log shall contain at least the following:
1. A description of the type of each gathering that was held at the micro-brewery or micro-distillery during the preceding calendar year, such as beer and spirits appreciation and/or education seminars, harvest festivals, non-profit benefits, weddings, etc.
 2. For each Associated Activity, the date of occurrence, group identity, times and number of guests.

- B. As a condition of the conditional land use permit for a micro-brewery or micro-distillery the Applicant shall keep each log for three (3) years and shall permit the Zoning Administrator to review and copy any or all of the logs upon request. There shall be no more than two (2) requests per calendar year for any logs. Information obtained from the logs shall be used for planning purposes, administrative or enforcement purposes only.

CHAPTER IV NONCONFORMING LOTS, USES OF LAND, STRUCTURES
AND PREMISES (Amended July 20, 2021)

SECTION 4.01 - Intent & Purpose

It is the intent of this Ordinance to permit legal nonconforming uses, structures, and lots to continue until they are removed but not to encourage their survival. It is recognized that there exists within districts established by this Ordinance and subsequent amendments, uses, structures, and lots which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

SECTION 4.02 - General Standards

- A. Continuation: On or after the effective date of this ordinance or any subsequent amendments, a nonconformity that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Section.
- B. Change in Tenancy or Ownership: There may be a change of tenancy, ownership, or management of any existing nonconforming use or structure which does not alter the nonconforming status.
- C. Issued Zoning Permit: Any zoning permits issued prior to the effective date of this Ordinance, or any subsequent amendments, shall be valid in accordance with its terms, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within twelve (12) months after the date of permit issuance and proceeds meaningfully until completion.
- D. Exception for Repairs Pursuant to Public Order: Nothing in this chapter shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this ordinance prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.
- E. Loss of Nonconformity: A legal nonconformity is lost by changing to conform to the ordinance or through vacancy, lack of operation or otherwise for twelve (12) or more successive calendar months. If lost, any

future use of such premises shall be in conformity, in its entirety, with the provisions of this ordinance. Loss of a nonconformity shall terminate the right to continue the nonconformity.

SECTION 4.03 - Nonconforming Uses

Nonconforming uses may be continued, enlarged, or expanded in accordance with the following provisions:

- A. Continuance: A legal nonconforming use shall not be enlarged or moved, in whole or in part, to any other portion of the lot or parcel that was not occupied by the use at the time the use became nonconforming. However, a nonconforming use may be extended throughout any part of an existing structure, which was designed for such use, and which existed at the time the use became nonconforming.
- B. Enlargement or Expansion: A conforming structure in which a nonconforming use is operated shall not be enlarged or expanded unless approved by the Zoning Board of Appeals, except as required by law or to comply with an order of the Building Official.
- C. Change of Use Regulations:
 1. Changes to Conforming Uses: Any nonconforming use may be changed to a use conforming with the regulations established for the district in which the nonconforming use is located, provided, however, that a nonconforming use so changed shall not in the future be changed back to the former nonconforming use.
 2. Changes to Other Nonconforming Uses: A nonconforming use may be changed to another nonconforming use if approved of the Zoning Board of Appeals, provided that the new use is determined to be more consistent with the spirit of this Ordinance, the neighborhood, and the master plan than the nonconforming use which is being replaced.
 3. Approval Standards: The Zoning Board of Appeals shall only approve the enlargement or expansion of an existing conforming structure for a nonconforming use or the change of use to another nonconforming use if it makes findings in support of each of the following:
 - a) The new use or expansion will not be contrary to the public interest.

- b) The new use or expansion will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district.
- c) The new use or expansion will be in harmony with the spirit and purpose of these regulations and the master plan goals, objectives, and policies.
- d) The plight of the applicant for which the new use or expansion is sought is due to unique circumstances existing on the property and/or within the surrounding district.
- e) Approval of the new use or expansion will not substantially weaken the general purposes of this Section or the regulations established in this Ordinance for the applicable zoning district.
- f) The new use or expansion shall not require more off-street parking and loading space than the former nonconforming use unless additional adequate off-street parking and loading space is provided for the increment of the new nonconforming use or expansion as if the increment were a separate use.
- g) The new use or expansion shall conform to all regulations and standards established this Ordinance.
- h) The new use or expansion will not adversely affect the public health, safety, and welfare.

SECTION 4.04 - Nonconforming Structures

Nonconforming structures may be continued, repaired, replaced, enlarged or expanding in accordance with the following provisions:

- A. Continuance of Nonconforming Structures: Subject to all limitations in this Chapter, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with the allowable standards of this Chapter.
- B. Repair and Maintenance of Nonconforming Structures: Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm,

rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures.

- C. Replacement of Damaged Nonconforming Structures: Nothing in this Ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement utilizes the original structure footprint, does not increase the original usable floor area or volume of such structure.

- D. Enlargement or Expansion: A nonconforming structure in which only permitted uses are operated may be enlarged or expanded with approval of the Zoning Administrator and meeting the following:
 - 1. The use occurring in the structure is a conforming use.
 - 2. Any expansion will result in the structure being more conforming to the requirements of this Ordinance (i.e.; closer to meeting the minimum structure size requirements of the zoning district)
 - 3. The expansion will meet the dimensional requirements of the zoning district (i.e. setbacks, height, lot coverage, etc.)

- E. Nonconforming Mobile Home: The Zoning Administrator may authorize a property owner to replace a legal nonconforming mobile home with another more conforming mobile home provided the following criteria are met:
 - 1. Approval of the Zoning Administrator must be obtained prior to removing the existing mobile home.
 - 2. The replacement mobile home must be more conforming in dimension and size than the mobile home it is replacing.
 - 3. If the existing mobile home is located in a setback, the replacement mobile home shall not encroach any further into the setback.

SECTION 4.05 - Nonconforming Lots

- A. Any nonconforming lot of record may be used for any purpose authorized by the district in which it is located, except those uses that specify a minimum lot size. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.

CHAPTER V ZONES

SECTION 5.01 - ZONES. To carry out the purposes of this Ordinance, Torch Lake Township shall be divided into the following zones:

- "A" - Agricultural
- "R-1" – 1-Unit Dwelling Residential
- "R-2" – 1-Unit and 2-Unit Dwelling Residential
- "R-3" – 3- or More Units Dwelling Residential
- "VR" - Village Residential
- "VB" – Village Business
- "T" - Timber Reserve
- "C" - Commercial
- "M" - Manufacturing
- "PRD" - Planned Residential Development
- "PUD" - Planned Unit Development

SECTION 5.02 - BOUNDARIES OF DISTRICTS MAP. The boundaries of such districts, shown upon the map attached hereto which is incorporated herein by reference and made a part hereof, are hereby established; said map being designated as the Map of the Township of Torch Lake, Antrim County, Michigan. Said map and all notations, references and other information thereon shall be as much a part of this Ordinance as if the matters and information set forth said map were all fully described herein.

SECTION 5.03 - ERECTION, ALTERATION AND USE OF BUILDING. Except as herein provided, no structure shall be erected or altered nor shall any building or premises be used for any purpose other than is permitted in the Use District or Height and Area District in which such building or premises is located.

SECTION 5.04 – SCHEDULE OF REGULATIONS.
(Amendment effective May 19, 2015).

District	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Building Height	Minimum Dwelling sq. ft.
Agriculture	200 ft	2 acres	35 ft	Total 40' but not less than 15'	25 ft	41 ft	960 sqft
R-1	100 ft	20,000 sqft	50 ft	10 ft	35 ft	35 ft	960 sqft
R-2	100 ft	20,000 sqft	50 ft	Total 25' but not less than 10'	35 ft	35 ft	1 unit: 960 sqft 2 unit: 1,200 sqft
R-3	100 ft	20,000 sqft	50 ft	Total 25' but not less than 10'	35 ft	35 ft	480 sqft per unit
Village Residential	50 ft	20,000 sqft	20 ft	10 ft	15 ft	41 ft	960 sqft
Village Business	50 ft	12,500 sqft	20 ft	10 ft	15 ft	41 ft	960 sqft
Timber	200 ft	2 acres	35 ft	Total 40' but not less than 15'	25 ft	41 ft	960 sqft
Commercial	100 ft	1 acre	50 ft	10 ft	35 ft	41 ft	--
Manufacturing	200 ft	2 acres	50 ft	30 ft	30 ft	41 ft	--

CHAPTER VI "A" - AGRICULTURAL ZONE

SECTION 6.01 – PURPOSE

The purpose of the Agricultural Zone is to encourage agricultural activities as a viable component of our economy. This encouragement will result from regulations that protect productive farmlands from encroachment by non-compatible uses, provide for a range of activities that are agriculturally oriented, and provide opportunities for development of both traditional and non-traditional agricultural activities. This zone will also allow for pockets of land that are not suitable for agricultural usage to be developed for 1-unit residential use in a manner that protects the agricultural activities from the residential development and nuisance complaints from any resulting non-agricultural activities or development. Exception located in Chapter 6 Agriculture Section 6.02J. (*Amendment effective November 6, 2020*)

SECTION 6.02 - PERMITTED USES. No building or part thereof shall be hereafter used, erected, or altered, or land used, in whole or in part, in the "A" - Agricultural Zone except for:

- A. Farms for both general and specialized farming, together with farm dwellings and buildings, and other installations usual to such farms, including roadside stands selling crops normally grown on the property, which are situated so as to provide adequate off-highway parking for customers.
- B. Greenhouses, nurseries, orchards, groves and vineyards, apiaries, farms for breeding of domestic animals, and sanctuaries for wild birds and animals provided the sanctuaries shall be approved by the Michigan Department of Natural Resources.
- C. Agricultural warehouses and storage plants, milk processing plants, primary processing plants for non-animal farm products.
- D. Fruit washing, sorting, processing and storage facilities. These uses may include the production of juice and wines.
- E. Forest preserves and wood lots including the rough milling of wood produced on the property at which the processing takes place.
- F. Parks and playgrounds (with necessary service buildings and structures) of a scale and magnitude that provides for the recreational needs of the

immediate area within which the park is located. The immediate area shall not be construed to extend beyond the boundaries of the Township.

- G. Public-owned buildings excluding sewage treatment plants, solid waste disposal facilities, warehouses or storage yards.
- H. Those uses permitted in the "R-I" - Residential Zone under the terms provided for such uses, except as altered in this Chapter.
- I. Additional dwellings on any farm for the use of farm or domestic employees of the owner or his lessees, provided there is only one (1) such tenant house in addition to the main dwelling for each ten (10) acres of farm land, and provided that each such tenant house is surrounded by sufficient land to provide a future separate lot of two (2) acres and a minimum width at the building line of two hundred (200) feet.
- J. Addition of mobile homes on any farm for use as housing for farm workers of the owner is acceptable provided the mobile homes are placed in a manner that provides adequate space for separation of at least 50 feet apart, no more than 4 mobile homes are allowed on any parcel. Septic, drain fields and wells must be approved by the Antrim County Health Department. All housing must be rent free to farm workers. Such mobile homes cannot be sold separately and may remain as long as farm owners that placed the structures, remain owners and farming operation continues. If property is sold, farm worker housing shall be removed prior to the completion of sale unless the Zoning Administrator approves the transfer to be maintained as a farm. Minimum parcel size is 40 acres. (*Amendment effective November 6, 2020*)
- K. Housing for seasonal usage by migrant employees of the farm, and provided the migrant housing meets all requirements of the Northwest Michigan Community Health Agency and applicable regulations of the Michigan Department of Agriculture, other State and Federal rules and regulations.
- L. Home occupations.
- M. Licensed upland game bird hunting preserve.
- N. Commercial kennels.
- O. Wineries, wine production facilities, wine storage facilities and wine tasting rooms. (*Amendment effective July 15, 2015*)
- P. Cideries, cider production facilities, cider storage facilities and cider tasting

rooms. *(Amendment effective July 15, 2015)*

- Q. Meaderies, mead production facilities, mead storage facilities and mead tasting rooms. *(Amendment effective July 15, 2015).*
- R. Retail Agricultural Enterprises *(Amendment effective June 17, 2014).*
 - 1. Purpose. The purpose of these regulations is to promote and protect agriculture and agriculture related commercial enterprises within Torch Lake Township. These regulations seek to protect public safety while conserving farmland by promoting farming commerce.
 - 2. Applicable requirements. The requirements of this Section are in addition to and shall supplement those imposed on the same lands by provisions of the underlying Agricultural zoning district found within Section 6.0.
 - 3. Agriculture Related Enterprises.
 - a. Must be in compliance with Michigan Commission of Agriculture and Rural Developments' Generally Accepted Agricultural Management Practices (GAAMPS) for Farm Stands.
 - b. For the purposes of this Section, farm markets shall be considered to be retail agricultural enterprises and shall comply with this Section. Roadside stands as defined herein are exempt from this Section.
 - c. The use must be associated with an affiliated agricultural operation.
 - d. 50 percent of the products sold must be produced on or by the affiliated farm. Must comply with all applicable regulations of the Antrim County Construction Code Department, including but not limited to Michigan building, electrical, mechanical and/or plumbing codes.
 - e. Is subject to review by the Zoning Administrator pursuant to this Section.
 - f. Parking. The following parking facilities shall be provided at retail agricultural enterprises:
 - 1) One parking space for 600 square feet of retail space open to the public at greenhouses, nurseries and similar retail; or one parking space for each 60 square feet of retail floor space open to the public.
 - 2) Off street and out of a road right of way.
 - 3) Serviced by a maneuvering area, turn around or circular drive out of the road right-of-way.

- 4) Shall conform to the requirements of the Table in Section 16.06
 - 5) For any retail agricultural enterprise that is not listed in Section 16.06, the Planning Commission, in reviewing the site plan, shall determine appropriate off-street parking space requirements. In making this determination, the Planning Commission may request the applicant to provide a parking study to ensure that adequate off-street parking spaces are provided to serve the use.
 - 6) Parking shall be allowed within the front yard setback, provided that no parking space shall be located less than 10 feet from the right of way line. All other parking shall conform to the requirements of Section 16.
 - 7) To comply with parking standards, retail agricultural enterprises are encouraged to develop and maintain safe, grassed, paved, graveled and/or other suitable material and graded parking areas for temporary and/or overflow parking; utilize pervious pavements and minimize impervious parking surfaces.
 - 8) Parking associated with a retail agricultural enterprise must possess, provide and maintain safe ingress and egress from and to a public road and obtain an ingress and egress permit from Michigan Department of Transportation (MDOT) jurisdictional roadways, including U.S. routes, State of Michigan routes, and interstate business connections and/or from the Antrim County Road Commission for ingress/egress from county or local roads.
- g. Signs shall comply with Section 3.02.F. Farm Stand or Farm Market Signs and shall comply with MDOT regulations on MDOT jurisdictional routes and Antrim County Road Commission for county jurisdictional roads.
 - h. To promote and conserve the rural character of Torch Lake Township, there shall not be any landscaping requirements for retail agricultural enterprises.
 - i. Lighting. No rotating or flashing lights shall be permitted. All exterior lighting, including display lighting, shall be downward directed, shielded, and turned off each day after the close of business. Security lighting, as shown on an approved administrative site plan, shall be allowed after business hours. Greenhouse and other grow lights internal to retail agricultural enterprises are exempt from the lighting requirements of this

section. See Chapter 2 General Provisions Section 2.28
Lighting

- j. The following are permitted as accessory uses to retail agricultural enterprises; accessory uses not listed are not allowed.
 - 1) Petting zoo and animal attractions
 - 2) Children's games and activities
 - 3) Crop mazes and pumpkin patches
 - 4) Holiday oriented activities
 - 5) Food service - If growing any portion of the food served, such as vegetables with a deli, fruit in desserts, etc., no more than 4,000 square feet of gross floor area shall be dedicated to a food service operation.
 - k. If the retail agricultural enterprise includes farm vacations, no more than (4) rooms within the site shall be provided for housing farm vacation guests.
 - l. Sales including but not limited to the following are not allowed at retail agricultural enterprises.
 - 1) Fuel or related products
 - 2) Tobacco products
 - 3) Alcoholic beverages unless the operation is licensed by the State of Michigan and 50 percent of the retail space used to display products for sale are produced on and/or by an affiliated farm.
 - 4) Lottery tickets
 - 5) Vehicles or related products
 - 6) Fireworks as defined by the Michigan Fireworks Safety Act, P.A. 256 of 2011, as amended, including but not limited to consumer, novelty, low impact and display fireworks.
 - m. Any retail agricultural enterprise shall be owned and operated by the owner(s) of the affiliated operation or their designee(s) or employee(s) on the same premises.
 - n. Hours of operation shall be limited to 6:00 a.m. to 9:00 p.m.
- S. All uses other than crop and/or livestock production allowed in the Agricultural Zone shall submit site plans meeting the criteria required in Section 18.04, with the standards shown in Section 18.07 being used to base the granting of approval of the site plan.

SECTION 6.03 – SPECIAL USES (Amendment effective May 3, 2019)

- A. The following uses may be permitted within the "A" - Agricultural Zone upon approval as a Special Use by the Planning Commission pursuant to Section 17.01:
1. Chicken hatcheries, poultry farms, processing plants for dressing of poultry and domestic animals, farms or breeding of poultry and breeding and boarding kennels.
 2. Bed and breakfast establishments providing the following conditions are met in addition to those required in Section 17.01:
 - a. The property is suitable for transient lodging facilities.
 - b. The impact of the bed and breakfast establishment on neighboring properties is not greater than that of a private home.
 - c. Adjoining land shall not be subject to trespass.
 - d. The residence shall be owner-occupied and owner operated at all times during use as a bed and breakfast establishment.
 - e. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Not more than three rooms in the residence may be used for rental purposes. The rental rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants and an additional thirty (30) square feet for each additional occupant to a maximum of four (4) persons per room.
 - f. Bed and breakfast establishments shall not be located less than three thousand (3,000) feet apart.
 - g. The owner shall not offer for rent independently or incidental to the lodging, recreational equipment or vehicles.
 - h. The residence shall have a minimum of two (2) exits to the out-of-doors and a smoke alarm in each room that will be used for rental purposes.
 - i. No more than one (1) sign identifying the establishment, non-illuminated, not exceeding nine (9) square feet in area, set back a minimum of fifteen (15) feet from the right-of-way shall be allowed. This sign is permitted in lieu of any signs permitted in Chapter III.
 - j. Two (2) parking spaces must be provided per dwelling with one (1) additional parking space per rental room.

- k. Bed and breakfast establishments shall be directly accessible by roads meeting Antrim County Road Specifications.
 - l. Torch Lake Township reserves the right to inspect the premises to ensure compliance with the provisions of the special use permit approval and this ordinance.
 - m. No parties or receptions shall be given for, or by, the guests residing at the bed and breakfast establishment.
- 3. Sexually Oriented Businesses.
 - 4. Private events such as weddings, corporate picnics, birthday parties, conferences, etc. provided the following conditions are met in addition to those required in Section 17. 01 (Effective May 3, 2019):
 - a. The property has sufficient parking to support event.
 - b. All food or beverages must be prepared off site.
 - c. Any music or entertainment provided must be for background purposes and not a featured item of the activity. Noise emanating from any event shall not result in the unreasonable interference with the comfortable use and enjoyment of another's property.
 - d. Outside activities shall be completed during daylight hours.

SECTION 6.04 - HEIGHT, AREA AND YARD RESTRICTIONS

- A. Every lot in this district shall have:
 - 1. A minimum area of two (2) acres and a width at the front lot line and at the building line of at least two hundred (200) feet.
 - 2. A front lot line setback having a minimum distance of thirty-five (35) feet.
 - 3. One (1) side lot line setback on each side of the lot with the two (2) totaling at least forty (40) feet, the smallest having a minimum distance of fifteen (15) feet.
 - 4. A rear lot line setback having a minimum distance of twenty-five (25) feet.
 - 5. Building height shall not exceed forty-one (41) feet measured from the peak or highest part of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one feet measured from the lowest grade level to a distance within fifteen (15) feet of the building. Buildings used solely for the storage of farm equipment, products or feed (i.e., silage, corn, hay, etc.) shall be allowed a maximum height not to exceed seventy (70) feet.
 - 6. Properties bordering water bodies shall contain a minimum of one hundred (100) feet of water frontage per dwelling unit.
 - 7. Condominium Units being developed under the Condominium Act

shall contain road frontage as well as the necessary square footage as is specified above for a lot in this zone district.

- B. The front and rear lot line setbacks shall be maintained across the entire width of the lot.
- C. Every dwelling shall have a minimum useable floor area of nine hundred and sixty (960) square feet. The minimum width shall not be made up of additions of a dissimilar type or quality of construction or materials. At least one section of the dwelling shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet.

CHAPTER VII "R-1" - RESIDENTIAL - ONE-UNIT DWELLING ZONE
(Amendment effective February 18, 2014)

SECTION 7.01 - PERMITTED USES. No building or part thereof in an "R-1" Residential Zone shall hereafter be used, erected, altered or converted, or land used, in whole or in part, except for:

- A. 1-unit dwellings with accessory buildings and uses as defined in this Ordinance including structures which are considered necessary in, or compatible with, residential neighborhoods. An accessory use or structure is not allowed on lots within the R-1 Zone prior to the establishment of a primary use or structure, such as a 1-unit dwelling.
- B. Parking requirements for all permitted uses shall be governed by Chapter XVI: OFF STREET PARKING AND UNLOADING.

SECTION 7.02 – SPECIAL USES. Special Uses requiring a Special Use permit in accordance with Section 17.01 within the R-1 Residential Zone.

- A. Private and Quasi-public Facilities.
 - 1. Churches with accessory uses and structures (including but not limited to a rectory, convent, and halls).
 - 2. Private schools
- B. Public Facilities.
 - 1. Libraries
 - 2. Schools
 - 3. Museums
 - 4. Parks
 - 5. Play Grounds
 - 6. Community Centers
 - 7. Similar public facilities and uses
- C. Conditions of Approval.
 - 1. A greenbelt shall be provided as defined within Chapter XIII: Definitions of this ordinance.
 - 2. Minimum lot line setbacks for structures, driveways, and parking areas shall be as required for uses permitted by right with the exception of the side and rear lot line setbacks which shall contain a minimum distance of one hundred (100) feet, a portion of which may be occupied by the greenbelt. These setback standards shall replace those required in Chapter XVII: Special Uses Section 17.01 D.2.
 - 3. Facilities which will be used or have the potential to be used between

the hours of 10:00 PM and 7:00 AM or which will be used for purposes that will generate potential nuisances, including noise-shall contain greater setbacks and green belts including vegetated earthen berms at the discretion of the Planning Commission.

SECTION 7.03 - HEIGHT, AREA AND LOT LINE SETBACK RESTRICTIONS OF PLATTED AND UNPLATTED LOTS. Every platted or unplatted lot in the R-1 Zone shall meet the following requirements:

- A. An unoccupied front lot line setback having a minimum distance of fifty (50) feet.
- B. A side lot line setback from each side lot line having a minimum distance of ten (10) feet. Corner lots shall have a minimum of a fifteen (15) feet setback from side street right-of-way. (*Amendment effective May 19, 2015*).
- C. A rear lot line setback having a minimum distance of thirty-five (35) feet.
- D. The entire lot shall be well maintained and kept free of rubbish, solid waste, junk, scrap, and inoperable vehicles, such as but not limited to autos, recreational vehicles, travel trailers, campers, temporary or mobile structures, mobile homes, watercraft or debris.
- E. Building height shall not exceed thirty-five (35) feet.
- F. Every dwelling unit shall have a minimum usable floor area of nine hundred and sixty (960) square feet. At least one section of the dwelling unit shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet.
- G. Lot Area. All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line, and shall have a minimum lot area of twenty thousand (20,000) square feet. Should the road upon which the frontage is located be a cul-de-sac, or dead-end road with a minimum right-of-way of sixty-six (66) feet, the front lot line may be sixty (60) feet in width provided the lot width is one hundred (100) feet at the front lot line setback line.

