

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article I**

**PREAMBLE, TITLE, PURPOSE and LEGAL CLAUSES**

**PREAMBLE** - An ordinance adopted in accordance with the Township Rural Zoning Act, Public Act 184 of 1943, as amended, to establish comprehensive zoning regulations, and zoning districts, for Clarence Township, Calhoun County, Michigan, to provide for the administration, and enforcement of the ordinance, and to provide for the amendment thereof and the repeal of all ordinances or parts of ordinances in conflict therewith. The continued administration of this Ordinance, amendments to this Ordinance and all other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended, the Michigan Zoning Enabling Act.

**Section 1.01 - TITLE**

This ordinance shall be known and may be cited as “The 1991 Zoning Ordinance of Clarence Township, as amended”.

**Section 1.02 - PURPOSE**

It is the purpose of this Zoning Ordinance to promote the public health, safety, and general welfare of the inhabitants of Clarence Township through land development regulations that encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property and conserve property values, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties, to implement the goals, objectives and policies of the Clarence Township Master Plan adopted pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, and to advance all other purposes as authorized by the Michigan Zoning Enabling Act.

**Section 1.03 - VALIDITY AND SEVERALTY CLAUSE**

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by a court of competent jurisdiction to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

**Section 1.04 - INTERPRETATION and CONFLICTING PROVISIONS**

- A.** In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with existing and unrepealed provisions of law or ordinances or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or land, provided however, that where this Ordinance imposes a greater restriction upon the use of buildings, structures, land or open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.
- B.** This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Ordinance is more restrictive, or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provisions of this Ordinance shall govern.

**Section 1.05 - VESTED RIGHT**

Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the protection of public health, safety, and welfare, except as provided in Article V (Nonconforming Uses, Lots and Structures).

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### **Section 1.06 - EFFECTIVE DATE**

This ordinance was adopted by the Township Board of the Township of Clarence, Calhoun County, Michigan, at a meeting held on July 8, 1991 and notice of its adoption was ordered published in newspapers having general circulation in said township. The effective date of this ordinance is thirty (30) days from the date of adoption. The effective date is August 6, 1991.

**End of Article I**

*(Art. I Amended 6-14-10 / Ord. 24-3)*

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## Article II

### GENERAL ADMINISTRATION, PERMITS and CERTIFICATES of OCCUPANCY

#### Section 2.01 - PURPOSE

It is the purpose of this Article to provide for the administration and enforcement of this Ordinance, including the creation of a review and permit process. The primary permit process shall require the issuance of a Zoning Permit which shall indicate that the uses and plans for which the permit is requested comply with this Ordinance. Upon the issuance of a Zoning Permit, the applicant may establish the use for which the permit has been issued, including the erection of a building or structure, provided a Building Permit has been obtained from the Building Inspector demonstrating conformance to the requirements