CHAPTER VIII "R-2" - RESIDENTIAL - ONE-UNIT DWELLING AND TWO-UNIT
DWELLING ZONE

(Amendment effective February 18, 2014)

SECTION 8.01 - PERMITTED USES. No building or any part thereof in an "R-2" - Residential Zone shall hereafter be used, erected, altered or converted, or land used, in whole or in part, except for 1-unit and 2-unit dwellings and for those uses otherwise permitted in the "R-1" - Residential Zone. An accessory use or structure is not allowed on lots within the R-2 Zone prior to the establishment of a primary use or structure, such as a 1-unit or 2-unit dwelling.

SECTION 8.02 – SPECIAL USES. In addition to the uses permitted in Section 8.01, the following uses may be allowed as Special Uses within the zone in accordance with Section 17.01: Special Uses:

- A. Special uses allowed in Section 7.02 above.
- B. Nursing homes, convalescent homes and nursery schools.
- C. Bed and breakfast establishments provided in addition to Section 17.01 and the following standards are complied with:
 - 1. The property is suitable for transient lodging facilities.
 - 2. The bed and breakfast use is compatible with the existing use of adjoining lands and the character of the neighborhood.
 - 3. The bed and breakfast is occupied by a resident manager at all times.
 - 4. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Not more than three (3) rooms in the residence may be used for rental purposes. The rental rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants and an additional thirty (30) square feet for each additional occupant to a maximum of four (4) persons per room.
 - 5. Bed and breakfast establishments shall not be located less than three thousand (3,000) feet apart.
 - 6. The owner shall not offer for rent independently or incidental to the lodging, recreational equipment or vehicles, or watercraft.
 - 7. No more than one (1) sign identifying the establishment, non-illuminated, not exceeding nine (9) square feet in area and set back a minimum of fifteen (15) feet from the right-of-way shall be allowed. This sign is permitted in lieu of any signs permitted in Chapter III: Signs.
 - 8. Two (2) parking spaces must be provided for the operator; plus, one (1) parking space for each guest room; and one (1) parking space for each non-resident employee.

9. Bed and breakfast establishments shall be adequately accessible by a driveway, street or road.
10. Torch Lake Township reserves the right to inspect the premises to ensure compliance with the provisions of the special use permit approval and this Ordinance.
11. Other commercial uses are not allowed.

SECTION 8.03 – 1-UNIT DWELLING HEIGHT, LOT LINE SETBACK AND AREA RESTRICTIONS OF PLATTED AND UNPLATTED LOTS.

- A. Height, lot dimensions and lot area. Same as in "R-1" zone. *(Amendment effective May 19, 2015).*
- B. Every dwelling unit shall have a minimum usable floor area of nine hundred and sixty (960) square feet. At least one section of the dwelling unit shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet.
- C. Condominium units being developed under the Michigan Condominium Act P.A. of 59 of 1978, as amended shall contain the road frontage as well as the necessary square footage as is specified above in 7.03.G. for a lot. In addition, properties bordering water bodies shall contain a minimum of one hundred (100) feet of water frontage per dwelling unit.

SECTION 8.04 - TWO-UNIT DWELLING HEIGHT, LOT LINE SETBACK AND AREA RESTRICTIONS OF PLATTED AND UNPLATTED LOTS.

- A. Height and lot dimensions. Same as in "R-1" zone, except side lot line setback areas must contain a total distance of twenty-five (25) feet. Corner lots shall have a minimum of a fifteen (15) feet lot line setback from the right-of-way. *(Amendment effective May 19, 2015).*
- B. Lot area. Every lot shall have a minimum width at the front lot line of at least one hundred (100) feet and a minimum area of twenty thousand (20,000) square feet per 2-unit dwelling.
- C. Every 2-unit dwelling shall have a combined minimum usable floor area of twelve hundred (1,200) square feet with each unit shall have a minimum of six hundred (600) square feet. Each dwelling unit shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet.
- D. Condominium units being developed under the Michigan Condominium Act P.A. of 59 of 1978, as amended shall contain the road frontage as well as the necessary square footage as is specified above in Section 7.03.G.

CHAPTER IX "R-3" – 3- or MORE DWELLING UNITS RESIDENTIAL ZONE
(Amendment effective February 18, 2014)

SECTION 9.01 - PERMITTED USES. No building or any part thereof in "R-3" - 3 or more Dwelling Units Residential Zone shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except for multiple dwelling units and for those uses otherwise permitted in the "R-2" - Residential Zone. An accessory use or structure is not allowed on lots within the R-3 Zone prior to the establishment of a primary use or structure, such as a 2-unit or 3 or more-unit dwelling.

SECTION 9.02 - SPECIAL USES. Special uses allowed in Section 7.02 and Section 8.02 shall be allowed provided the standards required in Section 8.02 and Section 17.01 are met.

SECTION 9.03 - USE REGULATIONS.

- A. 1-unit and 2-unit dwelling residential uses permitted within the "R-3" Zone shall be subject to the same height, area, width, and square footage requirements set forth in the "R-2" Zone.
- B. No 3-or more unit dwellings shall be constructed within this zone unless the Planning Commission, after public hearing, has determined that the proposed use will not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this Ordinance.
 - 1. An application under this subsection shall be made in writing to the Planning Commission and must be accompanied by an administratively complete development plan of the proposed use, including all of the documentation as set forth and required in Site Plan Review section of this Ordinance.
 - 2. The Planning Commission shall process and review the application in accordance with procedures established in Chapter XVIII: Site Plan Review.
- C. Building Height. Same as "R -2" zone.
- D. Setbacks, Lot Area & Coverage.
 - 1. An unoccupied front lot line setback shall be a minimum distance of fifty (50) feet. A side lot line setback from each side lot line must contain a total distance of twenty-five (25) feet and shall not be less than fifteen (15) feet. A rear lot line setback having a minimum distance of thirty-five (35) feet. *(Amendment effective May 19, 2015).*

2. A minimum lot area of twenty (20,000) thousand square feet with a minimum width as measured at the front lot line and at the building line of one hundred (100) feet.
 3. Not more than thirty-five (35) percent of the area may be covered by buildings located thereon.
- E. The minimum floor space per unit per building shall be four hundred and eighty (480) square feet. In the case of 1-unit dwellings the minimum width shall not be made up of additions of a dissimilar type or quality of construction or materials. At least one section of each dwelling unit shall contain a core living area having minimum horizontal dimensions of sixteen (16) feet by sixteen (16) feet.
- F. Any R-3 Residential development shall comply with the standards within Section 16: Off-street Parking and Unloading.

CHAPTER X "VB" - VILLAGE BUSINESS & "VR" – VILLAGE RESIDENTIAL
ZONES

(Amendment effective February 8, 2022)

SECTION 10.01 - PURPOSE. Within the Township there are two unincorporated villages which are designated on the Zoning Map. Purposes of the Village Business and Village Residential Districts are:

- A. To encourage and maintain the mixture of residences and businesses on a neighborhood scale within the Village Business and Village Residential Districts.
- B. To maintain and enhance the existing small-town character of the unincorporated villages or "hamlets" of Eastport and Torch Lake.
- C. To accomplish the reuse and redevelopment of unused and/or under-utilized parcels within the Village Business and Village Residential Districts.
- D. To encourage innovation in land use in variety and design, layout, and type of structures constructed.
- E. To guide future development within these "villages" consistent with the Torch Lake Township Master Plan.

Because of the existing density of residential and other structures within these zones, certain modified regulations have been established as follows:

SECTION 10.02 – VILLAGE BUSINESS (VB) DISTRICT PERMITTED USES. No building or any part thereof in a Village Business (VB) District shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except for the following: Structures shall be limited to 3,000 sq ft.

- A. All permitted uses allowed in the 1-unit Residential (R-1), 2-unit Residential (R-2), and any residential use within the Village Residential (VR) Districts.
- B. All Special Uses allowed in the 1-unit Residential (R-1) and 2-unit Residential (R-2) Districts.
- C. Personal service shops and similar uses:
 - 1. Beauty parlor and barber shops
 - 2. Tanning booths
 - 3. Therapeutic massage
 - 4. Exercise, fitness and yoga studios

- 5. Photo studios

- D. Uses consistent with Village retail such as: (*Amendment effective February 8, 2022*)
 - 1. Grocery stores
 - 2. Convenience stores and shops (*Amendment effective February 8, 2022*)
 - 3. Hardware stores
 - 4. Bakeries, delicatessens, sandwich, coffee and pastry shops & ice cream stores (*Amendment effective February 8, 2022*)
 - 5. Sporting goods stores
 - 6. Book, stationery, gift, floral, bridal and antique shops
 - 7. Indoor galleries, jewelry shops, hobby and arts and craft supply stores
 - 8. Consignment, resale, and vintage clothing shops
 - 9. Electronics sales and service stores

- E. Professional service offices such as: (*Amendment effective February 8, 2022*)
 - 1. Banks
 - 2. Real estate
 - 3. Insurance
 - 4. Travel
 - 5. Legal
 - 6. Medical and dental offices
 - 7. Accounting and title services
 - 8. Hospital labs

- F. Residential uses on upper floor(s) (*Amendment effective February 8, 2022*)
- G. Indoor restaurants and taverns without drive-through service
- H. Indoor art and sales, music, and dance studios
- I. Museums and libraries
- J. Trade showrooms, including plumbing, lighting, and upholstery
- K. Adult and child care facilities
- L. Fraternal organizations and halls

- M. Mortuaries and funeral homes
- N. Government and civic buildings
- O. Bed and breakfasts
- P. Veterinary clinics
- Q. Wine, mead and cider tasting rooms (*Amendment effective July 15, 2015*).
- R. Micro-brewery beer tasting rooms (*Amendment effective July 15, 2015*).
- S. Micro-distillery spirits tasting rooms (*Amendment effective July 15, 2015*).

Outdoor retail displays and showrooms for any of the above uses are prohibited.

SECTION 10.03 – SPECIAL USES. Special Uses allowed within the Village Business (VB) District shall consist of retail, personal and professional services other than those listed in Section 10.02. Sexually oriented businesses, commercial kennels, marijuana facilities, and drive-through establishments are not allowed within the Village Business (VB) District. (*Amendment effective February 8, 2022*)

- A. Wineries and Tasting Rooms (*Amendment February 8, 2022*).
- B. Micro-brewery beer production and/or storage facilities (*Amendment effective July 15, 2015*).
- C. Micro-distillery spirits production and/or storage facilities (*Amendment effective July 15, 2015*).
- D. Restaurants and taverns with outdoor service
- E. Laundromats, dry cleaners, and car washes
- F. Auto, boat, and recreational vehicle sales, storage and service facilities
- G. Gas stations
- H. Processing and packaging of agricultural products
- I. Rental storage buildings
- J. Furniture showrooms and sales
- K. Lodges, hotels, motels and inns
- L. Veterinary hospitals
- M. Lumber yards
- N. Greenhouses, garden and landscape supply
- O. Short term rentals
- P. Outdoor Events (*Amendment effective May 3, 2019*)
- Q. Uses from Section 10.02 that are larger than 3,000 sq ft

SECTION 10.04 – VILLAGE RESIDENTIAL (VR) DISTRICT PERMITTED USES.

No building or any part thereof in a Village Residential District shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except for the following:

- A. All permitted uses allowed in the 1-unit Residential (R-1), 2-unit Residential (R-2), and any residential use within the Village Business (VB) District.
- B. All Special Uses allowed in the 1-unit Residential (R-1) and 2-unit Residential (R-2) Districts.
- C. Business uses described in Section 10.02 - Village Business may be permitted in this district upon approval as a Special Use by the Planning Commission in accordance with Section 17.01.
- D. Three (3) or More Unit Dwellings as described in Chapter IX may be permitted in this district upon approval as a Special Use by the Planning Commission in accordance with Section 17.01. In such cases all provisions of Chapter IX shall apply.
- E. Bed and Breakfast establishments may be permitted in this district upon approval as a Special Use in the Village Residential (VR) District provided the following listed requirements are met:
 - 1. The property is suitable for transient lodging facilities.
 - 2. The impact of the bed and breakfast establishment on neighboring properties is not greater than that of a private home.
 - 3. The residence shall be owner-occupied and owner operated at all times during use as a bed and breakfast establishment.
 - 4. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Not more than three rooms in the residence may be used for rental purposes. The rental rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants and an additional thirty (30) square feet for each additional occupant to a maximum of four (4) persons per room.
 - 5. The owner shall not offer for rent independently or incidental to the lodging, recreational equipment or vehicles.
 - 6. The residence shall have a minimum of two (2) exits to the out-of-doors and a smoke alarm in each room that will be used for rental purposes.
 - 7. No more than one (1) sign identifying the establishment, non-illuminated, not exceeding nine (9) square feet in area, set back a

- minimum of fifteen (15) feet from the right-of-way shall be allowed. This sign is permitted in lieu of any signs permitted in Chapter IIIA.
8. Two (2) parking spaces must be provided per dwelling with one (1) additional parking space per rental room.
 9. Bed and breakfast establishments shall be directly accessible by a public road or wholly-owned private driveway or private road.
 10. Torch Lake Township reserves the right to inspect the premises to ensure compliance with the provisions of the Special Use permit approval and this ordinance.

Outdoor retail displays and showrooms for any of the above uses are prohibited.

SECTION 10.05 – GENERAL REGULATIONS. Except as described in this section, any uses permitted in Chapters VII and VIII shall be allowed in Village Business (VB) and Village Residential (VR) Districts in accordance with the provision of said chapters.

- A. Building height in this zone shall not exceed forty-one (41) feet. Steeple and/or decorative tower height shall not exceed seventy-five (75) feet. These heights shall be measured from the peak of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost level capable of being used for human occupancy shall not exceed twenty-one (21) feet measured from the lowest grade level to a distance within fifteen (15) feet of the building. *(Amendment effective February 8, 2022)*
- B. An unoccupied front lot line setback shall be a minimum distance of twenty (20) feet. A side lot line setback from each side lot line shall be a minimum distance of ten (10) feet. Rear lot line setback having a minimum distance of fifteen (15) feet. *(Amendment effective May 19, 2015).*
- C. Uses within the Village Residential (VR) and Village Business (VB) Districts shall comply with Chapter IIIA: Signs and chapter XVI: Off-Street Parking and Loading. *(Amendment effective February 8, 2022)*
- D. The shape, placement, design, and quality of the built environment (building design, placement, and composition) are important elements in reinforcing a comfortable, human-scale environment, maintaining the hamlet attractiveness and economic vitality, equity in access, and providing a unique sense of place in the Village Business District. Accordingly, the standards in this section are intended to: *(Amendment effective February 8, 2022)*
 - i. Maintain the visual environment of the village hamlet, protect the general welfare, and ensure that property values, appearance, character and economic well-being are preserved through minimum design and

- appearance standards. (*Amendment effective February 8, 2022*)
- ii Encourage creativity, imagination, innovation, and variety in architectural design and building composition (*Amendment effective February 8, 2022*)
 - iii Minimum standards for the use of exterior building façade materials are established in this Ordinance for the purpose of promoting harmony in the physical relationships between buildings (*Amendment effective February 8, 2022*)
- a) Maximum lot coverage for all buildings on a site shall be 50% of the total site area. The maximum impervious surface (i.e., buildings, parking, sidewalk, etc.) allowed on a site shall be 55% for the total site area. (*Amendment effective February 8, 2022*)
 - b) Landscaping:
 - 1. Native Landscaping: All landscaping shall be of native species to the area. The Northwest Michigan Invasive Species Network's "*Recommended Planting Guidelines for Municipalities*" shall be used to determine native species. (*Amendment effective February 8, 2022*)
 - 2. Screening Between Uses: Effective screening consisting of native vegetation shall be established and maintained between residential and non-residential uses within the Village Business (VB) and Village Residential (VR) Districts. (*Amendment effective February 8, 2022*)
 - 3. Foundation Plantings: For all business uses, there shall be a minimum four (4) foot wide vegetative strip around the primary building. Such strip shall be planted with a mixture of ground cover, ornamental trees, plants, grasses, and shrubs. (*Amendment effective February 8, 2022*)
 - 4. Right-of-Way Landscaping: For all commercial uses, 1 tree and 6 shrubs shall be planted per 30 lineal feet of right of way. (*Amendment effective February 8, 2022*)
 - c) Roofs shall have the appearance of a minimum pitch of 4/12 slope. (*Amendment effective February 8, 2022*)
 - d) The first floor shall contain a minimum of 40% of windows on all facades facing the road. (*Amendment effective February 8, 2022*)
 - e) Facades shall be constructed with high quality materials consisting of brick, stone, or other natural materials. Steel exteriors shall only be allowed on facades not facing the road right-of-way. (*Amendment effective February 8, 2022*)
 - f) Trash and recycling areas shall be placed on a concrete pad and screened on all sides by a masonry wall or of the materials that match the front façade of the principal structure and shall include an opaque gate. The screening shall be a minimum of six (6) feet in height, but shall be tall enough to completely screen the containers. (*Amendment effective February 8, 2022*)

CHAPTER XI "T" - TIMBER RESERVE

SECTION 11.01 - PURPOSE. The Township contains several land areas connected to or in close proximity to lakes, rivers and streams and which have a high-water table or are wholly or partially submerged, and which, in many cases cannot be built upon in compliance with existing Township Ordinances and/or appropriate Health Department and environmental standards without disturbing the natural character of the area and/or endangering the purity of the adjoining water. The provisions of this Chapter are intended to create a zoning district within Torch Lake Township which recognizes these unique characteristics while at the same time permitting utilization of lands within the district for timber resource production and associated activities and other uses where such uses are compatible with the land's location, soil characteristics, and topography, and where such uses have no adverse effect upon the natural environment.

SECTION 11.02 - PERMITTED USES. No use shall hereafter be permitted within the Timber Reserve Zone except the following:

- A. Harvesting of timber in accordance with approved conservation practices, (restrict clear cutting except by Special Use, all in accordance with the terms and conditions set forth in Section 17.01, of this Ordinance), including the establishment and utilization of wood lots, tree farms and forest nurseries, timber stand improvement practices, and associated timber harvesting operations, providing that no materials or equipment used in such operations shall contribute to the pollution or contamination of the ground water of adjoining lakes and rivers. In connection with these uses, accessory buildings may be maintained which are necessary for the above operations and/or exclusively for storage of equipment and materials connected with the above operations.
- B. Outdoor, low impact recreational activities such as hunting (including licensed upland game bird hunting preserves), trapping, hiking, skiing, or snowmobiling which do not interfere with timber production and have no adverse effect upon the natural environment.
- C. Those uses permitted in the "R-1" - Residential Zone under the terms provided for such uses, except as altered in this Chapter.
- D. Farms for both general and specialized farming, together with farm dwellings and buildings, and other installations usual to such farms.
- E. Greenhouses, nurseries, orchards, groves and vineyards, apiaries, habitats, and sanctuaries for wild birds and animals, provided the

sanctuaries be approved by the Michigan Department of Natural Resources.

SECTION 11.03 - USES SUBJECT TO SPECIAL APPROVAL. No other uses shall be permitted within the Timber Reserve Zone without prior application and approval as a Special Use, all in accordance with the terms and conditions set forth in Section 17.01, of this Ordinance.

In determining whether to recommend granting special approval, the Planning Commission, in making its determination, shall consider the purpose and standards established for this Zone as set forth in Section 11.01 and the effect of the proposed Special Use thereon.

In addition to meeting the requirements listed above, bed and breakfast establishments shall also meet the following standards:

- A. The property is suitable for transient lodging facilities.
- B. The impact of the bed and breakfast establishment on neighboring properties is not greater than that of a private home.
- C. Adjoining land shall not be subject to trespass.
- D. The residence shall be owner-occupied and owner operated at all times during use as a bed and breakfast establishment.
- E. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Not more than three rooms in the residence may be used for rental purposes. The rental rooms shall have a minimum size of one hundred (100) square feet for each two (2) occupants and an additional thirty (30) square feet for each additional occupant to a maximum of four (4) persons per room.
- F. Bed and breakfast establishments shall not be located less than three thousand (3,000) feet apart.
- G. The owner shall not offer for rent independently or incidental to the lodging, recreational equipment or vehicles.
- H. The residence shall have a minimum of two (2) exits to the out-of-doors and a smoke alarm in each room that will be used for rental purposes.
- I. No more than one (1) sign identifying the establishment, non-illuminated, not exceeding nine (9) square feet in area, set back a minimum of fifteen (15) feet from the right-of-way shall be allowed. This sign is permitted in

- lieu of any signs permitted in Chapter III.
- J. Two (2) parking spaces must be provided per dwelling with one (1) additional parking space per rental room.
 - K. Bed and breakfast establishments shall be directly accessible by roads meeting Antrim County Road Specifications.
 - L. Torch Lake Township reserves the right to inspect the premises to ensure compliance with the provisions of the special use permit approval and this ordinance.
 - M. No parties or receptions shall be given for, or by, the guests residing at the bed and breakfast establishment.

SECTION 11.04 - HEIGHT, AREA AND SETBACK RESTRICTIONS.

- A. Every lot in this district shall have:
 - 1. A minimum of two (2) acres and a width at the building line of at least two hundred (200) feet.
 - 2. A front lot line setback having a minimum distance of thirty-five (35) feet.
 - 3. Side lot line setbacks with a minimum total combined distance of forty (40) feet, the smaller setback having a minimum distance of fifteen (15) feet. *(Amendment effective May 19, 2015).*
 - 4. A rear lot line setback having a minimum distance of twenty-five (25) feet. *(Amendment effective May 19, 2015).*
 - 5. Building height shall not exceed forty-one (41) feet measured from the peak, or highest part of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one feet measured from the lowest grade level to a distance within fifteen (15) feet of the building.
 - 6. Properties bordering water bodies shall contain a minimum of one hundred (100) feet of water frontage per dwelling unit.
 - 7. Condominium units being developed under the Condominium Act shall contain the required road frontage as well as the necessary square footage as is specified for a lot.
- B. Every dwelling shall have a minimum useable floor area of nine hundred and sixty (960) square feet. The minimum width shall not be made up of additions of a dissimilar type or quality of construction or materials. At least one section of the dwelling shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet.

CHAPTER XII "C" - COMMERCIAL ZONE
(Amendment effective February 8, 2022)

SECTION 12.01 - DESCRIPTION AND PURPOSE. This zone is intended to provide areas dedicated primarily to retail business, professional, and service establishments that supply commodities and perform services to meet the daily needs of the community. The zone is also intended to provide locations for businesses that depend upon, or in some ways are related to, the use of lakes and rivers.

SECTION 12.02 – PERMITTED USES. No building or any part thereof in a Commercial Zone shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except the following listed business or service establishments which supply convenience commodities or perform services to the community. No structure shall be larger than 6,000 sq ft *(Amendment effective February 8, 2022)*

- A. Uses that may be permitted within the “C” Commercial Zone upon completion of a zoning permit application and approval by the Zoning Administrator:
1. Personal service shops including:
 - a. Beauty parlor and barber shops
 - b. Tanning booths
 - c. Photo studios and camera shops
 2. Grocery Stores
 3. Convenience Stores
 4. Book, stationery, gift, floral and antique shops
 5. Motels, hotels, and bed and breakfast facilities
 6. Professional offices, including but not limited to, banks, real estate, insurance, travel and law offices
 7. Indoor restaurants and taverns
 8. Hobby and arts and craft supply stores
 9. Retail laundromats, dry cleaners, and car washes
 10. Medical offices
 11. Indoor art, music, dance, and recreational facilities *(Amendment effective February 8, 2022)*
 12. Museums and libraries
 13. Veterinary clinics and animal grooming (no overnight keeping of animals)
 14. Trade showrooms including plumbing, lighting, upholstery
 15. Furniture showrooms and retail sales
 16. Adult and child care facilities

17. Fraternal organizations and halls (*Amendment effective February 5, 2011*)
18. Mortuaries and funeral homes
19. Airplane hangars at designated airparks
20. Government buildings (excluding schools)
21. Wine, mead and cider tasting rooms. (*Amendment effective July 15, 2015*)
22. Micro-brewery beer tasting rooms. (*Amendment effective July 15, 2015*)
23. Micro-distillery spirits tasting rooms. (*Amendment effective July 15, 2015*)
24. Movie Theaters (*Amendment effective February 8, 2022*)

SECTION 12.03 – SPECIAL USES: No building or any part thereof in a Commercial Zone shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except the following listed business or service establishments which supply convenience commodities or perform services to the community. (*Amendment effective November 6, 2020*) Marijuana facilities are not allowed in the Commercial District. (*Amendment effective February 8, 2022*)

A. The following Special Uses may be permitted within the “C” Commercial Zone

Upon approval as a Special Use by the Planning Commission pursuant to Section 17.01:

1. Auto, boat and recreational vehicle sales and service facilities
2. Gas stations
3. Drive in or outdoor theaters
4. Campgrounds
5. Veterinary Hospitals
6. Drive through and takeout restaurants
7. Lumber yards and building supplies
8. Outdoor display and sales of merchandise
9. Processing and packaging of agricultural commodities
10. Commercial bakeries
11. Commercial greenhouses, nurseries and garden centers
12. Commercial vehicle storage
13. Rental storage buildings and warehousing
14. Sexually Oriented Businesses
15. Micro-brewery beer production and/or beer storage facilities
16. Micro-distillery spirits production and/or spirits storage facilities
17. Outdoor Events (*Amendment effective November 6, 2020*)

18. Uses allowed in section 12.02 over 6,000 square feet (*Amendment effective February 8, 2022*)

SECTION 12.04 - REQUIRED CONDITIONS. The use of property in this zone shall be subject to the following conditions:

- A. All business, service or processing shall be conducted wholly within a completely enclosed building, except for Special Uses approved by the Planning Commission. (*Amendment effective November 6, 2020*)
- B. Off-street parking, loading and unloading space shall be provided as required in Chapter XVI.

SECTION 12.05 - HEIGHT, AREA AND SETBACK RESTRICTIONS.

(*Amendment effective February 8, 2022*)

- A. Building height shall not exceed forty-one (41) feet measured from the peak of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one (21) feet measured from the lowest grade level to a distance within fifteen (15) feet of the building.
- B. Each commercial property shall have a minimum front lot line setback distance of fifty (50) feet, and a minimum lot width of one (100) hundred feet.
- C. Each commercial property shall have a minimum side setback of ten (10) feet. This setback shall include a greenbelt.
- D. Each commercial property shall have a minimum rear setback of thirty-five (35) feet. This setback shall include a greenbelt.
- E. Each commercial property shall have a minimum lot area of one (1) acre.
- F. (*Amendment effective February 8, 2022*) The shape, placement, design, and quality of the built environment (building design, placement, and composition) are important elements in reinforcing a comfortable, human-scale environment, maintaining the Township attractiveness and economic vitality, equity in access, and providing a unique sense of place in the Commercial District. Accordingly, the standards in this section are intended to:
 - i. Maintain the visual environment of the commercial district, protect the general welfare, and ensure that property values, appearance, character, and economic well-being are preserved through minimum design and appearance standards.

- ii. Encourage creativity, imagination, innovation, and variety in architectural design and building composition.
- iii. Minimum standards for the use of exterior building façade materials are established in this Ordinance for the purpose of promoting harmony in the physical relationships between buildings.

a) Maximum lot coverage for all buildings on a site shall be 70% of the total site area. The maximum impervious surface (i.e. buildings, parking, sidewalk, etc.) allowed on a site shall be 85% for the total site area.

b) Landscaping:

- 1. Native Landscaping: All landscaping shall be of native species to the area. The Northwest Michigan Invasive Species Network “Recommended Planting Guidelines for Municipalities” shall be used to determine native species.
- 2. Screening Between Uses: Effective screening consisting of native vegetation shall be established and maintained between residential and non-residential uses within the Commercial district.
- 3. Foundation Plantings: For all commercial uses, there shall be a minimum four (4) foot wide vegetative strip around the primary building. Such strip shall be planted with a mixture of ground cover, ornamental trees, plants, grasses, and shrubs.
- 4. Right-of-Way Landscaping: For all commercial uses, 1 tree and 6 shrubs shall be planted per 30 lineal feet of right of way.

c) Facades shall be constructed with high quality materials consisting of brick, stone, or other natural materials. Steel exteriors shall only be allowed on facades not facing the road right-of-way

d) Trash and recycling areas shall be placed on a concrete pad and screened on all sides by a masonry wall or of the materials that match the front facade of the principal structure and shall include an opaque gate. The screening shall be a minimum of six (6) feet in height, but shall be tall enough to completely screen the containers.

(Amendment effective February 8, 2022)

CHAPTER XIII "M" - MANUFACTURING ZONE

SECTION 13.01 - PERMITTED USES. Any area within the "M" Zone will be considered for such uses as light manufacturing or processing operations with attendant warehouses, research and office buildings, subject to the following conditions:

- A. All operations shall be conducted within enclosed structures.
- B. Exterior yard storage shall be screened on sides and rear by a solid uniformly finished and maintained wooden or masonry wall or fence of durable material, or a well-maintained greenbelt, each of which shall be no less in height than the enclosed storage, loading activities, accessory structures or trucks.
- C. All structures permitted in this zone shall at a minimum, meet the following setback requirements: (*Amendment effective May 19, 2015*).
 - 1. A minimum front lot line setback of fifty (50) feet.
 - 2. A minimum side lot line setback of thirty (30) feet from each side lot line.
 - 3. A minimum rear lot line setback of thirty (30) feet.
 - 4. A minimum lot width of two hundred (200) feet.
 - 5. A minimum lot area of two (2) acres.
- D. No parking of vehicles will be allowed in the front setback areas.
- E. Building height shall not exceed forty-one (41) feet measured from the peak of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one feet measured from the lowest grade level to a distance within fifteen (15) feet of the building.
- F. Off street parking, loading and unloading space shall be provided as required in Chapter XVI.

SECTION 13.02 - OFFENSIVE AND HAZARDOUS EMISSIONS. No use shall discharge any produced dust, smoke, or odorous matter or toxic fumes; physical vibrations; or, heat or glare beyond the boundaries of the premises. No noise created from any use shall be allowed that would cause a nuisance to an adjacent "R" zone.

SECTION 13.03 - USE REGULATIONS. Any applications under this section shall be made to the Planning Commission as provided in Chapter XVIII and

accompanied by a development plan as required in Section 18.04 detailing the effects of the operations on traffic; on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions to maintain the same within the limitations of the Ordinance. It shall show the plans for disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke and pollution control.

CHAPTER XIV "PRD" - PLANNED RESIDENTIAL DEVELOPMENT ZONE
(Amendment effective August 7, 2010)

SECTION 14.01 PURPOSE

The purpose of the Planned Residential Development (PRD) district includes the preservation of the rural character of Torch Lake Township; the accommodation of residential development while permitting flexibility in the regulation of land development and providing open space; the conservation of natural resources and energy; providing for efficiency in the use of land and the reduction of development costs to the community; providing for innovation in the design, layout and use of land; and to guide such development consistent with the Torch Lake Township Land Use Plan.

SECTION 14.02 – ELIGIBILITY. To be eligible for a PRD, a parcel shall meet all of the following:

- A. The parent parcel or parcels or that portion of the parent parcel or parcels intended to be developed as a PRD shall be five (5) contiguous acres or more in area that is not split by an existing public road. For purposes of this subsection, noncontiguous open space shall not be considered when determining the above acreage requirements.
- B. The parcel on which the proposed PRD development will be located shall be capable of serving the individual uses within the development with a potable water source(s) and a wastewater treatment system(s) meeting all of the requirements of the local health department.
- C. The parcel on which the proposed PRD will be located shall be under single ownership, or the PRD application shall be filed jointly by all property owners.
- D. The proposed uses within the PRD shall be consistent with the Torch Lake Township Land Use Plan for the development site.

SECTION 14.03 - PERMITTED USES

- A. 1-Unit Residential Dwellings.
- B. 3 or More Unit Residential Dwellings.

- C. Recreation Facilities such as golf courses, baseball fields, outdoor tennis and basketball courts and outdoor swimming pools.
- D. Agricultural and Silvicultural Activities.
- E. Bed and Breakfast Establishment.

SECTION 14.04 - DESIGN STANDARDS

- A. **Perimeter Setbacks.** All planned residential development (PRD) projects shall establish and maintain a perimeter setback of fifty (50') feet from the edge of the road right of way or property line (whichever is greater), except where special setback conditions are imposed due to the specific nature of the proposed use. The project perimeter setback area shall be maintained as open space in lawns or be landscaped, or wooded areas. Existing vegetation within the perimeter setback area shall be retained. If the Planning Commission determines that planting within the perimeter setback is necessary to achieve an adequate visual buffer for the development, the Planning Commission may require the applicant to plant within the perimeter setback a mixture of native plants, deciduous and coniferous trees, shrubs or another agricultural orchard or vineyard. Trees, and shrubs if requested to be planted within a perimeter setback, shall be planted in a manner that creates an effective visual buffer. Planted materials shall be maintained in a living condition. Except for access roads or drives and permitted signs, no paved or impervious surfaces, parking areas, buildings, or structures shall be located within the required perimeter setback. Pathways and trails, however, may occupy a perimeter setback area, and such area may be used for storm water management, snow storage, and/or drainage systems.
- B. **Open Space.** All PRD developments shall possess open space of not less than fifty percent (50%) of the entire PRD development. This required open space shall be set aside for the period of the PRD approval for the common use of the owners and users within the PRD. Dedicated open space shall not include parking lots, roads, and public rights-of-way, but may include flood plains and wetlands. Recreational facilities and/or agricultural or silvicultural uses may occupy up to one hundred percent (100%) of the required open space. Required open space may include areas devoted to the perimeter setback.

Such open space set aside by the Applicant shall be protected from all forms of development, except as shown on the approved site plan, and shall not be changed to another use for the period of the PRD approval without approval by the Planning Commission.

- C. The maximum residential density for a PRD shall not exceed the equivalent of one (1) dwelling unit per acre. This density calculation is for the entire site and shall not be construed to prohibit the use of innovative siting techniques such as the use of clustering, zero lot lines, and common wall structures for 3 or More Unit Dwellings residential dwelling units on a portion of the site to allow for common open space elsewhere on the site.
- D. No dwelling unit shall contain less than six hundred (600) square feet. The average square footage for the sum of all dwelling units shall not be less than nine hundred (900) square feet.
- E. Setbacks from natural water bodies that form one or more perimeter boundaries shall be a minimum of one hundred (100) feet.
- F. Setbacks from neighboring buildings shall be a minimum of twenty (20) feet or a distance equal to the height of the tallest building, whichever is greater.
- G. Setback requirements may be increased at the discretion of the Planning Commission if the use or uses are determined to result in noise, glare, or other impacts upon adjacent properties or other uses proposed within the development.
- H. To avoid long, unbroken building walls where scenic view resources are involved or where it could detract from aesthetic values in the specific project location, a maximum of eight (8) dwelling units may be contained within any one building.
- I. Uses shall be arranged within the PRD project to serve use transition objectives, where such may be necessary to harmoniously blend the project into the specific community area.
- J. No more than thirty (30) percent of the property shall be covered with impervious surfaces.
- K. Building height shall not exceed forty-one (41) feet measured from the peak, or highest part of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one feet measured from the lowest grade level to a distance within fifteen (15) feet of the building.
- L. All utilities shall be installed underground.

- M. Additional standards contained in Section 18.07 – Site Plan Approval shall be met.

SECTION 14.05 - APPLICATION AND APPROVAL PROCESS

- A. APPLICATION AND APPROVAL PROCESS – Proposed or modified PRDs shall comply with planned unit development (PUD) Sections 15.05 – PRE-APPLICATION CONFERENCE; Section 15.06 – APPLICATION REQUIREMENTS; Section 15.07 – PUBLIC HEARING; NOTICE; Section 15.08 – PLANNING COMMISSION REVIEW; Section 15.09 – APPROVAL STANDARDS; CONDITIONS; WAIVER OF STANDARDS; Section 15.10 – TOWNSHIP BOARD REZONING CONSIDERATION; and Section 15.11 – (PRD) ZONING PERMIT.
- B. Dimensional regulations, if requested by the Applicant, may be modified by the Planning Commission in accordance with Section 15.04 F.
- C. The Planning Commission or Township Board decision of approval or disapproval of a PRD application shall not be appealable to the Zoning Board of Appeals.

SECTION 14.06 – CONTINUING ADHERENCE TO APPROVED PRD

Any property owner who fails to develop and maintain an approved PRD according to the zoning ordinance amendment rezoning the property to the PRD Zone and according to the site plan approved by the Planning Commission, and any conditions imposed, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

SECTION 14.07 – AMENDMENT OF AN APPROVED PRD

Amendments to an approved PRD must comply with Section 15.13 – AMENDMENT TO AN APPROVED PUD.

SECTION 14.08 – EXPIRATION OF APPROVED PRD; EXTENSION

Expiration and/or extensions of approved PRDs shall comply with Section 15.14 – EXPIRATION OF APPROVED PUD: EXTENSION.

SECTION 14.09 – REPEAL

A PRD District designation may be repealed at the option of the Applicant or on the initiation of the Planning Commission, if it is determined that the project no longer serves a value or purpose. Repeal of a project shall be by public hearing,

following the same notice requirements as for the original establishment of the project.

SECTION 14.10 – RENEWAL

To avoid automatic expiration, the project owner may request renewal of the PRD prior to the expiration date. Renewal shall be by formal action of the Township Board after recommendation by the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the review body. No formal public hearing is required for the Planning Commission to consider a renewal. Renewals shall be for periods not to exceed twenty-four (24) months.

SECTION 14.11 – FEES

Fees for PRD Project Plan review shall be as contained in the township fee schedule.

SECTION 14.12 – PERFORMANCE GUARANTEE

The Township Board may require a performance guarantee by the applicant to ensure completion of improvements associated with a development project and/or to ensure compliance with the Zoning Ordinance. This Performance Guarantee shall be as specified in Section 18.10.

CHAPTER XV "PUD" – PLANNED UNIT DEVELOPMENT ZONE
(Amendment effective August 7, 2010)

SECTION 15.01 – PURPOSE. As used in this Chapter, "planned unit development" (or PUD) means cluster zoning, planned development and community unit plan. All PUDs must have a residential development component. A PUD is not intended as a device or means for ignoring the zoning ordinance and specific standards set forth herein, or the planning upon which it has been based. Rather, the purposes of a PUD are:

- A. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
- B. To permit flexibility in the regulation of land development.
- C. To encourage innovation in land use in variety and design, layout, and type of structures constructed.
- D. To guide the development of single use (i.e., residential) PUDs, as well as the development of appropriate mixed-use PUDs with both residential and certain commercial land uses.
- E. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- F. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township.
- G. To preserve the existing rural character of Torch Lake Township, while accommodating residential and commercial development.
- H. To guide such development consistent with the Torch Lake Township Land Use Plan.

SECTION 15.02 – ELIGIBILITY. To be eligible for a planned unit development (PUD), a parcel shall meet all of the following:

- A. The parcel or parcels or that portion of the parcel or parcels intended to be developed as a planned unit development shall be ten (10) contiguous

acres or more in area that is not split by an existing public road. All proposed PUDs must have a residential component. Proposed mixed-use PUDs shall contain a mixture of residential and non-residential uses, and the parcel or parcels or that portion of the parcel or parcels intended to be developed as a PUD shall be twenty (20) contiguous acres or more in area that is not split by an existing public road. For purposes of this subsection, noncontiguous open space shall not be considered when determining the above acreage requirements. In addition, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customary to a residential use shall not transform a residential use into a non-residential use for the purposes of determining the area eligibility requirements.

- B. The parcel on which the proposed PUD development will be located shall be capable of serving the individual uses within the development with a potable water source(s) and a wastewater treatment system(s) meeting all of the requirements of the District 3 Health Department.
- C. The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
- D. The proposed uses within the PUD shall be consistent with the Torch Lake Township Land Use Plan for the subject development site.

SECTION 15.03 – PERMITTED USES. No building or part thereof shall be hereafter used, corrected, or altered, or land used, in whole or in part in the PUD Zone, except for the following:

- A. 1-unit and 2-unit Residential Dwellings.
- B. 3 or More Unit Dwellings residences consisting of four (4) or fewer dwelling units.
- C. Commercial uses limited to personal services shops, such as beauty parlors, barber shops, tanning salons, photo studios and camera shops; grocery stores; convenience stores; book, stationery, gift, floral and antique shops; professional offices, including but not limited to banks, real estate, insurance, travel and law offices; hobby stores and arts and craft shops; medical offices; indoor art, music and dance studios; restaurants and taverns serving on-site patrons only; and private events at which noise is controlled pursuant to Section 15.09.A. 4 and 5.

- D. Rentals of 1-unit residential dwellings if such rentals are for periods of more than thirty (30) consecutive days. Rentals of 1-unit dwellings for periods less than thirty (30) consecutive days are only permitted in a mixed-use PUD.
- E. Outdoor recreational uses, such as golf courses, ski resorts, athletic and ball fields, and equestrian facilities.
- F. Lodges and bed and breakfast establishments.
- G. Agricultural and silvicultural uses.

An applicant proposing any new or amended uses within a PUD must comply with Section 15.

SECTION 15.04 – 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, a PUD shall meet the following area regulations.

- A. Perimeter Setbacks. Property zoned Planned Residential Development (PRD) on the effective date of this amendatory ordinance (*effective August 7, 2010*) shall maintain a fifty (50) feet setback around the perimeter of the property if rezoned to a PUD, as measured from the edge of the road right of way and/or adjoining properties. All other property creating a new or amended PUD shall establish and maintain setbacks around the perimeter of the PUD property, as measured from the edge of the road right of way and/or adjoining properties, as follows:

Single Use (i.e., Residential) PUDs:

Eligible properties between ten (10) and forty (40) acres shall maintain a minimum perimeter setback of fifty (50) feet.

Eligible properties of more than forty (40) acres shall maintain a minimum perimeter setback of one hundred (100) feet.

Mixed Use PUDs:

Eligible properties (i.e., more than twenty (20) acres in size) shall maintain a minimum perimeter setback of one hundred (100) feet.

Existing vegetation within the perimeter setback area shall be retained. If the Planning Commission determines that planting within the perimeter

setback is necessary to achieve an adequate visual buffer for the development, the Planning Commission may require the applicant to plant within the perimeter setback a mixture of native plants, deciduous and coniferous trees, shrubs or another agricultural orchard or vineyard. Trees and shrubs, if requested to be planted within a perimeter setback, shall be planted in a manner that creates an effective visual buffer. Planted materials shall be maintained in a living condition. Except for access roads or drives and permitted signs, no paved or impervious surfaces, parking areas, buildings, or structures shall be located within the required perimeter setback. Pathways and trails, however, may occupy a perimeter setback area, and such area may be used for storm water management, snow storage, and/or drainage systems.

- B. General Dimensional Regulations. Except as provided in subsection F below, each permitted use within the PUD Zone shall comply with all applicable dimensional regulations specified in this Ordinance for that type use, including but not limited to regulations relating to lot area and width requirements, interior setbacks, water frontage requirements, height limitations, dwelling size requirements, except as otherwise allowed in this Chapter all applicable regulations specified in Chapter II of this Ordinance, and all applicable parking and unloading requirements specified in Chapter XVI of this Ordinance.

- C. Specific Dimensional Regulations. The following applicable dimensional regulations shall apply to developments within the PUD Zone:
 - 1. No dwelling unit shall possess a usable floor area of less than nine hundred and sixty (960) square feet.
 - 2. No building which contains one (1) or more recreational uses may exceed forty thousand (40,000) square feet on the ground floor. No building which contains one (1) or more commercial uses may exceed nine thousand (9,000) square feet on the ground floor.
 - 3. Setbacks between structures of similar uses such as between residential uses, or between commercial uses within a PUD development shall be no less than twenty (20) feet. Setbacks between structures of different uses, such as between residential and nonresidential uses within a PUD development shall be no less than forty (40) feet.
 - 4. Areas requiring earthmoving that result in any slope in excess of four (4) feet horizontal to one (1) foot vertical shall be fenced or other barriers erected to prevent unsupervised access by children or shall be dewatered at a frequency to ensure that ponding will not result in a water depth that exceeds two (2) feet. For ponds and other water impoundments which are intended to serve as an amenity (e.g., a water hazard on a golf course) the slope shall be as listed above until

the water depth of five (5) feet is obtained, at which time a steeper slope may be allowed.

5. All utilities shall be installed underground.
- D. Residential Density. The maximum residential density for a site shall not exceed the equivalent of one (1) dwelling unit per two (2) acres. Except as provided herein, this density calculation shall be made based on the area of the entire lot on which the PUD development will be located. The density calculation shall not be construed to prohibit the use of 3 or More Unit Dwellings dwelling units or the clustering of dwelling units on a portion of the lot to allow for open space elsewhere on the lot. For mixed-use developments land that is used for other than residential, recreational, or open space shall be deducted from the total lot area for purposes of calculating the allowable residential density.
- E. Open Space. All developments within the PUD Zone shall have open space of not less than fifty percent (50%) of the entire area of the site on which the PUD development will be located. This required open space shall be set aside for the period of the PUD approval for the common use of the owners and users within the PUD. Dedicated open space shall not include parking lots, roads, and public rights-of-way, but may include flood plains and wetlands. In addition, no more than twenty percent (20%) of the required open space may include outdoor recreation areas, including but not limited to ball fields, children's play areas, outdoor tennis and basketball courts, outdoor swimming pools. Golf courses, alpine and/or Nordic ski facilities, and agricultural or silvicultural uses may occupy up to one hundred percent (100%) of the required open space. Finally, the required open space may include the area devoted to the perimeter setback.

Such open space set aside by the Applicant shall be protected from all forms of development, except as shown on the approved site plan, and shall not be changed to another use for the period of the PUD approval without approval by the Planning Commission.

- F. Standards for Modifying Dimensional Regulations.
1. To promote creativity and flexibility in site design, the Planning Commission may recommend to the Township Board, subject to the following limitations, a reduction or modification of the dimensional regulations applicable to the proposed PUD development, including but not limited to minimum lot size within the development, residential density, building height, and interior (but not perimeter) setbacks within the PUD development, upon a finding that the proposed

reduction of or modification to the dimensional regulations will not be detrimental to the public health, safety, or welfare of occupants of the PUD development, the surrounding neighborhood, or the township as a whole. Any recommended reductions by the Planning Commission shall be limited as follows:

- a. Residential density may not be increased by more than five percent (5%) of the required density limitation specified in subsection D above.
 - b. Interior setbacks may not be reduced by more than fifty (50) percent of the required setbacks specified in subsections B and C3 above. Perimeter setbacks shall not be reduced.
 - c. The height of all buildings and structures within a PUD development may not be increased by more than five percent (5%) of the height limitation as specified in this Ordinance. In recommending an increase in height, the Planning Commission may recommend increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the PUD development with the surrounding neighborhood. In no case, however, shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the township pursuant to emergency fire suppression and other emergency services.
 - d. Required paved parking area may be reduced by up to twenty five percent (25%) of the parking area normally required of the proposed use. In no case shall a 1-unit dwelling have less than two (2) on-site (off-street) parking spaces. In recommending a reduction in the required parking area, the Planning Commission may recommend that a portion of the lot on which the PUD development will be located be dedicated for seasonal use for unpaved, overflow parking and/or reserved for future parking.
2. Prior to recommending a reduction in or modification to dimensional regulations, the Planning Commission shall require the applicant to demonstrate through *bona fide* documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and/or infrastructure impact studies, that the requested reduction(s) or modification(s) will not result in significantly detrimental impacts to the future occupants of the PUD development, the surrounding neighborhood, and the township as a whole.

SECTION 15.05 – PRE-APPLICATION CONFERENCE (*Replaces Section 18.03 for PRDs & PUDs only*).

- A. A pre-application conference shall be held with the Planning Commission Chair, Township Planner, Zoning Administrator, and other Township representatives. The pre-application conference is intended to determine the eligibility of the proposed PUD application, site plan and PUD application requirements, and to review the procedures and standards for site plan and PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission and Township representatives, 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, and confirm that the application and all supporting documentation are ready for a public hearing. Comments made by any Township representative at the pre-application conference are unofficial, and shall not be construed as a Township endorsement, denial or approval of the proposed PUD development.

- B. 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 to be held within thirty (30) days from the date of the request. As part of the pre-application conference, the applicant shall submit three (3) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

SECTION 15.06 – APPLICATION REQUIREMENTS.

- A. An applicant seeking approval of a PUD development, or a new or amended use authorized within a PUD development shall submit to the zoning administrator one (1) complete PUD application containing the information required by subsection B below, one (1) complete site plan containing the information required by Section 18.04 of this Ordinance, and the application fees required under Section 19.04 of this Ordinance. The zoning administrator shall review the PUD application and site plan submitted to be sure they are administratively complete and that all required information has been included. If the zoning administrator determines that the PUD application or site plan is not administratively complete, he or she shall inform the applicant in writing of all deficiencies in the PUD application and/or site plan requirements. The applicant may then provide the

information that was not provided earlier. If the applicant fails to provide the required information, the zoning administrator shall deny the application on the basis that it is administratively incomplete. Once the zoning administrator determines that the PUD application and site plan are administratively complete, he or she shall request eighteen (18) additional copies of the PUD application and site plan from the applicant and shall then forward the PUD application and site plan to the Planning Commission for its review under the procedures of this Chapter.

- B. The PUD application shall include all of the following information:
1. A completed application form
 2. A narrative statement describing:
 - a. The proposed permitted uses to be developed within the PUD.
 - b. How the proposed PUD development meets the eligibility criteria for a PUD specified in Section 15.02 Eligibility of this Ordinance. However, this application requirement shall not apply within a previously approved PUD should there be a subsequent application for a new or amended PUD use therein.
 - c. How the proposed PUD development meets the standards for PUD approval specified in Section 15.09 Approval Standards; Conditions; Waiver of Standards of this Ordinance. However, this application requirement shall not apply within a previously approved PUD should there be a subsequent application for a new or amended PUD use therein.
 - d. How the proposed PUD site plan meets the standards for Site Plan approval specified in Section 18.04 and of this Ordinance.
 - e. Whether the applicant is requesting a reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD development pursuant to Section 15.04.F of this Ordinance, and if so, the facts establishing that the standards for granting the requested reduction(s) or modification(s) will be met.
 - f. The phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
 - g. The anticipated dates, including all phases, for the start and completion of the PUD construction.
 - h. The location, type and size of areas to be dedicated for required open space.
 - i. Master deed, whether draft or final, to be used within the PUD development.

SECTION 15.07 – PUBLIC HEARING; NOTICE

Following receipt of an administratively complete PUD application and site plan, the Planning Commission shall hold at least one (1) public hearing after providing the notice required in subsection B below.

- A. The notice for the required public hearing before the Planning Commission concerning a request for PUD approval shall comply with all of the following:
1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed PUD request.
 - b. A description of the property on which the proposed PUD will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, 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 using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place that the proposed PUD public hearing will be conducted.
 - d. The address where and the deadline when written comments will be received concerning the proposed PUD request.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed PUD will be located not less than 15 days before the scheduled public hearing.
 4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed PUD will be located and to the occupants of all structures within 300 feet of the property on which the proposed PUD will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- B. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 15.08 – PLANNING COMMISSION REVIEW. Following the public hearing the Planning Commission shall review the PUD application and shall recommend to the Township Board that the board approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in Section 15.09 of this Ordinance. The Planning Commission’s recommendation shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

SECTION 15.09 – APPROVAL STANDARDS; CONDITIONS; WAIVER OF STANDARDS.

- A. PUD Approval Standards. The Planning Commission shall recommend to the Township Board that the board approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
1. The proposed uses to be developed within the PUD shall be consistent with the Torch Lake Township Land Use Plan.
 2. The PUD shall be designed, constructed, operated and maintained in compliance with the area regulations specified in Section 15 of this Ordinance. All required landscaping shall be maintained in a healthy living condition and such vegetation if dead, diseased or dying shall be replaced.
 3. The PUD shall not change the essential character of the surrounding area unless such change is consistent with the township’s current land use plan.
 4. Proposed uses that may generate noise shall be effectively managed by methods such as, but not limited to, the use of earthen berms, brick walls, ceramic barriers, and/or other noise abatement technologies in conjunction with fencing and/or landscaping, increased setbacks, days of the week and/or limited hours of operation.
 5. Sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of private property within or adjacent to the PUD.
 6. The PUD 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 PUD shall not place demands on public services and facilities in significant 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 PUD shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
9. The PUD 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 PUD 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 PUD shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.
12. The design of the PUD shall exhibit a reasonably harmonious relationship between the location of buildings and future building envelopes on the site relative to buildings on lands in the surrounding area.
13. The design of the PUD 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 PUD 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, drainage or erosion control.
15. The PUD shall meet the standards of other governmental agencies, where applicable.
16. The PUD proposed shall be consistent with and promote the purpose and intent of the Ordinance.
17. The PUD proposed must be compatible with the zoning and use of adjacent lands.
18. The PUD proposed must not adversely impact the environment.

19. The PUD proposed must not unduly burden or exceed the ability of public services or facilities to handle the anticipated needs of the community.
- B. Conditions. Any applicant of a new or amended PUD must also comply with Section 18.08, Conditional Site Plan Approvals of this Ordinance.
- C. Performance Guarantees. In connection with the construction of a PUD, the Planning Commission may recommend to the Township Board that the applicant furnish Torch Lake 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 required site improvements. Site improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD development or which the applicant has agreed to construct even though located outside the PUD development. Site improvements also mean landscaping and the completion of conditions imposed with final PUD approval by the Township Board which are located within the PUD development. For purposes of this subsection, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the PUD, or if the PUD has been approved in phases, then the performance guarantee shall be deposited with the township clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD site improvements in accordance with the site plan approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:
1. One-third of the cash deposit after completion of one-third of the PUD site improvements;
 2. Two-thirds of the cash deposit after completion of two-thirds of the PUD site improvements; and
 3. The balance at the completion of the PUD site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD site improvements. If a PUD project is to be completed in phases, then the applicant may be required to furnish a performance guarantee as provided in this subsection for each phase of the PUD. If an applicant has contracted with a third-party to construct the 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 that bond shall be deemed as meeting all or a portion of the performance guarantee required by this subsection.

- D. Waiver of PUD Standards. The Planning Commission may recommend that the Township Board waive any of the standards for a PUD if deemed in compliance with Section 18.10.B. - Site Plan Review, Waiver of Standards.

SECTION 15.10 – TOWNSHIP BOARD REZONING CONSIDERATION.

- A. After receiving the recommendations from the Planning Commission, the Township Board shall place the request for review of a PUD on the agenda for the next available, regularly scheduled Township Board meeting.
- B. The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the PUD eligibility criteria, permitted uses within the PUD, any requested reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD, the PUD approval standards and any recommended waiver(s) of those approval standards, any conditions and performance guarantees recommended by the Planning Commission, and the Planning Commission's ultimate recommendation.
- C. If the Township Board accepts the Planning Commission's recommendations concerning any reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD, concerning the waiver(s) of any PUD approval standards, and concerning any conditions and performance guarantees to be imposed with final PUD approval and if the Township Board finds that the proposed PUD meets the PUD eligibility criteria and PUD approval standards, then the Township Board shall grant approval for the proposed PUD by adopting a zoning ordinance amendment rezoning the property on which the PUD will be located to the PUD Zone and authorizing development of the property pursuant to the site plan approved by the Planning Commission. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself hold a public hearing after giving the notice required under Section 15.07 of this Ordinance, gather any additional evidence it considers relevant, and make its own findings of fact concerning the factual determinations made by the Planning Commission.

SECTION 15.11 – PUD ZONING PERMIT. Following the effective date of the zoning ordinance amendment that rezoned the property on which the PUD will be located to the PUD Zone and the satisfaction of any condition required prior to construction, the applicant shall obtain a PUD zoning permit from the zoning administrator authorizing the actual construction of the PUD. The Applicant shall at that time also provide a copy of the PUD project’s master deed to be kept on file at the Township office. 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 zoning permit issued under this subsection void.

SECTION 15.12 – CONTINUING ADHERENCE TO APPROVED PUD. Any property owner who fails to develop and maintain an approved PUD according to the zoning ordinance amendment rezoning the property to the PUD Zone and according to the site plan approved by the Planning Commission, and any conditions imposed, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

SECTION 15.13 – AMENDMENT OF AN APPROVED PUD. Amendments to an approved PUD shall be permitted only under the following circumstances:

- A. If the owner of the property within a previously approved PUD development desires to amend the uses authorized on his or her property within the PUD development, then such an amendment shall be processed in the same manner as a new PUD application.
- B. If the owner of the property within a previously approved PUD development desires to amend the site plan governing the uses authorized on his or her property within the PUD development by the previously enacted zoning ordinance amendment, then the owner of property shall notify the zoning administrator of any desired change to the approved PUD site plan. Minor changes may be approved as specified by Section 18.11B of this Ordinance.
- C. Major amendments to an approved PUD may be initiated by the applicant. Requests for major PUD amendments shall follow the procedures set forth in 15.13.C. below:
 - 1. Upon rezoning of a parcel of property to the PUD Zone and prior to any development of the property, a meeting will be held between the Owner(s) of the property in question and a designated member of the Planning Commission, Zoning Administrator, and other knowledgeable individuals as deemed necessary by either the Planning Commission or the property owners for the purpose of

reviewing and insuring that a clear understanding exists between the Township and Property owners as to the uses allowed in, and requirements of the PUD Zone.

- a. Preliminary Plan Submittal. The Property Owner(s) shall submit to the Township Clerk, seven (7) copies of a Preliminary Project Plan for distribution to the Township Planning Commission at least thirty (30) days prior to the meeting at which a public hearing has been scheduled.

The preliminary plan shall contain sufficient information to give a general picture of site conditions, the reason for the particular use arrangement selected, the identification of special features of the site, steps taken in the design to deal with those special features and information on density or quantitative data to give an indication of demands on community services in addition to those items required in the definition of a Preliminary Project Plan.

Evidence shall be provided that the owner has met with and is coordinating the project with the Drain Commissioner; Fire Officials; Northwest Michigan Community Health Agency, Health Department of Northwest Michigan; Antrim County Road Commission; Michigan Department of Transportation (if project will border on state highway); Michigan Department of Natural Resources & Environment; and other appropriate agencies as detailed in Section 18.06 - Agency Review.

- b. Preliminary Plan Review. The Planning Commission upon review of the preliminary plan shall approve, approve with conditions or reject the plan within sixty (60) days of the first meeting at which the plan is accepted as being administratively correct. Any conditional approval or rejection of a preliminary plan shall state specific reasons for the conditional approval or rejection. Approval of the preliminary plan shall not imply final approval of the Final Project Plan but shall be a method used to show areas and levels of agreement and disagreement given existing conditions and information available at the time of the review.

Approval of the Preliminary Plan shall allow the Owner to proceed with the preparation of Final Project Plan.

- c. Final Plan Submittal. The Owner shall submit eighteen (18) copies of the Final Project Plan to the Township Clerk a minimum of thirty (30) days prior to the Planning Commission

meeting at which the Commission is to review the Final Project Plan. The Final Plan shall be in accord with the approved Preliminary Plan and shall be detailed as is specified in Section 18.04 – Application for Site Plan Review.

- d. Final Plan Review. The Planning Commission shall review the Final Project Plan as is provided for in Sections 18.05 - Site Plan Review and Approval; 18.06 - Agency Review; and 18.08 - Conditional Approvals using the standards contained in Section 18.07. Action shall be taken within sixty (60) days of the meeting at which the Final Project Plan is accepted and shall detail specifics that resulted in the action taken. Approval of the Final Project Plan shall result in three copies of the plan being signed by the owner and Chairman of the Planning Commission with these being submitted to the Township Board for their action.

- e. Final Plan Approval. The Township Board shall review the approval recommendation of the Planning Commission to ensure that the actions taken are based upon the conditions and requirements and to ensure affected agency input has been incorporated into the final project plan. Action shall be taken by the Township Board within 30 days of the first meeting at which the plan and recommendations of the Planning Commission is accepted. If the Township Board does not believe all requirements have been met, it will be resubmitted to the Planning Commission for a report. Upon receipt of the report from the Commission, the Township Board shall take final action. Upon approval by the Township Board, the Township Supervisor shall sign the three sets of plans with one being returned to the owner, one being retained in the Township File and one being retained in the Zoning Administrator's file. The Zoning Administrator shall then issue a permit provided all other necessary permits have been obtained. In those instances where the other permitting agencies will not issue a permit until after the zoning permit has been issued, a conditional zoning permit will be issued.

SECTION 15.14 – EXPIRATION OF APPROVED PUD; EXTENSION.

- A. An approved PUD shall expire one (1) year following the effective date of the zoning ordinance amendment that rezoned the property on which the PUD development will be located to the PUD Zone unless substantial construction has begun on the PUD 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 site plan may be undertaken on the development until a new PUD approval is obtained following the procedures for a new PUD application. In addition, if the PUD approval expires, the Planning Commission shall begin the procedures necessary to rezone the property to the zoning district which existed prior to the PUD approval as if no PUD approval had ever been granted, or to such other zoning district deemed appropriate by the Planning Commission which is consistent with the then effective township land use plan.

SECTION 15.15 REPEAL

A PUD Zone designation may be repealed at the option of the Applicant or on the initiation of the Planning Commission, if it is determined that the project no longer serves a value or purpose. Repeal of a project shall be by public hearing, following the same notice requirements as for the original establishment of the project.

SECTION 15.16 RENEWAL

To avoid automatic expiration, the project owner may request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Township Board after recommendation by the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the review body. No formal public hearing is required for the Planning Commission to consider a renewal. Renewals shall be for periods not to exceed twenty-four (24) months.

SECTION 15.17 FEES

Fees for PUD Project Plan review shall be as contained in the township fee schedule.

SECTION 15.18 PERFORMANCE GUARANTEE

The Township Board may require a performance guarantee by the Applicant to ensure completion of improvements associated with a development project and/or to ensure compliance with the Zoning Ordinance. This Guarantee shall be as specified in Section 18.10.

CHAPTER XVI OFF-STREET PARKING AND UNLOADING

SECTION 16.01 - REQUIREMENTS FOR PARKING AREAS.

- A. Each off-street parking space per vehicle shall have an area of not less than two hundred (200) square feet, exclusive of access drives or aisles, and shall be a minimum of ten (10) feet in width.
- B. All driveways and parking areas shall have surfaces consisting of gravel, asphalt or Portland cement binder and so graded and drained to dispose of all surface water accumulated within the area.
- C. If the parking area adjoins a residential zone, a greenbelt shall be provided and maintained between the parking area and the adjoining residential zone.

SECTION 16.02 - PARKING AREA DEFINED. Parking areas shall include access drives within the actual parking area and shall be located on the same tract of land with the building.

SECTION 16.03 - RESIDENTIAL OFF-STREET PARKING.

- A. 1-unit and 2-unit dwellings. Two (2) parking spaces shall be provided for each dwelling unit.
- B. 3 or more-unit dwellings. Two (2) off-street parking spaces shall be provided for each dwelling unit.

SECTION 16.04 - NON-RESIDENTIAL PARKING.

- A. For all permitted uses within the Commercial and Village Business Districts and Special Uses within the Village Business District, off-street parking shall be provided as shown on the non-residential parking chart (section 16.06). (*Amendment effective March 29, 2013*).
- B. All places of public assembly including, but not limited to theaters and churches, shall have a minimum of one (1) parking space for each four (4) seats.
- C. In the case of mixed uses occupying the same building or structure, the total requirement for off-street parking areas shall be the sum of the requirements of the various uses when occurring at simultaneous periods of usage.

- D. For all retail agricultural enterprises in the Agricultural District, off-street parking shall comply with SECTION 6.02 M. 3f. (*Amendment effective June 17, 2014*).

SECTION 16.05 - REQUIRED OFF-STREET LOADING AND UNLOADING SPACE.

In all zones, unless otherwise provided as a condition to the granting of a variance or special use, every building or part thereof occupied for a use requiring the receipt or distribution of vehicles, materials, or merchandise, shall provide and maintain on the same premises with such building off-street loading space as follows:

One (1) space for every twenty thousand (20,000) square feet of floor area of building; provided that, each loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.

No off-street loading space shall be located closer than fifty (50) feet to any lot of any residential area unless wholly within a completely enclosed building or enclosed on all sides by a solid wall not less than six (6) feet in height. All such off-street loading spaces shall be located to the side or rear of any building.

CHAPTER XVII SPECIAL USES

SECTION 17.01 - SPECIAL USES. The Planning Commission shall, after public hearing, have the power to grant special uses as specified, or having a similar nature, in the zone provisions of this Ordinance provided that the special use would not be detrimental or injurious to existing uses and the future development of any adjacent properties.

- A. Every application for a special use shall be accompanied by a development plan as specified in Section 18.04.
- B. Filing fees shall be established by the Township Fee Schedule.
- C. When an application has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the application upon the calendar for hearing and cause notices stating the nature of the request, when and where the request will be considered, when and where written comments will be received relative to the request, and shall identify the property or properties for which a special use is being requested by a legal description, property tax identification number or other means and shall also include an existing street address(es) if addresses exist. One (1) notice that a hearing is to be held shall be published in a newspaper that circulates in the Township and shall be served personally or by mail not less than fifteen (15) days prior to the day of such hearing, upon the applicant, or the appellant, the Zoning Administrator and all persons assessed for any real property and to the occupants of all structures or dwelling units within three hundred (300) feet of the premises in question. Such notices shall be served personally or by regular mail, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "Occupant" may be used in making notifications. Any party may appear at such hearings in person or by agent or by attorney.
- D. At any public meeting, the Planning Commission shall have the right to require:
 - 1. Such buffer area as the Planning Commission shall deem necessary to protect the adjoining properties.
 - 2. Such setback from the right-of-way not to exceed one hundred (100) feet as the Planning Commission shall deem necessary for the protection of the public health, safety and general welfare.
 - 3. Such yards and open spaces as the Planning Commission deems necessary under the circumstances of the particular case to protect the health, safety and general welfare of the public.
 - 4. Such area for parking motor vehicles on private property of the

applicant, as deemed necessary by the Planning Commission, based upon the standards contained in Chapter XVI.

5. The location and size of signs as determined by standards set forth in the general provisions of this Ordinance.
6. Paved or blacktopped streets be provided.
7. All utilities be underground.
8. Adequate lighting be provided.
9. Premises be connected to public sewer and water supply as each becomes available.
10. Such fence and/or other requirements it deems necessary and proper to prevent debris from littering the premises involved and/or neighboring property.
11. Such traffic control devices, including acceleration and deceleration lanes as may be deemed advisable to protect the health, safety and general welfare of the public.

E. Standards for Approval.

1. The special use proposed must be consistent with and promote the purpose and intent of the ordinance and zone district in which the use is proposed.
2. The special use proposed must be compatible with the zoning and use of adjacent lands.
3. The special use proposed must not adversely impact the environment.
4. The special use proposed must not unduly burden or exceed the ability of public services or facilities to handle the anticipated needs of the community.

F. Additional Standards for the Approval of Sexually Oriented Businesses in the Agricultural and Commercial Districts. The purpose and intent of this section of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Section specifically and the Ordinance generally are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their

intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel which is within one thousand (1,000) feet of any parcel zoned R-1, R-2, R-3, or Village Residential or Village Business.
3. No sexually oriented business shall be established on a parcel within one thousand (1,000) feet of any residence, park, school, child care organization, or place of worship. This distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, place of worship.
4. Sexually oriented businesses shall only be allowed in the Agricultural Zone District in Section 1 of Town 31 North, Range 9 West, and Section 6 of Town 31 North, Range 8 West.
5. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
6. The proposed use must meet all applicable written and duly promulgated standards of the Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
7. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.
8. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
9. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly

visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

10. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
11. Hours of operation shall be limited to 8:00 AM to 12:00 AM.
12. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
13. Any booth, room or cubicle available in any sexually oriented business, accepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - a. Is handicap accessible to the extent required by the Americans With Disabilities Act;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated by a light bulb of wattage of no less than 25 watts;
 - e. Has no holes or openings in any side or rear walls.
14. Review Procedures for Sexually Oriented Businesses:

The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.

 - a. If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within five (5) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
 - b. If the Planning Commission determines that the application is complete, it shall within ninety (90) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in

compliance with the standards designated in Sections 12.03, 12.04, Chapter XVII (Special Uses) and Chapter XVIII (Site Plan Review). If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within ninety (90) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.

- G. All conditions required by the Planning Commission shall take effect immediately upon approval of the special use. Any application approved by the Planning Commission, either as submitted or resubmitted in modified form, shall constitute a binding agreement by the applicant that the special use permitted shall be made, completed and operated as shown on the development plan. Failure to complete the permitted activity in conformance to the agreed upon development plan and conditions or to undertake the activity within one (1) year shall cause loss of special use status.
- H. The Planning Commission decision of approval or disapproval of a special use application shall not be appealable to the Zoning Board of Appeals.
- I. All special use applications shall be decided upon by the Planning Commission with the exception of the "PRD" (Planned Residential Development) and the "PUD" (Planned Unit Development) Site Plans which shall be reviewed by the Planning Commission and submitted to the Township Board along with the recommendations of the Planning Commission for final action by the Township Board.

CHAPTER XVIII SITE PLAN REVIEW
(Amendment effective August 26, 2011)

SECTION 18.01 – PURPOSE. The purpose of the site plan review process is to provide for a process through which the township and the property owner or developer can assure that reasonable use of property within the township is provided for with a minimum of costs or adverse impacts of a development being imposed upon the neighboring properties or the township as a whole. Through the application of the following provisions and requirements, Torch Lake Township shall develop in a safe, orderly, and timely fashion.

SECTION 18.02 - SITE PLAN REVIEW REQUIRED. A Site Plan shall be required to be submitted and approved by the Planning Commission in the following instances:

- A. Any new land use or development located in the "R-3" (3 or More Unit Dwellings), "C" (Commercial), "M" (Manufacturing), commercial operations within the "VB" (Village Business), "VR" (Village Residential), "PRD" (Planned Residential Development), or "PUD" (Planned Unit Development) zone. 1-unit and 2-unit residential uses in the Agricultural (A), 1-Unit Dwelling Residential (R-1), 1-Unit Dwelling and 2-Unit Dwelling Residential (R-2), Village Residential (VR), Village Business (VB), and Timber Reserve (T) Districts are exempt from Chapter XVIII.
- B. All special land uses in all districts.
- C. All property proposed for development that is subject to the requirements of the Michigan Land Division Act, P.A. 288 of 1967, as amended.
- D. All property proposed for development that is subject to the requirements of the Michigan Condominium Act, P.A. 59 of 1978, as amended.
- E. Licensed Upland Game Bird Hunting Preserve.

SECTION 18.03 – PRE-APPLICATION CONFERENCE. Prior to submitting an application for a Site Plan review, a pre-application conference shall be held within fifteen (15) days of receipt of a written request. The purpose of this conference is to ensure the applicant has a clear understanding of the requirements of this ordinance.

The conference shall be attended by the property owner or a representative (developer, real estate agent, contractor, etc.), the Zoning Administrator, and others as determined useful or necessary by the Chairman of the Planning Commission which may include but is not limited to the Fire Chief, Planner and

others having knowledge useful in the consideration of the property and proposed uses.

Site Plans determined by the Zoning Administrator to be administratively complete shall be placed on the agenda of the next regular meeting of the Planning Commission in accordance with Section 18.04. As a part of the pre-application conference, the Township representatives may agree to allow a Site Plan to be submitted for consideration which is lacking items contained in Section 18.04.2 provided reasons are spelled out in writing for each item which is not included on the plans and a copy is provided in writing to the Planning Commission at such time as the application is being considered. The Planning Commission reserves the right to table consideration of the Site Plan if the Commission believes the Site Plan is administratively incomplete, the reasons for not including the information are not sufficiently spelled out or determines the information is relevant and will be useful in making a decision on the Site Plan.

SECTION 18.04 – APPLICATION FOR SITE PLAN REVIEW.

- A. Sixteen (16) copies of the complete application package for a Site Plan Review shall be submitted to the Township Zoning Administrator a minimum of fifteen (15) days prior to the meeting at which the Site Plan is to be considered.
 1. The application shall contain the following information:
 - a. The applicant's name, address and telephone number in full.
 - b. Proof of property ownership, and whether there are any options on the property, or any liens against it.
 - c. A signed statement that the applicant is the owner of the property or acting on the owner's behalf.
 - d. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).
 - e. The address, parcel number and legal description of the property.
 - f. Name and address of the developer (if different from the applicant).
 - g. Seal of the professional engineer, architect, landscape architect or planner who prepared the plan, as well as their name, address, and telephone number. The Zoning Administrator may waive this requirement at the pre-application conference in circumstances in which no material changes to the existing site structure(s) or use is proposed.
 - h. Project description, including the total number of structures, units, bedrooms, offices, total floor area, parking spaces, carports or garages, projections of employment levels for commercial and/or industrial uses, amount of recreation and

open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this Ordinance.

- i. The total acreage of the project and overall gross acreage of the project parcel.
 - j. Project beginning and completion schedule (by phase if the entire project is to be divided into phases).
 - k. Written statement detailing reasonably anticipated impacts of the project on the existing infrastructure (including traffic capacity of streets, schools and existing utilities), community facilities, and on the natural environment of the site and adjoining lands.
 - l. Identification of proposed uses that may generate noise which, because of its volume and/or frequency, may result in the unreasonable interference with the comfortable use and enjoyment of private property within nor adjacent to the subject property. This is to include a narrative that thoroughly describes how such identified uses will be effectively managed in order to eliminate the potential for any such unreasonable interference. (*Amendment effective August 7, 2010*).
 - m. The proposed Master Deed, if required to be included by this Ordinance, shall be submitted prior to final zoning permit issuance.
2. The Site Plan maps shall be submitted with the application. The Site Plan maps shall consist of accurate drawings at a scale of 1"=100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each set of Site Plan maps shall depict the following:
- a. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations as well as the location of current land uses, zoning classifications and existing structures on and uses of the subject parcel and adjoining parcels.
 - b. Designation of all areas to be used for the outdoor storage, display or sale of equipment, materials, or merchandise.
 - c. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands, sand dunes and high-risk erosion areas as regulated under Michigan and federal law.
 - d. Existing topographic elevations at two (2) foot intervals, except at five (5) foot intervals for slopes in excess of eighteen (18) percent.
 - e. The location and type of significant existing vegetation.

- f. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building or building envelope and typical elevation views of proposed structures.
- g. Proposed location of all proposed structures, equipment and uses, and typical elevation views of proposed structures.
- h. Proposed location of all accessory structures, buildings and uses, and typical elevation views of proposed structures and buildings.
- i. Location of all existing public and private easements of record including road and utility rights-of-way on or abutting the property.
- j. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes serving the development.
- k. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including type of material proposed to be used for surfacing), fire lanes and all lighting thereof.
- l. Location, size and characteristics of all loading and unloading areas, if applicable.
- m. Location and design of sidewalks, walkways, bicycle paths and areas for public use.
- n. Location of water supply lines and/or wells, including shutoff valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean out locations, connection points and treatment systems, including septic systems, if applicable.
- o. Location of all other utilities on the site including but not limited to natural gas, electric, cable, satellite dish, and telephone.
- p. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- q. Location, size and specifications of all signs, if applicable.
- r. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- s. Location and type of fencing, walls, and other screening devices, if applicable.
- t. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material, the type and size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its general size and specific location.
- u. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

- v. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures; pollution incident prevention plan (PIPP); or spill prevention, control and countermeasure plan (SPCC) as required by government authorities.
 - w. Identification of any significant site amenities or unique natural features.
 - x. Identification of any significant views onto or from the site to or from adjoining properties.
 - y. North arrow, scale and date of original submittal and last revision.
 - z. For facilities or uses where hazardous substances as defined by the federal Resource Conservation and Recovery Act, 40 C.F.R. Parts 239-282, or Michigan's Part 111: Hazardous Waste Management of P.A. 451 of 1994, as amended are stored, used or generated, the following information shall be provided.
 - 1) Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - 2) Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water and all similar uses.
 - 3) Location of exterior drains, dry wells, catch basins, retention/detention areas and other facilities designed to collect, store, transport or dispose of storm water. The point of discharge for all drains.
 - 4) Delineation of areas on the site which are known or suspected to be contaminated as defined by Part 201 of Michigan's P.A. 451 of 1994, as amended, its administrative rules and guidance documents, together with a report on the status of site cleanup.
 - 5) Copies of all Federal/State/County permits required, prior to zoning permit issuance.
- A. Location of fire hydrants, underground water storage tanks or other Sources of water suitable and easily accessible for use in fighting fires.
 - B. Other information as deemed necessary by the Planning Commission to allow the Commission to determine whether the development will be harmonious with the community and to ensure the health, safety, and welfare of the community is protected including but not limited to the

following:

1. Proposed grades and direction of drainage flows.
 2. The location and type of existing soils on the site and copies of any soil boring log and/or groundwater conditions.
 3. Location and type of significant existing vegetation to be retained as well as those proposed to be removed.
 4. Elevation drawings of buildings, signage and other structures.
- C. The applicant shall submit the required fees to Zoning Administrator as set forth in the Torch Lake Township Fee Schedule.
- D. The Zoning Administrator shall review the contents of the application package and shall forward said material to the Planning Commission upon determination that the application package is administratively complete, complying with all requirements of this ordinance. Packet is to be delivered to the Commissioners no later than Monday of the week prior to the week of the Planning Commission meeting in which it will be reviewed.
- E. Planning Commission upon the request of the applicant may waive certain requirements of the Site Plan listed above provided the Commission shall document on the record specific reasons why specific requirements are being waived.

SECTION 18.05 – SITE PLAN REVIEW AND APPROVAL.

- A. The applicant or agent of the applicant must be present at any meeting at which the Site Plan is to be considered. Should the applicant (or agent of) not be present for two (2) consecutive meetings at which the Site Plan is an agenda item, the Site Plan shall be rejected by the Township Planning Commission. The Site Plan may be resubmitted by the applicant at a later date as a new application.
- B. Only one (1) Site Plan shall be considered by the Planning Commission for a parcel of property at one time. The applicant may withdraw an application and apply with a new Site Plan. In this instance, the first Site Plan shall no longer be considered for the site and a notation shall be made on the site plan that it has been withdrawn by the applicant.
- C. The Planning Commission shall review and approve, review and approve with conditions, or review and deny all Site Plans submitted under this Ordinance. Each Site Plan shall comply with Section 18.07 of this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the minutes of the Planning Commission. Prior to any final decision, the Planning Commission may seek the recommendations of other Federal, State, County or other local groups or agencies, where applicable.

- D. Site Plan approval shall be by the Planning Commission (Township Board in the case of PRDs and PUDs). The Planning Commission shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies have been met including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final Site Plan approval can be granted. An approved Site Plan shall include a note referencing the case number and date of all variances granted.
- E. All site plans shall be considered at the next regular meeting of the Planning Commission of an administratively complete application and Site Plan meeting the requirements above. Before final approval of any site plan, the petitioner shall apply for all appropriate Township, County, State and/or Federal permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.
- F. All requirements of the Township shall be included in the Master Deed, if applicable.

SECTION 18.06 – AGENCY REVIEW.

- A. The Zoning Administrator shall cause to be delivered one copy of the application for Site Plan review and one (1) copy of the Site Plan to the following agencies:
 - 1. Antrim County Conservation District.
 - 2. Antrim County Road Commission and/or the Michigan Department of Transportation.
 - 3. Health Department of Northwest Michigan.
 - 4. Antrim County Construction Code Department.
 - 5. Antrim County Coordinator/Planner.
 - 6. Torch Lake Township Fire Department.
 - 7. Any other agencies with jurisdiction in regard to a particular project.
- B. These agencies shall be given a minimum of ten (10) working days to respond with their comments, if any, to the Zoning Administrator. Agency comments will be accepted up to the point at which a final action has been taken on the Site Plan.
- C. The Planning Commission will consider all applications for Site Plan Review submitted to it for approval, revision, or disapproval, at a scheduled meeting:

1. Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the Site Plan.
 2. Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so recorded. When these changes have been adequately addressed, the petitioner shall resubmit the Site Plan to the Planning Commission for Final Site Plan Approval. The Planning Commission may approve the Final Site Plan as recorded.
 3. If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate Site Plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's minutes.
- D. When a site plan is reviewed and approved or disapproved by the Planning Commission and all steps completed, three (3) copies of the Site Plan will be marked by the Planning Commission for the following distribution:
1. One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.
 2. One (1) copy forwarded to the Planning Commission Secretary for filing.
 3. One (1) copy forwarded to the Zoning Administrator.
 4. Upon Final Site Plan Approval by the Planning Commission, a Zoning Permit may be obtained.

SECTION 18.07 – STANDARDS FOR SITE PLAN APPROVAL.

- A. Each Site Plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:
1. All elements of the site plan shall be efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 2. The landscape shall be preserved by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
 3. All storm water shall be managed and disposed of on-site and shall not affect neighboring properties. Such storm water management shall handle all storm water in compliance with the Antrim County Soil Erosion Sedimentation and Storm Water Runoff Control Ordinance Guidelines dated January 3, 2008, as amended.

4. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. Air pollution, vibration, and sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of private property within or adjacent to the facility, nor violate other local, state or federal law or regulations. (*Amendment effective August 7, 2010*).

Each PRD & PUD proposal shall state in writing how the provisions of Sections 15.09A (4) and 15.09A (5) are met.

5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
6. Every structure or dwelling unit shall have access to a street, walkway or other area dedicated to common use.
7. There shall be provided a pedestrian circulation system which is insulated from the vehicular circulation system.
8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which faces or is visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than eight (8) feet in height.
9. Exterior lighting shall be shielded, arranged so that it projects and illuminates in a downward direction, and is deflected away from neighboring properties so that it does not impede the vision of traffic along adjacent streets nor add to the visual light pollution of neighboring properties or the sky above.
10. All approaches to paved public roads shall be surfaced with bituminous asphalt, concrete or similar pervious or impervious materials.
11. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets. Streets which are part of an existing or planned pattern which serve adjacent development shall be of a width appropriate to handle the traffic volumes they will carry.
12. All streets and roads shall be developed in a manner that is protective of public health, safety and general welfare, be adequately accessible to emergency vehicles and equipment, and where applicable be developed in compliance with Michigan Department of Transportation or Antrim County specifications.
13. Water supplies that are of a sufficient quantity which are easily

accessible shall be available for the purpose of suppression of the type and magnitude of fire that would typically occur based upon the type of development being proposed.

14. Buildings shall be adequately screened with native vegetation and are subject to approved lighting and landscape plans.
 15. Site plans shall conform to all applicable requirements of Township, County, State and Federal statutes and approval shall be conditioned on the applicant receiving all necessary permits before final Site Plan approval.
- B. Except where otherwise allowed in this Ordinance, lots on lands developed pursuant to the Michigan Land Division Act, P.A. 288 of 1967, as amended, or the Michigan Condominium Act, P.A. 59 of 1978, as amended, shall place all utility lines (power, telephone, water, gas, cable, etc.) underground.
- C. For all proposed natural resource extraction, mining, or relocation operations, the following requirements shall be established:
1. A performance guarantee shall be required for all proposed projects. This fee shall be of an amount sufficient to cover the costs to the Township of completing the earthmoving and landscaping to the conditions detailed in approved Site Plan.
 2. Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity unless a guaranteed replacement plan is approved.
 3. Fences, berms, walls and other visual screening devices of sufficient height and construction shall be required to screen operations and stockpiles from views on public roadways or waterways.
 4. The operation of mechanical equipment of any kind may be limited by the day and/or hour if the site is in a location that directly impacts homes and/or residential zoned lands, by creating an operating nuisance.
 5. All structures, equipment and machinery shall be considered temporary and shall be removed from the site upon completion of the mineral extraction, mining or relocation.
 6. Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
 7. If necessary, to protect the area, access routes serving the site may be specified for the purpose of limiting the exposure of residential areas to earth moving vehicles.
 8. The location of earth stockpiles, machinery, equipment and any buildings shall be approved by permit but only in terms to protect adjoining properties and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site

- facilities and earth stockpiles.
9. The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. All reclamation, grading and seeding practices shall be done per USDA Soil Conservation Service standards and specifications.
 10. Specific site reclamation requirements may vary depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or reuse potential. The Planning Commission shall state specific reasons.
 11. Time limits may be established in the approval of a site plan to ensure the removal of the resource and restoration of the property in a timely fashion.
- D. For private recreational facilities or uses that have inland lake frontage, the following limitations shall be established:
1. Camping is not permitted except as an accessory function of a larger resort complex.
 2. Vehicle parking is permitted only as necessary for reasonable access to the location.
 3. Lake access and use must comply with Section 2.13 of this Ordinance.
 4. Plans for permanent residential dwelling recreational apparatus must be shown on the Site Plan.
 5. All uses shall be compatible with the adjacent property uses. Therefore, additional limitations may be imposed.
- E. Sites where Licensed Upland Game Bird Hunting Preserves are permitted:
1. Hours of operation shall be limited to the hours of 8:00a.m. to 6:00p.m.
 2. Parking shall occur on the property and not along the roadway or in the road right-of-way.
 3. The site shall be adequately signed to notify the public and adjoining property owners as to the presence of the hunting preserve and the safety zones shall be signed in such a manner that all hunters shall be aware of the required safety zones.
 4. Hunting shall only be allowed during the portions of the year as allowed by the Michigan Department of Natural Resources (MDNR).
 5. The site shall be licensed by the MDNR at all times when hunting is occurring.
- F. Sites where hazardous substances are stored, used or generated the following standards shall apply:
1. Said sites shall be designed in such a manner to prevent spills and (unless permitted by state or federal statute) discharges to the air,

- surface or the ground, groundwater, lakes, streams, rivers or wetlands.
2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 3. General purpose floor drains shall only be allowed if they are connected to a public sewer system providing primary, secondary and tertiary treatment, or an on-site closed holding tank (not a septic system) or regulated through a State of Michigan groundwater discharge permit.
- G. For all sites to be used for Rental Storage Buildings (including Self Storage) or Warehousing, the following standards shall apply:
1. No outdoor storage of vehicles, (including but not limited to recreation vehicles, boats, trailers, cars), or other goods or materials shall occur.
 2. No sales of any nature shall occur on the site.
 3. Building Spacing:
 - a. Buildings having a height of ten (10) feet or less at the eave shall be setback from each other a minimum of twenty-eight (28) feet.
 - b. Buildings having a height greater than ten (10) feet at the eave shall be set back an additional three (3) feet for each foot or fraction thereof of height at the eave in excess of ten (10) feet.
 - c. The setback distance shall be measured from the closest portion of the buildings (example: from the overhang(s) if they protrude from the building).

SECTION 18.08 – CONDITIONAL APPROVALS.

The Planning Commission may attach reasonable conditions with the approval of a site plan. These conditions may include those necessary to ensure 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 ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements: *(Amendment effective August 7, 2010)*.

- A. Be designed to protect natural resources, the health, safety and welfare and social and economic wellbeing of those who will use the land 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 ordinance, be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

SECTION 18.09 – CONFORMITY TO APPROVED SITE PLAN REQUIRED.

Following Final Approval of a Site Plan by the Township, the applicant shall construct the Site Plan improvements in complete conformity with the approved plan. Failure to do so, or to amend the site plan to conform with the development shall be deemed a violation of this Ordinance and result in the revocation of the Site Plan approval or approval with conditions.

SECTION 18.10 – PERFORMANCE GUARANTEE & WAIVER OF STANDARDS.

- A. The Township Board may require a performance guarantee by the applicant to ensure completion of improvements associated with a development project and/or to ensure compliance with the Zoning Ordinance. The improvements subject to the performance guarantee are those features or actions considered necessary by the Township to protect natural resources, or the health, safety and welfare of the residents of the Township, the project area, or the project itself. The performance guarantee is exclusive of those improvements that are guaranteed and deposited in accordance with the Michigan Land Division Act, P.A. 288 of 1967, as amended, or other public acts, ordinances or regulations of the state, county or Torch Lake Township. The performance guarantee shall be in an amount as determined by the Township which is sufficient to accomplish the purposes stated above. The Township may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond which will be deposited with the Township Treasurer at the time the permit is issued. The performance guarantee shall be proportionally rebated based upon the type and amount of work completed.
- B. The Planning Commission may recommend that the Township Board waive any of the standards contained in a PUD or other required site plan where all of the following findings are documented along with the rationale for the decision: (*Amendment effective August 7, 2010*).

1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
2. The spirit and intent of the Torch Lake Township Zoning Ordinance will still be achieved.
3. No nuisance conditions will likely be created by such waiver.

SECTION 18.11 – MAJOR AMENDMENTS TO APPROVED SITE PLANS.

- A. The holder of an approved Site Plan shall notify the Zoning Administrator, in writing, of any desired amendment or change to an approved Site Plan. Major amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance. (*Amendment effective August 7, 2010*).
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed minor change(s) will not alter the basic design and character of the Site Plan, nor any specific conditions imposed as part of the original Site Plan approval. Minor changes shall include the following:
 1. Change in building size up to five (5) percent of the gross floor area.
 2. Changes in building materials to a comparable or higher quality.
 3. Changes in floor plans which do not alter the character of the use.
 4. Relocation of a dumpster, signs, building entrances or exits, or the shortening of building canopies.
 5. Changing to a more restricted use provided there is no addition in the amount of off-street parking as originally provided.
 6. Changing the location or angle of parking, provided there is no reduction in the amount of required off-street parking.
 7. Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate State, County or other local road authority with jurisdiction.
 8. Substituting landscape materials or species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and will accomplish the same or an increased screening effect.
 9. Change type and design of lighting fixtures provided an engineer, planner, landscape architect or architect certifies there will be no change in the intensity of light at the property boundary.
 10. Increase perimeter yards.
 11. Changing the location of an exterior building wall or location not more than ten (10) feet measured horizontally provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in public safety or in the amount of open space is thereby

- affected.
12. Changes necessary to conform to other law or regulations as required or requested by the Township, Antrim County Road Commission, or other county, state or federal regulatory agency.
 13. Changes of phases or sequence of phases, only if all phases of the Site Plan have received final approval and if the change does not alter any conditions of approval.
- C. A proposed change determined by the Zoning Administrator not to be minor shall be submitted as an amendment to the Site Plan and shall be considered by the Planning Commission as a proposed major Site Plan amendment pursuant to Section 18.11.D.
- D. Major amendments to an approved Site Plan may be approved by the Planning Commission provided that such changes conform to the Zoning Ordinance. Proposals for major amendment(s) to a Site Plan shall require a new Site Plan review, payment of applicable fees to the Township, and processing in accordance with this Chapter as a new Site Plan application. Major changes to an approved Site Plan may be approved by the Planning Commission, provided no such change results in any of the following:
1. A significant change in the use or character of the development.
 2. A significant increase in the intensity of use.
 3. A reduction in required open space.
 4. A reduction in required off-street parking or loading areas.
 5. A reduction in required pavement widths or utility pipe sizes.
 6. A significant increase in traffic on public streets or an increase in the burden on public utilities or services. An inadequate protection of the natural environmental and/or natural resources.
 7. Inadequate access for emergency vehicles or other significant threat to public safety.
 8. A violation of the Torch Lake Township Zoning Ordinance, other Township ordinances, local, state or federal law.

SECTION 18.12 – AS BUILT SITE PLAN.

Upon completion of the installation of required improvements as shown on the approved Site Plan, the property owner shall submit to the Zoning Administrator seven (7) copies of an "as built" Site Plan, signed or sealed by the licensed or certified engineer, planner, landscape architect, or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to ensure conformity with the approved Site Plan and other township requirements. Once each department has approved the build plans the Zoning Administrator shall make the final inspection and issue the Occupancy Permit provided the Site Plan

has been complied with.

SECTION 18.13 – REVOCATION OF SITE PLAN APPROVAL.

- A. A Site Plan Approval may be revoked by the Township Planning Commission (Township Board in the case of PRD's and PUD's) at any time in the development process if the Site Plan application or plans contained erroneous information that was supplied by the applicant, or if an administrative error occurred on the part of the Township or other review agency.
- B. A Site Plan Approval may be revoked by the Township prior to the commencement of the project if a twelve (12) month time period has elapsed from the approval date and any of the following conditions can be demonstrated by the Planning Commission.
 - 1. Zoning regulations applicable to the project have been changed and the previously approved Site Plan does not comply with them.
 - 2. Changes in state law, county or township ordinances affecting the previous approval has occurred.
 - 3. Pollution, impairment or destruction of the air, water or other natural resources or to another legally protected public interest would occur if the project were to be constructed as approved.
- C. Revocation of an approved Site Plan shall be communicated in writing by certified mail to the applicant. The Antrim County Construction Code Department and District 3 Health Department shall be notified to withhold or revoke any permits until a new Site Plan is approved.
- D. Any subsequent submittal of a revoked Site Plan shall be processed as a new request with new fees.

SECTION 18.14 – LAND CLEARING.

No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal on property for which site plan approval is required by this Ordinance, nor shall such activity proceed prior to obtaining necessary local, state and federal permits. Violators of this provision are subject to the fines and penalties contained in Chapter 22 of this Ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or a Site Plan is approved.

CHAPTER XIX ADMINISTRATION
(Amendment effective September 7, 2018)

SECTION 19.01 - ADMINISTRATIVE OFFICIALS. In accordance with Public Act 184 of 1943, as amended, the Township Board shall designate the Zoning Administrator, or designee, as proper official or officials who shall administer and enforce this Ordinance and provide penalties for the violation of this Ordinance. Except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance including the receiving of applications, the inspection of premises, the issuing of zoning permits, and the institution of proceedings for enforcement of the provisions of this Zoning Ordinance. Relative to the issuance of a permit, any decision rendered by the Zoning Board of Appeals, Planning Commission, or Township Board on a matter required to be reviewed by that body shall be binding on the Zoning Administrator. ((Amendment effective September 7, 2018)

SECTION 19.02A - ZONING PERMIT REQUIRED. It shall be unlawful for any person to commence excavation for, or construction of, any building, structure or parking area, or to make structural change, alteration or addition in any existing building or structure or relocate any building or structure without first obtaining a zoning permit from the Zoning Administrator unless specifically exempted by this ordinance. A change in use in the Commercial (C), Village Residential (VR), Village Business (VB), and Manufacturing (M) zones shall require a site plan to be submitted and approved including all conditions being complied with prior to a permit being issued. No permit shall be issued for the construction, alteration, addition or relocation of any building, or structure until an application has been submitted showing that the construction proposed is in compliance with the provisions of this Ordinance. No plumbing, building, health, electrical or drainage permit shall be issued until the Zoning Administrator has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this Ordinance, and paying the permit fee as established by the Township Fee Schedule.

SECTION 19.02B - ZONING PERMIT EXEMPTION. Ground-level decks and temporary accessory storage buildings without footings or foundations and with footprints under two hundred (200) square feet in area and a height not exceeding twelve (12) feet shall be exempt from the permit requirements of this ordinance. These structures shall conform to all setback requirements. (Amendment effective July 28, 2017)

SECTION 19.03 - PERMITS. Every application for a zoning permit shall be made as required by the Zoning Ordinance and shall designate the existing or intended use of the structure or premises, or part thereof which it is proposed to alter, erect,

or extend, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two (2) prints or photo-copies of the drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications. The application shall contain other information with respect to the lot and adjoining property as may be required by the Zoning Administrator. One (1) copy of both plans and specifications shall be filed in and retained by the Office of the Zoning Administrator, and the other shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit. In cases of minor alterations, the Zoning Administrator may waive portions of the foregoing requirement obviously not necessary for determination of compliance with this Ordinance. Any permit required by this Zoning Ordinance of the Township shall be displayed face out, within twenty-four (24) hours of its issuance by placing the same in a conspicuous Place on the premises facing the nearest roadway, and shall be continuously so displayed until all work, or the term for which issued, or purpose for which issued, is completed.

Failure to obtain and display any such permit shall constitute a violation of the Zoning Ordinance and shall subject each person or persons or corporations for whose benefit the permit is required, and the owner or owners of the premises involved to prosecution for such violation.

Every permit granted under this section shall become null and void unless the excavation, construction, alteration, erection or extension shall have been commenced within twelve (12) months from the date of issuance of the permit; and every permit so granted shall further become null and void unless all exterior aspects of the construction, alteration, erection or extension shall have been completed within eighteen (18) months from the date of issuance of the permit.

However, an extension of time for the commencement of construction or for the completion of construction may be granted by the Zoning Administrator upon proof that an extension of time is justified.

SECTION 19.04 - REQUIRED FEES. Any fee required by the Ordinance shall be paid to the Township Treasurer before any action shall be taken on the application. Said amount so received shall be retained whether the requested relief or action is granted or not and shall be used as provided by law. Fees may be changed by the Township Board at any regular meeting, which change shall be effective thirty (30) days from the date of publication of such change.

CHAPTER XX ZONING BOARD OF APPEALS
(Amendment Effective date January 7, 2022)

SECTION 20.01 – MEMBERS, APPOINTMENT, TENURE, PER DIEM EXPENSES AND REMOVAL *(Amendment effective January 7, 2022).*

There is hereby created a Township Zoning Board of Appeals, hereinto referred to as ZBA, of five (5) members. The first member of the ZBA shall be a member of the Township Planning Commission; the second member may be a member of the Township Board; and the remaining member and up to two (2) alternates (amendment effective January 30, 2013), who may function in place of a member or members who are absent, shall be selected by the Township Board from among the electors residing in the unincorporated areas of the Township; provided, that no elected officer, contractor or any employee of the Township Board may serve simultaneously as a member of, or as an alternate to the ZBA.

Members and alternates shall serve for a period of three (3) years. At the end of the member or alternate's term, the individual ceases to be a member or alternate unless the individual is reappointed by the Board of Trustees. The total amount allowed such ZBA in any one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall be a reasonable sum which shall be provided annually by the Township Board.

SECTION 20.02 - OFFICERS. The ZBA shall elect from its membership a Chairperson, Vice-Chairperson and Secretary.

SECTION 20.03 - RULES OF PROCEDURE. The ZBA shall adopt rules of procedure. These rules shall be available for public inspection at the Office of the Township Clerk.

- A. The ZBA shall annually establish the date at a given time and place, of at least one annual meeting. *(Amendment effective January 7, 2022)*. All such meetings and hearings shall be open to the public.
- B. The presence of three (3) members shall constitute a quorum. The ZBA shall act by resolution. The concurring vote of three (3) members of the ZBA shall be necessary to reverse any order, requirement, decision or determination of the Planning Commission or Zoning Administrator not specifically exempt from ZBA review by other provisions of this ordinance, or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.
- C. The ZBA shall keep minutes of its proceedings, showing the action of the

ZBA, the reasons on which it bases its action, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the Township Office of the Board and shall be public record.

- D. A copy of each resolution passed upon by said ZBA shall be submitted to the Clerk of the Township and to the Secretary of the Planning Commission.

SECTION 20.04 - JURISDICTION. The ZBA in conformity with the provisions of this Ordinance shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of zoning maps. It shall hear and decide all appeals from and review any order requirement, decision or determination made by the Zoning Administrator or other administrative officers charged with the enforcement of the provisions of this Ordinance. In order for an appellant to schedule an appeal of a decision or determination made by the Zoning Administrator or other administrative officer(s) charged with the enforcement of the provisions of this Ordinance before the ZBA, s/he must file a completed written, formal appeal on a Township Appeal Form. The completed form must be submitted to either the Zoning Administrator or the Township Supervisor within thirty (30) calendar days after the decision that is being appealed. The ZBA shall also hear and decide all matters referred to it or upon which it is required to act under this Ordinance. (Amendment effective June 1, 2018)

SECTION 20.05 - POWERS OF THE ZBA. The ZBA shall have the power to hear applications: (*Amendment effective January 7, 2022*)

- A. Where it is alleged that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the Planning Commission or any other Administrative Board or official charged with the enforcement of the provisions of this Ordinance. The ZBA does not have the power or authority to address Planning Commission decisions related to special use applications or Planned Unit Development applications.

SECTION 20.06 – DIMENSIONAL VARIANCES (Amendment effective January 7, 2022)

No dimensional variance from the provisions or requirements of this Zoning Ordinance shall be authorized by the ZBA unless the ZBA makes findings of fact approved by the ZBA, establishing all of the following, based upon competent material and substantial evidence on the whole record:

- A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which
 1. are not applicable to most other lands, structures or buildings in the same zoning district;
 2. show exceptional narrowness, shallowness or the shape of a specific piece of property on the effective date of this Ordinance.
 3. show exceptional topographic conditions.
 4. are extraordinary conditions of land, buildings or structures.
 5. negatively affect development of property immediately adjacent to the property in question.
 6. the literal enforcement of the requirements of this Ordinance would involve practical difficulties.

- B. That literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district; and

- C. That the special conditions or circumstances do not result from the actions of the applicant, landowner or predecessor in title; and

- D. That the authorizing of the variance will not be of substantial detriment to the neighboring property and will not be contrary to the spirit and purpose of this Zoning Ordinance.

A non-conforming condition or conditions on neighboring lands may be considered but will not in and of itself or themselves be grounds for the issuance of a variance.

SECTION 20.07 - CONDITIONS OF APPROVAL. In authorizing a variance, the ZBA may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

SECTION 20.08 - TIME LIMITATIONS ON VARIANCES. Any variance granted by the ZBA shall automatically become null and void after a period of twelve (12) months from the date granted unless the owner or his agent shall have taken substantial steps toward affecting the variance as granted.

SECTION 20.09 - PROCEDURE. The following procedure shall be required:
(Amendment effective January 7, 2022)

- A. An appeal or review of any ruling of the Zoning Administrator or other administrative office administering any portion of this Ordinance may be taken by any person, any aggrieved person or any governmental department affected or aggrieved.

- B. An application for variance interpretation or review authorized by this Ordinance may be taken by any person or governmental department affected.

- C. Two different review bodies handle requests having to do with land use and zoning. The Planning Commission (details given in Chapter XXI) deals with the establishment of or the change of the zoning law. The ZBA deals with the interpretation of the zoning ordinance and decisions of the Zoning Administrator and also handles requests for "variances" with a variety of related matters brought to it for review.

- D. For a hearing before the ZBA
 - 1. The appellant shall provide an accurately completed *Notice of Appeal* application.
 - 2. The appellant shall provide a scaled map or sketch giving general location.
 - 3. The appellant shall provide a site plan, drawn to scale, showing lot, setback, and building lines, significant angles and dimensions, and other details relevant to the matter (waterfront, well and septic locations, roads, topographic features, front, side and bird's eye views of proposed structures, easements, etc. when applicable)
 - 4. Any lot lines relevant to a dimensional variance must be staked by a professional surveyor prior to the hearing.

- E. Fees for appeals, variances, and interpretations shall be as specified in the Township Fee Schedule.

- F. When an application for an ordinance interpretation, variance or appeal has been filed in proper form and with the required data, the zoning administration office shall notify the ZBA Chairperson and secretary, and

immediately place the said application or appeal upon the calendar for hearing. For a variance, general appeal or an interpretation, a notice shall be published in a newspaper of general circulation within the Township and a notice shall be served personally or by mail to the applicant and the zoning administrator no less than 15 days prior to the hearing. If the request is for a variance, an appeal or interpretation question involving a specific parcel or parcels of property, the notice must also be personally delivered or mailed, no less than 15 days prior to the hearing, to all persons owning property within 300 feet of the specific parcel and all occupants living within 300 feet. The notices shall describe the nature of the request, when and where the request will be considered, when and where written comments will be received relative to the request and shall identify the property or properties for which an appeal or variance is being requested by a legal description, property tax identification number or other means and shall also include an existing street address(s) if addresses exist. Ownership shall be determined based upon the last tax assessment roll. Any party may appear at such hearings in person or by agent or by attorney.

SECTION 20.10 - STAY OF PROCEEDINGS.

(Amendment effective January 7, 2022)

An appeal shall stay all enforcement proceedings unless the Zoning Administrator or other public safety official shall document to the township board that imminent threat exists to the public health and/or safety.

CHAPTER XXI AMENDMENTS
(Amendment Effective June 1, 2018)

SECTION 21.01 - AMENDMENTS. Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- A. Procedure.
 - 1. The Planning Commission may propose text and/or map amendments on its own initiative.
 - 2. Any resident or land owner of the Township may bring before the Planning Commission a proposed text amendment or map amendment by filing an application signed by all persons known to have a specific interest in such premises to be acted upon requesting the adoption of any specified amendment under the Zoning Ordinance. The Township Clerk shall file the application with the Secretary of the Planning Commission within ten (10) days of the date the application was filed with the Clerk.

- B. Contents of Application. An application requesting a proposed amendment shall contain the following:
 - 1. Map Amendment.
 - a. The street address and either the legal description or property tax identification number of the property involved in the request.
 - b. The current zoning of the property.
 - c. The desired zoning for the property.
 - d. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.

 - 2. Text Amendment.
 - a. The language proposed to be added or deleted.

- C. Fees. The required fees for rezoning premises are a part of the cost of the rezoning action and are in addition to other zoning permit fees. Fees shall be established by the Township Fee Schedule.

- D. Action on Application by Planning Commission. Said application shall be considered by the Planning Commission at its meeting following the receipt thereof by its Secretary; at which there exists sufficient time for giving any public notices required by law. The Planning Commission may recommend to the Township Board, modification, rejection or the adoption of said proposal either in its original or changed form.

- E. Duties of Planning Commission and Township Board.
1. Before submitting its recommendations for text and/or map amendments to the Township, the Planning Commission shall hold at least one (1) public hearing.
 2. When an application for rezoning or text amendment has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the said application upon the calendar for a hearing.
 - a. In the case of a proposed rezoning, a notice shall be published in a newspaper of general circulation in the township stating the nature of the request, when and where the request will be considered, when and where written comments will be received relative to the request, and shall identify the property or properties proposed to be rezoned by a legal description, property tax identification number or other means and shall also include an existing street address(es) if an address(es) exist. A copy of the notice shall be personally delivered or mailed to the owners of each of the parcels of property proposed to be rezoned and to the Zoning Administrator. Notice of the hearing shall be published no less than 15 days prior to the hearing. If 10 or fewer properties are proposed to be rezoned, all owners of property and occupants of property within 300 feet of the properties proposed to be rezoned shall be provided a copy of the notice. Such notices shall be served personally or by regular mail, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. A notice shall be given by mail to each electric, gas and pipeline public utility company, each telecommunication service provider, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing. All notices shall be given not less than 15 days prior to the hearing. Any party may appear at such hearing in person or by agent or by attorney.
 - b. In the case of a text amendment, a notice shall be published in a newspaper of general circulation in the township stating the nature of the amendment, when and where the amendment will be considered, when and where written comments will be received relative to the proposed amendment. This notice shall be published no less than 15 days prior to the hearing. A notice shall be given by mail to each electric, gas and pipeline public utility company, each telecommunication service provider, and the airport manager

of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing. All notices shall be given no less than 15 days prior to the hearing.

3. Following such hearing, the Township Planning Commission shall submit the proposed amendment or supplement to the County Planning Commission of the County of which the Township is a part for its review. The County Planning Commission shall recommend approval or disapproval of the plans as provided by law.
4. The Township Planning Commission shall transmit a summary of comments received at the public hearing and its proposed zoning plan and text to the Township board. The Township Board may hold additional hearings if the Township Board considers it necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper which circulates in the township. The notice shall be published no less than 15 days before the hearing. The Township Board may refer any proposed amendments to the Planning Commission for consideration and comment within a time specified by the Board. After receiving the report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner who by certified mail addressed to the Clerk of the Township Board requests a hearing and the Township Board shall request the Planning Commission to attend the hearing. After a hearing at a regular meeting, or at a special meeting called for that purpose, the Township Board may adopt the proposed amendment(s), by majority vote. (*Amendment effective June 1, 2018*)

CHAPTER XXII ENFORCEMENT AND VIOLATIONS
(Amendment effective September 7, 2018)

SECTION 22.01 - ENFORCEMENT. Any person, partnership, corporation or association who creates or maintains a nuisance per se, as defined in this ordinance, or who violates or fails to comply with this ordinance or any permit issued pursuant to this Ordinance shall be deemed to have committed a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this ordinance. The Zoning Administrator, or designee, is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance. (Amendment effective September 7, 2018)

SECTION 22.02 - VIOLATIONS AND PENALTY (Amendment effective September 7, 2018)

- A. Any building, structure or use constructed, altered, moved, or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance *per se*.
- B. The Township Board may institute proceedings in an appropriate court to enjoin, abate and remove said nuisance.
- C. Any person or other entity who violates any of the provisions of this ordinance is responsible for a municipal civil infraction defined by Michigan Public Act 12 of 1994, amending Public Act 236 of 1961, being sections 600.9939 of Michigan Compiled Laws and subject to a civil fine of not more than \$500.00, plus cost, which may include all direct and indirect expenses to which the Township has incurred in connection with the violation. In no case, however shall costs of less than \$9.00 be ordered. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law. Each day a violation of this ordinance continues to exist constitutes a separate violation.
- D. The Zoning Administrator, or designee, is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance.

SECTION 22.03 - VALIDITY. Should any section, subsection, clause or provision of this Ordinance be declared by the courts to be invalid, such decisions shall not affect the validity of the Ordinance in its entirety or any part thereof other than the portion declared to be invalid.

CHAPTER XXIII DEFINITIONS

SECTION 23.01 - DEFINITIONS. Unless otherwise specified herein, the terms used in this Ordinance shall be defined as follows:

General Rules Applying to the Zoning Ordinance Text:

For the purposes of this Ordinance, certain rules of construction apply to the text as follows:

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The word "person" includes an individual, firm, corporation, association, partnership, limited liability company, trust, estate, or other entity with legal rights and obligations.
- (3) The word "lot" includes the word "plot", "tract" or "parcel".
- (4) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (5) The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended, arranged, or designed to be used or occupied".
- (6) Any word or term not interpreted or defined by this Chapter of the Zoning Ordinance shall be used with a meaning of common or standard utilization.

SECTION 23.01 - DEFINITIONS. Unless otherwise specified herein, the terms used in this Ordinance shall be defined as follows:

50 Percent of the Products Marketed - For purposes of determining the percentage of products being marketed, the primary measure will be 50 percent of the retail space used to display products offered for retail sale during the affiliated farm's marketing season. If measurement of retail space during the marketing season is not feasible, then the percent of the gross sales dollars of the farm market will be used. At least 50 percent of the gross sales dollars of products sold at the farm market need to be from products produced on and by the affiliated farm. For processed products, at least 50 percent of the products' main 'namesake' ingredient must be produced on and by the affiliated farm. For example, the apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc. (*Amendment effective June 17, 2014*).

Accessory Building – A building that is located on a lot on which a principal use and/or principal building is located, and that is devoted to and occupied by a use that is customarily incidental and subordinate to that principal use and/or principal building. Examples include but are not limited to residential garages, sheds, carriage houses, boat houses, greenhouses, guard or gate houses and barns.

Accessory Structure - A structure on the same lot and of a nature customarily incidental and subordinate to the principal structure.

Accessory Use - A use on the same lot and of a nature customarily incidental and subordinate to the principal use.

Adequate Access – A permanent easement or right-of-way of sufficient width for emergency, school bus and utility vehicle ingress/egress; waterfront access; or snow storage without infringing on an adjacent property. The minimum easement width for emergency vehicle access shall be no less than eighteen (18) feet and no more than thirty-three (33) feet.

Adult Arcade - Any place to which the public is permitted or invited wherein coin-operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store - A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it occupies 25% or more of the floor area or visible inventory within the establishment.

Adult Cabaret - A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity;
2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel - A hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above; or
2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater - A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater - A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Adjacent – Means in the vicinity of, close or near. Also means abutting, touching or sharing a boundary, border, lot line, wall or parcel point (*Amendment effective July 15, 2014*).

Adjoining – physically abutting, touching or bounding at a wall, parcel point or lot line (*Amendment effective July 15, 2014*).

Affiliated Agricultural Operation – Affiliated means a farm under the same ownership or control (e.g., leased) as the roadside stand or farm market, but the roadside stand, market or facility does not have to be located on the same property where their production occurs. However, the market must be located on land where local land use zoning allows for agriculture and its related activities (*Amendment effective June 17, 2014*).

Agriculture Enterprise, Retail – a use associated with an agricultural operation, such as: community-supported agriculture or CSA, u-pick operation, pick-your-own operation, farm market, Agri-tourism, interpretative farm, beekeeping/honey production, maple syrup production, commercial hunting grounds, agricultural processing, riding stables, animal shows, crop mazes, sales of agricultural related products, farm vacations, crafts, firewood and similar uses (*Amendment effective June 17, 2014*).

Agriculture Related Products – Agricultural, silvicultural and horticultural products that are raised or produced by an affiliated agricultural operation and offered for sale to the general public, such as: food products; baked goods; ice cream and ice cream-based desserts and beverages; locally produced wine and/or hard cider in compliance with state regulations; Christmas trees, firewood and similar items; as well as souvenirs, gifts, clothing and similar items that promote agriculture and farmland preservation. (*Adopted June 17, 2014*)

Airport Hangar - Airport hangar is a building serving only to house uses that support or contribute to airport operations such as storage, repair and/or maintenance of aircraft, flight operations, flight instruction, and aircraft charter service. The housing, servicing and storage of vehicles or materials other than aircraft shall be allowed to the extent that said items are used for the sole purpose of maintaining the airport and runways (i.e., snowplows and mowing equipment). Additionally, the owner may store and maintain personal property within the hangar only. No outside storage shall be allowed.

Alcohol - The product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes. (*Amendment effective July 15, 2015*).

Alcoholic Beverage or Alcoholic Liquor – Any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing ½ of 1% or more of alcohol by volume which are fit for use for beverage purposes as defined and classified by the Michigan Liquor Control Commission according to alcoholic content as belonging to 1 of the varieties defined in the Michigan Liquor Control Commission. (*Amendment effective July 15, 2015*).

Antenna - Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna, Preexisting - Any antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted antennas that have not yet been constructed so long as such approval is current and not expired.

Basement - A level which has more than half the distance from floor to ceiling along three quarters of the exterior wall space below ground level.

Bed and Breakfast Establishment - Transient lodging within a 1-unit dwelling, with the only meals served being breakfast which is prepared on site by the owners for the overnight guests only.

Beer - Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water (*Amendment effective July 15, 2015*).

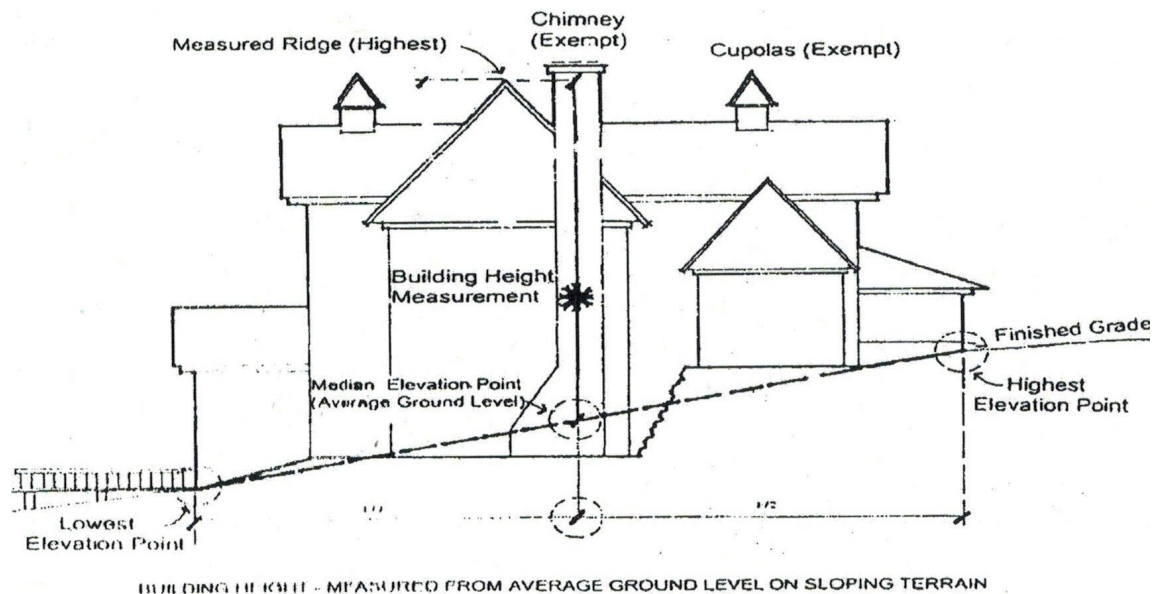
Boarding or Lodging Houses - A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging, meals, or both are provided for three (3) or more but not exceeding twenty (20) persons.

Building - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. (*Amendment effective June 1, 2018*).

Building Envelope - An area identified on a site plan within which a building may be located.

Building, Principal - A building in which is conducted the primary use of the lot on which it is located.

Building Height – The vertical distance measured from the average grade level at all corners and the highest part of the roof. Chimneys, cupolas and similar structures are exempt.



Building Site - The area within a lot upon which a principle building or structure together with any attached or detached accessory structures may be located. In the case of Site Condominium Units, more than one building site may be located on a lot provided the lot meets the requirements of the zone in which it is located for the total number of units to be developed.

Brandy- An alcoholic liquor as defined by 27 CFR 5.22 (d) (1980). (*Amendment effective July 15, 2015*).

Brewpub- A license issued in conjunction with a Class C tavern, Class A hotel, or Class B hotel license that authorizes the person licensed with a Class C tavern, Class A hotel or Class B hotel to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in MCL 436.1405 and MCL 436.1407 (*Amendment effective July 15, 2015*).

Campground - A parcel or tract of land under the control of a person in which sites are offered for the use of the public either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units which includes travel trailers as defined by the Ordinance.

Carriage House – An accessory building, attached or detached, the primary use of which is as a garage with an accessory use such as a workshop, storage area or similar use, and a dwelling or office on a second floor.

Catering - The provision of food prepared at an off-site commercial kitchen, restaurant, tavern or similar establishment.

Cider – A juice pressed from fruits, especially apples, and used for making vinegar or as a fermented or unfermented beverage. (*Amendment effective July 15, 2015*).

Cidery – A Michigan and federally licensed facility where agricultural fruit production is maintained; juice is processed into cider/vinegar; stored in bulk; packaged, and/or sold at retail or wholesale to the public with or without the use of a cider/vinegar tasting facility. The site and buildings are used principally for the production of cider/vinegar, the storage of ciders/vinegars and related beverages. Tasting rooms for the consumption of on-site produced ciders/vinegars and related beverages are permitted on the premises in compliance with Michigan’s Liquor Control Code MCL 436.1101 - MCL 439.2303. (*Amendment effective July 15, 2015*).

Condominium Act - Michigan P.A. 59 of 1978, as amended.

Condominium Project - Any land developed under the provisions of the Condominium Act.

Condominium Unit - That portion of a condominium project designed and intended for separate ownership interest and use, as described in the Master Deed regardless of type of use.

Cottage Industry - Any profession or other occupation conducted within a dwelling or accessory structure by individuals residing in the dwelling with a maximum of 3 employees not residing in the dwelling.

Crop and/or Livestock Production - Growing or raising of crops and/or livestock for either domestic use on the premises or for wholesale with processing and retail sale taking place on or off the premises.

Community Supported Agriculture (CSA) – A CSA is a marketing strategy in which a farm produces farm products for a group of farm members or subscribers who pay in advance for their share of the harvest. Typically, the farm members receive their share once a week, sometimes coming to the farm to pick up their share; other farms deliver to a central point. *(Amendment effective June 17, 2014).*

Consecutive – Means following in an uninterrupted sequence or succession. *(Amendment effective June 17, 2014).*

Decibel - A logarithmic unit of measurement of sound that expresses the magnitude of a physical quantity, or sound intensity, relative to a specified sound reference level. Decibel is a ratio of two quantities with the same unit and is therefore dimensionless. A decibel is one tenth of a bel, a seldom-used unit of sound measurement. *(Amendment effective March 12, 2011).*

Deck – An open, unroofed porch or platform, either free standing or extending from a house or other building. *(Amendment effective July, 28, 2017)*

Density - The number of dwelling units existing or permitted to be developed upon an acre of land.

Development Plan - The documents and drawings required by the Zoning Ordinance necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state or federal statutes.

District - An area of land or zone for which there are uniform regulations governing the use of buildings and premises, development density, yard requirements, height limitations, etc.

Dwelling Unit - A free standing building, mobile home, single room or suite of rooms under common ownership providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, sleeping, cooking and sanitation.

Dwelling, 1-unit - A building or portion thereof containing a dwelling unit as defined herein.

Dwelling, 2-units - A building or portion thereof containing two (2) dwelling units as defined herein with at least one shared wall.

Dwelling, 3 or more units - A building or portion thereof containing three (3) or more dwelling units as defined herein with at least one shared wall between each unit.

Dwelling Unit, Accessory – A detached accessory building the primary use of which is as a 1-unit “dwelling unit” as defined herein.

Enclosed, locked facility - A closet, room, or other area enclosed on all sides, equipped with locks or other security devices that permit access only by a registered primary caregiver of medical marijuana or registered qualifying patient. (*Amendment effective February 5, 2011*).

Essential Services - The erection, construction, alteration or maintenance by public or private utilities (underground, surface or overhead) for natural gas; electrical systems; communication systems; water supply; or waste collection and disposal, including poles, wires, main, drains, sewers, pipes, conduits, cable, towers, fire alarm boxes, traffic signals, hydrants, electric substations, telephone exchanges, gas regulator stations and other similar equipment and accessories in connection therewith. Essential services as defined herein shall not include buildings, reasonably necessary for the furnishing of adequate service by such utilities; small wind energy conservation systems (WECS); communications towers and antennas; utility warehouses, storage yards, office buildings, vehicle and equipment maintenance facilities.

FAA - The Federal Aviation Administration.

FCC - The Federal Communications Commission.

Fall zone - The potential fall area for a WECS is measured as the total small WECS height plus ten (10) feet and shall be measured as the radius from the center point of the base of a WECS tower or the average grade building for WECS mounted on a building. (*Amendment effective March 12, 2011*).

Farm - A “farm” means the land, plants, animals, buildings, structures, (including ponds used for agricultural, silvicultural or aquacultures activities), machinery, equipment, and other appurtenances used in the commercial production of farm products (*Amendment effective June 17, 2014*).

Farm Market - A place or an area where transactions between a farm market operator and customers take place. It does not necessarily mean a physical structure such as a building and is considered part of a farm operation. At least 50 percent of the products marketed and offered for sale at a farm market (measured during a farm market’s season) must be produced on

and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws, and then sold at the affiliated farm market, as long as allowed by local, state and federal regulations. A farm market may operate seasonally or year-round. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions, when allowed by applicable local, state, and federal regulations. (*Amendment effective June 17, 2014*).

Farm Product - A “farm product” means those plants and animals useful to humans 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, cardiae, livestock (including breeding and grazing), equine, fish and other aquaculture 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 & Rural Development. (*Amendment effective June 17, 2014*).

Farm Vacation – Temporary residency on the premises by paying transient guests for the purpose of observing or participating in the ongoing activities of an agricultural operation and learning about agricultural life. (*Adopted June 17, 2014*)

Fees - The fees required by the Township for various activities, e.g., sign permits, planned developments, special uses, zoning, etc. are established in the Torch Lake Township Fee Schedule.

Fence – permanent, continuous barrier or other upright structure constructed of wood, metal or wire enclosing the perimeter of a parcel or area to establish privacy, mark a boundary, control access, provide safety/security, or enclose animals. Fences as defined herein do not include non-perimeter fences, temporary, portable, snow fencing, construction-related barriers, pool and garden fences, which may be temporary, discontinuous structures or similar fences. (*Amendment effective June 1, 2018*)

Final Project Plan - Final Project Plan shall contain all of the elements of the Preliminary Plan with the addition of the required elements of the Site Plan Application and Site Plan Map as detailed in Chapter 18 of this ordinance.

Floor Area - The total area of floor space within the outside walls of a building, excluding porches, breezeways, garages, attics, basements, utility areas, cellars or crawl space.

Garage, Private - An accessory building, attached or detached, the principal use of which is parking and is intended for the primarily use of occupants of a dwelling unit.

Greenbelts - A greenbelt shall be a planting strip or buffer strip, at least ten (10) feet in width but not over one hundred (100) feet in width with plantings and spacing as deemed necessary by the Planning Commission.

Ground-level – Having a surface not more than six inches above the ground. *(Amendment effective July 28, 2017)*

Home Based Business - A home based business is a business in which the physical activity takes place at a location other than the home. The home serves as the office at which materials may be stored, work may be scheduled, and from which billings may be issued. Businesses which typically would be classified as a home-based business include lawn care companies, plumbers and similar trades and service type businesses.

Home Occupation - Any profession or other occupation conducted within a dwelling by individuals residing in the dwelling which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes.

Horizontal Axis WECS Turbine (HAWT) – A WECS mounted on a WECS tower whose blades rotate around a shaft or similar device that is roughly parallel to the surface of the ground. *(Amendment effective March 12, 2011)*.

Hotel – An establishment under single ownership with an on-site office that provides transient lodging and consists of single room units with one or two beds and a bathroom. The unit may provide appliances for the convenience of guests. The Hotel/Motel may contain a restaurant or coffee shop for guests and the general public.

Kennel, Commercial - Any premises used for the sale, boarding, grooming, breeding, classes, training of dogs or cats for remuneration and/or the retail sales of kennel-related items. Kennel shall also mean the commercial keeping of five (5) or more dogs or five (5) or more cats over the age of six (6) months. Dogs and cats not yet weaned (typically 4-6 weeks) shall not be counted toward such maximum. *(Amendment effective July 15, 2014)*.

Land Division Act – Michigan P.A. 288 of 1967, as amended.

Landing – The surface at the head or foot of a flight of stairs or a platform between flights of stairs. *(Amendment effective July 28, 2017)*

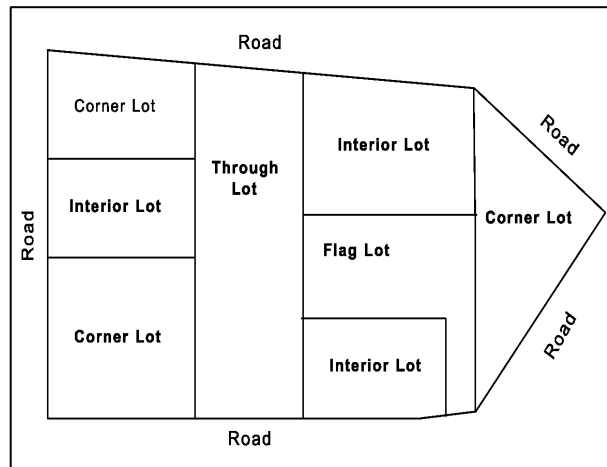
Licensed Upland Game Bird Hunting Preserve – An area licensed by the Michigan Department of Natural Resources where for a fee, pheasants, partridges, quail, and nonnative upland game birds not established in the wild in Michigan may be released and shot.

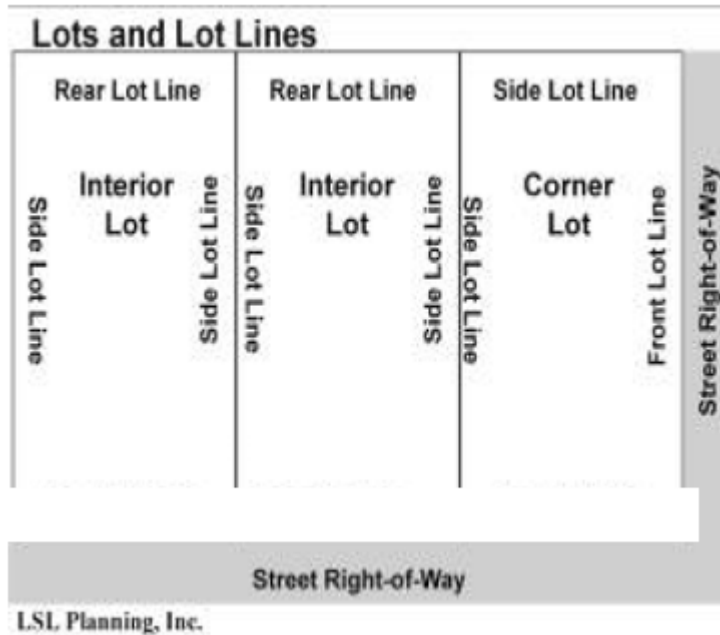
Limited Common Areas - The area around the building envelope, similar to a traditional lot, for the exclusive use of the owner of the unit, even though the owner does not technically own the area. Limited common areas committed to meeting the dimensional requirements for one site condominium unit shall not be used in meeting the dimensional requirement for other units.

Lodge - A premises containing between five (5) or twenty-five (25) guest rooms under a common roof that provides commercial accommodations and a variety of other related services on a regular ongoing basis, during any season, for guests primarily engaging in outdoor recreational activities including but not limited to tourism, golf and other sports, hunting and fishing. Lodges shall employ at least one (1) person to provide guest services. *(Amendment effective August 7, 2010).*

Lot - A legally created parcel of property or site condominium unit meeting the minimum dimensions and having the necessary road frontage requirements of the zoning district in which it is located. Except where otherwise specified in this ordinance, Site Condominium Units, shall conform to all applicable regulations of this ordinance for the zone in which they are located.

Lot, Corner - A lot which has at least two (2) contiguous sides abutting upon a road. A Corner Lot cannot have more than one (1) front yard or front lot line. *(Amendment effective May 19, 2015).*





Lot Interior - A parcel of property having frontage on only one road.

Lot Through - A parcel of property having frontage on two roads with the roads being at opposite ends of the property.

Lot Dimensions - The minimum lot sizes as required for a parcel of property as stated in the zoning district in which the property is located.

Lot Depth - On a rectangular lot, the distance between the front and rear lot lines as defined in this ordinance. In the case of an irregularly shaped parcel of property, the shortest distance between the front lot line and the line that is both most parallel to and distance from the front lot line. If that lot line is not a minimum of 25 percent the width of the front lot line, then the point at which a line is parallel to the front lot line and 25 percent of the width of the front lot line shall be considered the rear property line.

Lot Width - On a four-sided lot, the width shall be determined by adding the front lot line length and the rear lot line length and dividing the resulting figure by two. On a corner lot, the Zoning Administrator shall determine a property line, other than a front lot line, that will represent the lot width.

Lot Line - The line that divides two parcels of property or the line that divides a parcel of property from a road right-of-way or water body. In the case of a site condominium unit, the lot lines shall be considered as being the outer boundary lines of the limited common area associated with each unit. *(Amendment effective May 19, 2015).*

Front - In the case of an interior lot, the boundary line of the lot immediately adjacent to the road right of way. Any lot, whether a Corner Lot, Interior Lot or Through Lot, that has a property boundary line on a lake, stream or creek, that largest water body shall be considered the front lot line. On any other Interior Lot, Through Lot or Corner Lot, the front lot line shall be the longest property boundary line adjacent to a road right-of-way. If two lot lines have equal amount of frontage upon the roads, then the front lot line shall be on the most-improved, or best rated road. (*Amendment effective May 19, 2015*).

Rear - The lot line that runs most parallel to and is the greatest distance from the front lot line. (*Amendment effective May 19, 2015*).

Side - Any lot line that is not a front or rear lot line as defined by this ordinance. (*Amendment effective May 19, 2015*).

Lot of Record - A lot or parcel of property having a legal description that was recorded at the Antrim County Register of Deeds Office prior to the zoning ordinance having been Amendment effective or a lot or parcel of property that was conforming in both size and shape to the requirements of the district in which it was located prior to the zoning ordinance having been amended.

Marijuana or Marihuana – That term as defined in Section 7106 of Act No. 368 of the Public Acts of 1978, as amended (Michigan Public Health Code), being M.C.L. 333.7106. (*Amendment effective February 5, 2011*).

Master Deed -The legal document prepared and recorded pursuant to the Condominium Act, within which are, or to which are attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

Mead – An alcoholic beverage created by fermenting honey with water, and in adulterated form with various fruits, spices, grains or hops. The alcohol may range from about 8% alcohol by volume (ABV) to more than 20% ABV. Mead may be still, carbonated, or naturally sparkling; and dry, semi-sweet, or sweet.

Meteorological Tower (MET) - The tower and associated structures and equipment including the base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(Amendment effective March 12, 2011).

Micro-brewery – A facility in which a total of less than 30,000 barrels per calendar year of beer, mead or other alcoholic beverages are brewed, fermented, or distilled for distribution and on or off-site consumption, and which possesses the appropriate license from the State of Michigan. Brew-pubs and/or tasting rooms for the consumption of on-site produced beer, ciders/vinegars, mead, brandy, spirits, or distilled products are permitted on the premises in compliance with Michigan’s Liquor Control Code MCL 436.1101 - MCL 439.2303. *(Amendment effective July 15, 2015).*

Micro-distillery – A facility in which a total of less than 60,000 gallons per calendar year of hard cider, brandy, spirits, or other alcoholic beverages are fermented or distilled for distribution and on or off-site consumption, and which possesses the appropriate license from the State of Michigan. Tasting rooms for the consumption of on-site produced cider/vinegar, brandy, spirits, or distilled products are permitted on the premises in compliance with Michigan’s Liquor Control Code MCL 436.1101 - MCL 439.2303. *(Amendment effective July 15, 2015).*

Mixed Wine Drink - A drink or similar product containing less than 7% alcohol by volume, consisting of wine and sparkling or carbonated or plain water, containing one or more of the following: non-alcoholic beverages; flavorings; fruit juices; coloring materials; fruit adjuncts; sugar; preservatives; and carbon dioxide. *(Amendment effective July 15, 2015).*

Mobile Home - A movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year-round living as a 1-unit dwelling. Provided, however, that the term mobile home shall not include motorhomes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water facilities.

Mobile Home Park - Any site, field or tract of land upon which three or more mobile homes are harbored, either free of charge or for revenue purposes excluding mobile home sales at which none of the mobile homes are allowed to be occupied. Exception located in Chapter 6 – Agriculture Section 6.02 J. *(Amendment effective November 6, 2020)*

Net Metering - The difference between the electricity supplied over the electric distribution system, i.e., the “grid,” and the electricity generated by the small WECS which is fed back into the grid over a period of time in accordance with Michigan’s Clean, Renewable and Efficient Energy Act (Michigan P.A. 295 of 2008) and Michigan Public Service Commission’s statewide net metering program. *(Amendment effective March 12, 2011).*

Nonconforming Structure - A structure lawfully existing at the time of adoption of the Zoning Ordinance or any amendments thereto that does not conform to the requirements of the zone within which it is located.

Nudity or a State of Nudity - Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being Section 722.673 of the Michigan Compiled Laws.

Nuisance Per Se - An activity or condition which constitutes a nuisance at all times and under all circumstances, without regard to the care with which it is conducted or maintained.

Occupant - A resident of a place or dwelling, and/or somebody who takes possession of a property with the intention of becoming its owner or otherwise making such property their residence.

Owner, Small WECS - The individual or entity that owns and operates the small WECS in accordance with this ordinance. (*Amendment effective March 12, 2011*).

Ordinary High-Water Mark – A point on the Lake Michigan shore at elevation 580.5 feet above the mean sea level. (*Amendment effective July 28, 2017*)

Outdoor Events – Activities or events taking place primarily outdoors such as weddings, receptions, banquets, gatherings, outdoor sales or similar activities. (*Amendment effective May 3, 2019*)

Personal Watercraft - A registered motorized vessel or floating craft specifically designed to carry astraddle not more than four (4) passengers. For purposes of determining the number of watercraft permitted under this Ordinance, a personal watercraft shall be considered as one-half of a watercraft. (*Amendment effective August 6, 2007*).

Planned Residential Development - A land area within which residential development occurs which has individual building sites and common property or “elements,” limited common property or “elements,” and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community group (*Amendment effective August 7, 2010*).

Planned Unit Development- A land area within which residential or mixed residential and commercial development occurs which has individual building sites and common property or “elements,” limited common property or “elements,” and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community group. (*Amendment effective August 7, 2010*).

Planned Unit Development, Single Use - Planned Unit Developments characterized by 1-unit, 2-unit and 3 or more-unit residential developments. (*Amendment effective August 7, 2010*).

Planned Unit Development, Mixed Use - Planned Unit Developments characterized by single and/or 3 or More Unit Dwellings residential development, but also providing commercial uses as permitted within a PUD. (*Amendment effective August 7, 2010*).

Planning Commission - For purposes of this Ordinance the term Planning Commission is deemed to mean both the Planning Commission as authorized pursuant to the Michigan Planning Enabling Act, P.A. 33 of 2008, as amended and the Zoning Board as authorized pursuant to the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Portico – An open porch attached and leading to the entrance of a building, or extended as a colonnade, with a roof structure over a walkway supported by columns and not enclosed by walls.

Preliminary Project Plan - A drawing or set of drawing to scale which provide the precise outline of the property which is under the control of the applicant and which is proposed to be developed as a Planned Residential (PRD) or Planned Unit (PUD) Development. The specific locations of roads, rights-of-way and easements, utilities, natural features including topographic relief, current land use, as well as other major features on or near the property. This preliminary plan shall be in such detail to show the specific type of land uses proposed over the entire property in a clear and concise manner including density but need not provide specific building lines, sizes, shapes or interior property boundaries upon planned completion of the project. Written text shall include maximum number of residential units, the type and character of non-residential uses, approximate acres of each use

as well as open space. In addition, any variances that can be anticipated should be spelled out at this time.

Premise – Means a building, part of a building, a definite portion of real estate, or land with its appurtenances or attachments. (*Adopted June 17, 2014*).

Principal Use - The primary and predominant use, or intended use, of the parcel or building according to the zone requirements, including permitted accessory uses.

Private Events- A commercial, non-profit or festive activity or promotion by invitation only at a specific location and not open to the general public. Private events include use of the site for fundraising events, art shows, auctions, award ceremonies, commencements, parties, weddings, receptions, family reunions, anniversaries, banquets, meetings, conferences and seminars, and corporate receptions not open to the general public, and that are being hosted by a specific individual or group of individuals for a specific individual or group of individuals so that the number of attendees is more or less known. (*Amendment effective August 7, 2010*).

Processed Farm Product – A farm product or commodity may be processed, in accordance with state and federal laws, to convert it into a value-added product that is more marketable for direct sales. Processing may include packing, washing, cleaning, grading, sorting, pitting, pressing, fermenting, distilling, packaging, cooling, storage, canning, drying, freezing, or otherwise preparing the product for sale. These activities can be used to extend a farm market's marketing season beyond its production season. (*Amendment effective June 17, 2014*).

Proof Gallon – A method of calculating quantity of spirits produced derived by multiplying U.S. gallons by the percent of alcohol by volume, multiplying by 2 and dividing by 100. For example, 100 U.S. gallons x 40% alcohol by volume = 4,000; 4,000 x 2 = 8,000; 8,000 divided by 100 = 80 proof gallons. (*Amendment effective July 15, 2015*).

Registered Primary Caregiver of Medical Marijuana – A primary caregiver as that term as defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act), being M.C.L. 333.26423 who has registered with the Michigan Department of Community Health under the Michigan Medical Marijuana Act. (*Amendment effective February 5, 2011*).

Registered Qualifying Patient – That term as defined in Section 3 of Initiated Law 1 of 2008, as amended (i.e., the Michigan Medical Marihuana Act), being M.C.L. 333.26423. (*Amendment effective February 5, 2011*).

Right-of-Way - A street, alley, road or other thoroughfare or easement permanently established for utilities or the passage of persons or vehicles which, if used to establish a lot front, provides adequate permanent access.

Roadside Stand - A temporary operation established in accordance with local ordinance and operated in compliance with Michigan P.A. 92 of 2000, as amended, where individuals may transport and sell fruits, vegetables or other agriculturally-related products grown or produced entirely on their own property. (*Amendment effective June 17, 2014*).

Rotor Diameter - The diameter of the circle swept by the rotating blades. (*Amendment effective March 12, 2011*).

Seasonal - Any use of such a nature that the activity cannot or would not usually be performed during each calendar month.

Self Service Storage Facility - A structure(s) containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Setback, Front Lot Line - The required minimum distance in each zone that all buildings must be set back from the front lot line. In the case of any lot which fronts on an inland lake, stream or creek, where the water body is a property boundary line, the front lot line setback shall be measured from a line most parallel to the water's edge that does not cross the surface of the water body. For lots fronting on Lake Michigan, a line parallel to the ordinary high-water mark which does not cross the surface of Lake Michigan.

Setback, Rear Lot Line - The required minimum distance in each zone that all buildings must be set back from the rear lot line.

Setback, Side Lot Line - The required minimum distance in each zone that all buildings and structures must be set back from the side lot line.

Sexual Encounter Center - A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

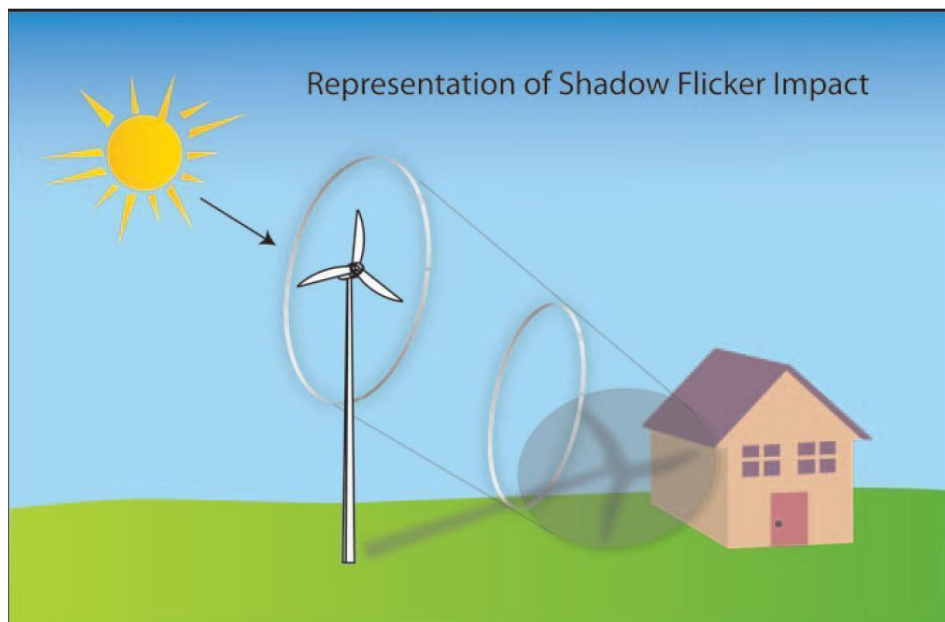
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business - A business or commercial enterprise engaging in any of the following:

- (1) adult arcade;
- (2) adult bookstore or adult video store;
- (3) adult cabaret;
- (4) adult motel;
- (5) adult motion picture theater;
- (6) adult theater;
- (7) escort agency; and
- (8) sexual encounter center.

Shadow Flicker - The moving shadow created by the sun shining on the rotating blades of a WECS. (*Amendment effective March 12, 2011*).

Shadow Flicker Zone - The area affected throughout the year by a moving shadow created by the sun shining on the rotating blades of a WECS. (*Amendment effective March 12, 2011*).



Short term rental – Means in the renting of a premise to a third party(-ies) for a period of less than thirty (30) consecutive days, regardless of the term of renter occupancy during any thirty (30) day period. (*Amendment effective June 17, 2014*).

Sign - An outdoor display, model, figure, painting, drawing, message board, placard, poster, banner, flag, symbol, logo balloon, letter or other object publicly displayed in such fashion as to attract attention or otherwise used to make the public aware of a business, service, facility, event, opinion,

belief or idea. A double-faced sign, having message areas back-to-back, shall be considered a single sign. Each sign in a stacked, tandem or V-type arrangement shall be considered to be a separate sign.

On-premises Sign - A sign that is located on the property where the business, service, facility or event is located.

Off-premises Sign - A sign that is located on a parcel of property other than the parcel where the business, service, facility, or event is located.

Single Ownership - A lot of record, on or before the date of the Zoning Ordinance, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at that date owned by the same owner or the same owner in joint tenancy in common or entireties with any other person or persons; or where such adjacent lot or lots were not owned by the same owner or any person or persons with whom he may be engaged in a partnership or joint venture; or where such adjacent lots were not owned by any corporation in which the owner owned fifty-one (51) percent or more of the stock issued and outstanding.

Site Condominium Unit - The building envelope within which the owner is permitted to construct permitted principal and accessory structures for permitted and accessory uses and the limited common area surrounding the building envelope which shall meet all the lot and building requirements for the zone in which it is located.

Special Use - An exception to the general rule provided for in this Ordinance under specified conditions, as prescribed in Section 17.01.

Specified Anatomical Area - Are defined as:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified Sexual Activities - includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above.

Spirits - Any beverage which contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink. *(Amendment effective July 15, 2015).*

Stairway – A passageway from one level to another by one or more flights of stairs. *(Amendment effective July 28, 2017)*

Structural Change or Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

Structure – Anything constructed or erected, the use which requires location on the ground or attachment to something having location on the ground. *(Amendment effective June 1, 2018)*

Tasting Room - A room used in conjunction with a winery, cidery, meadery, micro-brewery, or micro-distillery where the tasting of wine, fruit wines, beer, cider, mead, brandy, spirits, and non-alcoholic fruit juices takes place at a charge or no charge to the individual; and the retail sales of winery, cidery, meadery, micro-brewery, micro-distillery products, incidental wine related non-food items, products by the bottle, container or case for off premises consumption and wine-related packaged food items are allowed as provided herein. Tasting rooms must comply with MCL 436.1537 *et seq.* *(Amendment effective July 15, 2015).*

Temporary Structure – Any portable or attached structure, including a tent, shed or other structure, associated with a construction site intended to allow materials and tools to be secured and/or to provide an office for construction workers, and not used for overnight accommodations. Temporary Structures do not include Temporary Dwellings as allowed by Section 2.05 of this Ordinance. *(Amendment effective February 3, 2015)*

Tenant House – means a single-family residential dwelling which is leased by a farming entity for farm labor for the purpose of providing temporary housing where agricultural labor is in demand. *(Added effective November 6, 2020)*

Total Small Wind Energy Conversion System (WECS) Height - The vertical distance from the average grade at the base of the small WECS tower or building (for building-mounted WECS) to the top of the small WECS blade when the tip is at its highest point. *(Amendment effective March 12, 2011).*

Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes. The term includes the structure and any support thereto.

Traditional Tower - means self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

Alternative tower - means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that disguise, camouflage, or conceal the presence of the tower and antennas attached to the tower.

Tower, Pre-Existing - means any tower for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers that have not yet been constructed so long as such approval is current and not expired.

Township Board - Torch Lake Township Board of Trustees.

Travel Trailers - Any vehicle, whether self-propelled or non-self-propelled, used or adapted to be used or so constructed as to permit its being used as a conveyance upon the public streets or highways and for temporary occupancy as a dwelling or sleeping place for one (1) or more persons, office or other business use, and whether or not the same has a foundation there under if said foundation is designed to permit the removal of such travel trailer and its re-adaptation to use upon the public streets or highways.

U-Pick Operation – A U-pick operation is a farm that provides the opportunity for customers to harvest their own farm products directly from the plant. Also known as “pick your own,” these are forms of marketing farm products to customers who go to the farm and pick the products they wish to buy. (*Amendment effective June 17, 2014*).

Use, Existing - The purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied. A use of premises, buildings or structures actually in operation, openly, visibly and notoriously prior to the effective date of the Ordinance or any Amendment.

Variance - A deviation from the terms of this Ordinance as authorized by the enabling statute, upon findings of practical difficulties, as described in

Section 20.06.

Vertical Axis WECS Turbine (VAWT) – A WECS mounted on a WECS tower whose blades rotate around a shaft or similar device that is roughly perpendicular to the surface of the ground. (*Amendment effective March 12, 2011*).

Walkway – A ground-level pathway for pedestrian travel. (*Amendment effective July 28, 2017*)

Watercraft - Any registered vessel or floating craft, either motorized, non-motorized, personal watercraft, or sail, designed to carry any number of passengers. (*Amendment effective August 6, 2007*).

Wetlands – Wetlands as defined by the Part 303: Wetland Protection Act of the Michigan Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Wind Energy Conversion System (WECS) Tower - The monopole, freestanding, or guyed structure that supports a WECS. (*Amendment effective March 12, 2011*).

Wind Energy Conversion Systems (WECS) - “Wind Energy Conversion System” (WECS) shall mean any wind driven device which converts wind energy into electrical or mechanical energy. (*Amendment effective March 12, 2011*).

Wind Energy Conversion System (WECS), Small - A WECS which either has a rated capacity of not more than thirty (30) Kilowatts (kW) and is intended to primarily produce electricity for on-site use or is designed and used primarily to produce mechanical energy for use on the property where located. (*Amendment effective March 12, 2011*).

Wine- The product made by the normal alcoholic fermentation of the grapes and its juice or other fruits within less than twenty-one (21%) of alcohol by volume, including fermented fruit juices other than grapes and mixtures of drinks (*Amendment effective July 15, 2014*).

Wine, Brandy - An alcoholic liquor as defined in federal Standards of Identity for Distilled Spirits, 27 CFR 5.22 (D) 1980. (*Amendment effective July 15, 2015*).

Wine, fortified – Wine with brandy or other wine spirits added, which are permitted by law. (*Amendment effective July 15, 2015*).

Winery, Cidery & Meaderies - A Michigan and federally licensed facility where agricultural fruit and/or honey production is maintained; juice and/or honey is processed into wine, cider and/or mead; stored in bulk; packaged, and/or sold at retail or wholesale to the public with or without the use of a tasting facility. The site and buildings are used principally for the production of wine, cider or mead, the storage of wine, cider or mead and related beverages. Tasting rooms for the consumption of on-site produced wines, ciders or meads and related beverages are permitted on the premises in compliance with Michigan's Liquor Control Code MCL 436.1101 - MCL 439.2303. Wineries include wine makers and small winemakers are defined by Michigan regulations MCL 436.1111(9) and MCL 439.1113(9). *(Amendment effective July 15, 2015).*

Wine-Related Beverages - Fortified wines, wine brandy and other mixed wine, cider or mead drinks. Drinks related to or inclusive of wines, ciders and meads. *(Amendment effective July 15, 2014).*

Yards – Yard dimensions are measured from the lot line or road right of way, or water's edge on inland lakes or Ordinary High-Water Mark (I.G.L.D. 1985 at 580.5 feet above mean sea level) on Lake Michigan in those instances when the property lines extend to a water body. *(Amendment effective February 3, 2017)*

Front Yard - The area of a lot bounded by the front line and a line parallel thereto extended to the side lot lines into which extends no part of the principal building (excluding steps and unenclosed porches).

Rear Yard - The area of a lot bounded by the rear lot line and a line parallel thereto extended to the side lot lines into which extends no part of the principal building.

Side Yard - The area of a lot bounded by a side lot line and a line parallel thereto extended to lines used for defining the Front or Rear Yards and into which extends no part of the principal building.

Zoning Permit - The permit that is issued after the zoning administrator has all the necessary information and assurances that indicates the parcel of property and uses proposed are in compliance with the zoning ordinance.

Zoning Permit Application - The formal application that must be submitted by owner or his agent as to the construction, use and activities that will be occurring on the parcel of property in question. This will include but not be limited to site plans, scale drawings and verification that the person does in fact own the property outright.

CHAPTER XXIV MISCELLANEOUS

Adopted: August 9, 1983
Amended through February 8, 2022

TORCH LAKE TOWNSHIP BOARD

Amended: May 8, 1984
September 11, 1984
October 8, 1985
July 10, 1990
November 13, 1990
April 14, 1992
November 10, 1992
December 25, 1992
October 22, 1993
June 13, 1995
March 21, 1996
September 25, 1996
March 11, 1998
June 10, 1998
January 1, 1999 (Reissued to include "Signs" section amendment of
6/10/1998 omitted in error)
February 16, 2001
August 3, 2002
October 4, 2003
July 15, 2005
July 6, 2007
August 6, 2007
May 22, 2010 (Zoning Board of Appeals)
August 7, 2010 (Planned Residential and Planned Unit
Developments, in its entirety)
February 5, 2011 (Medical Marijuana, new)
March 12, 2011 (Small Wind Energy Conversion Systems, in its
entirety)
August 26, 2011 (Site Plan Review, in its entirety)
September 18, 2012 (Definitions, in its entirety)
January 30, 2012 (Zoning Board of Appeals, Sections 20.01 and
20.06)
March 19, 2013 (Village Residential and Village Business Zones, in
its entirety)
March 19, 2013 (Signs, Section 3A.08.E.)
March 19, 2013 (Non-Residential Parking, Section 16.04.A.)

February 18, 2014 (R-1 Residential One-Unit Dwelling Zone, Chapter 7 and associated definitions Chapter 23)

February 18, 2014 (R-2 Residential One-Unit Dwelling & Two-Unit Dwelling Zone, Chapter 8 and associated definitions Chapter 23)

February 18, 2014 (R-3, Three or More Dwelling Units Residential Zone, Chapter 9 and associated definitions Chapter 23)

June 17, 2014 (Retail Agricultural Enterprises, Chapter 6 and associated definitions Chapter 23)

July 15, 2014 (Commercial Kennels Chapter 3 and associated definitions Chapter 23)

May 19, 2015 (Corner Lots & Schedule of Regulations – Setbacks in Zoning Districts)

July 15, 2015 (Wineries, Micro-breweries, Micro-distilleries and Cideries, Chapter 6 Agricultural, Chapter 10 Village Business, and Chapter 12 Commercial Zones and associated definitions Chapter 23)

July 15, 2015 (Short Term Rentals Chapter 2 and associated definitions Chapter 23)

July 1, 2018 (new Fencing Ordinance Chapter 2.27; amended Chapter 20.04 Jurisdiction, Chapter 21.01.4 Amendments; updated definitions for Building, Structure and Fences; updated new page numbering system)

September 7, 2018 (Amended Chapter 19 Administrative Officials; Chapter 22 Enforcement)

May 3, 2019 (Amended Chapter 6 – Agricultural Zone; Chapter 10 Village Business & Village Residential Zones; Chapter 20 Zoning Board of Appeals; Chapter 23 - added definition for Outdoor Events)

November 6, 2020 (Amended Chapter 2 – General Provisions, Exceptions for Mobile Homes 6.02J; Adopted Section 2.28 – Lighting; Chapter 6 – Agricultural Zone Amended Permitted Uses, Chapter 12 – Commercial Zone Amended Special Uses; Chapter 23 – Definitions Added Tenant House)

March 19, 2021 (Amend Chapter 2 and 4- fences)

July 20, 2021 (amend Chapter 2; Section 2.19 and entire Chapter 4)

January 7, 2022 Chapter 20 ZBA (entire chapter revised)

February 8, 2022 Chapter 10 (entire chapter revised)

February 8, 2022 Chapter 12 (entire chapter revised)

Torch Lake Township Zoning Board of Appeals Interpretations:

July 13, 2005 - Rental of residential uses in any district of a duration of 30 days or less is a commercial use.

February 13, 2002 - Accessory buildings may not be used as a residence.

February 13, 2002 - Change of Use: "Any new land use or development "in Section 18.02 A means a use enough different from the original use as to require a new site plan pursuant to Chapter 18.

February 13, 2002- Accessory Structure: The addition of a conforming accessory structure to a parcel that contains a non-conforming use is permitted by the Zoning Ordinance.

May 9, 2002 - Expansion of Living Space. April 11, 2001 ZBA interpretation is modified to mean "volume or square footage of living space."

April 11, 2001 - Expansion of legal non-conforming structure. Increase of volume or square footage of a non-conforming structure within the setbacks is not permitted by the zoning ordinance and would require a dimensional variance from the ZBA.

Zoning Maps

Torch Lake Township

Zoning Districts

-  Agriculture
-  Commercial
-  PRD
-  R-1
-  R-2
-  Timber Reserve
-  Village Residential
-  Village Business
-  State Trunkline
-  Roads
-  Lakes

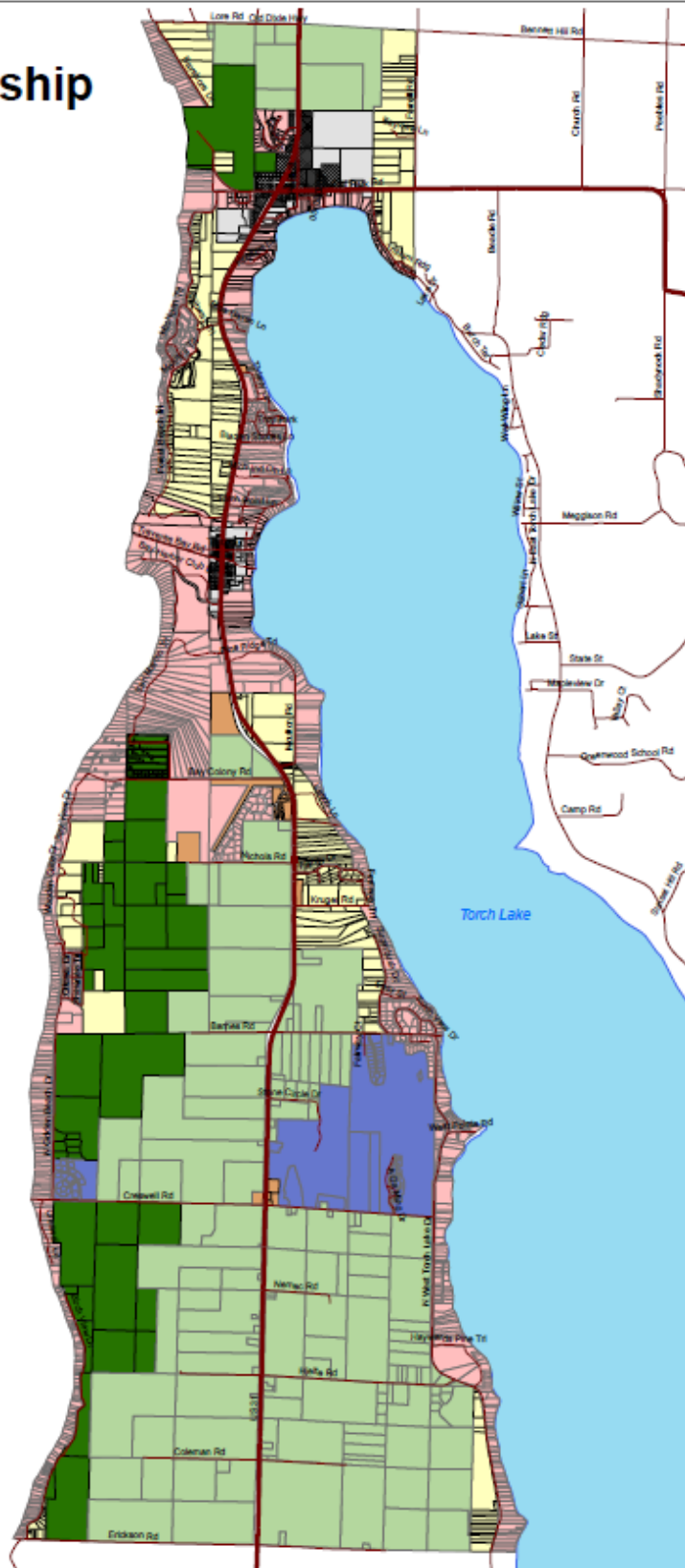
Approved by the Torch Lake Township Board on 5/19/2015

Map Date: June 2013
Map Produced By:

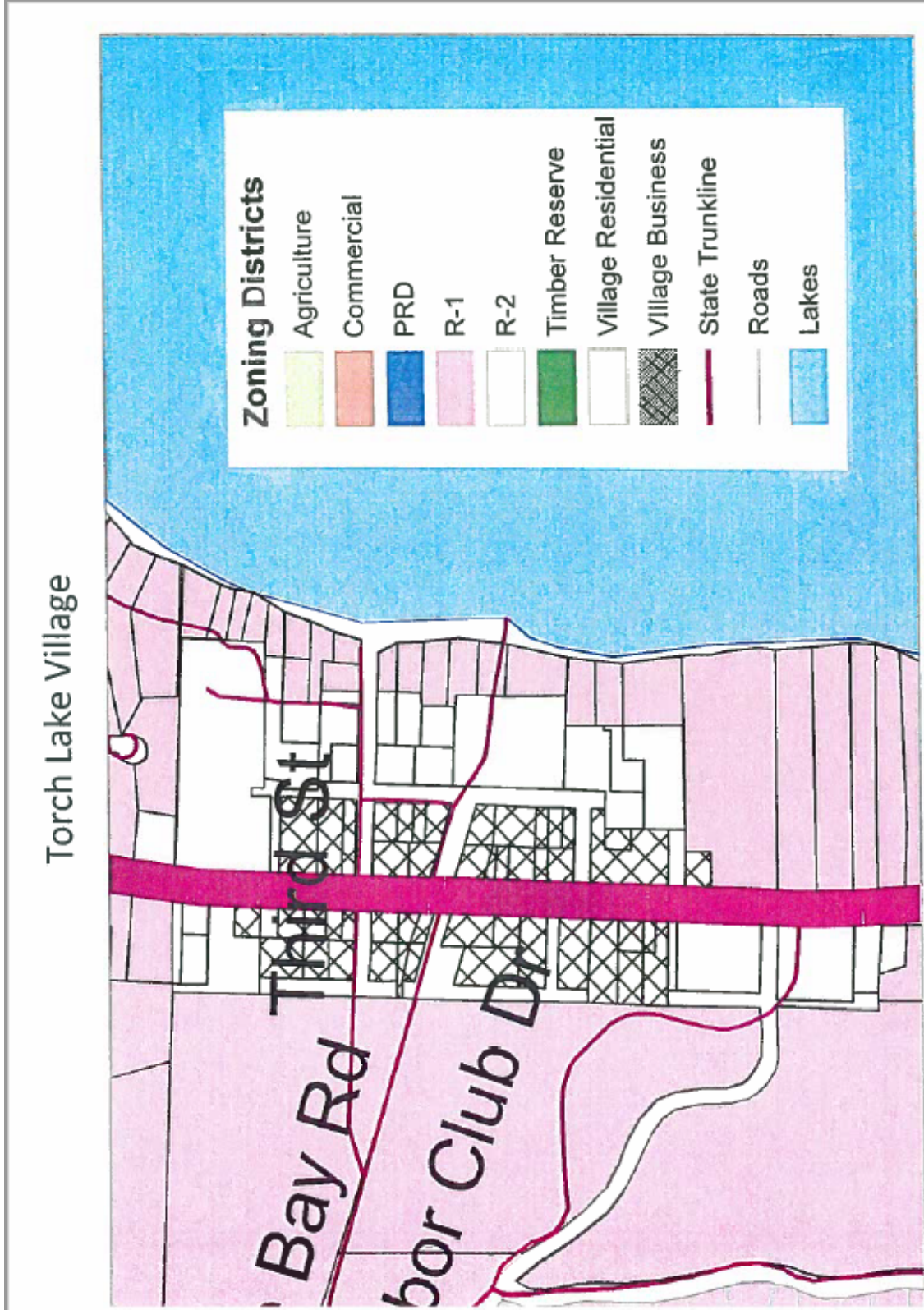
Let Our Resources Work For You.



Township Zoning Map



Zoning Maps



Zoning Maps

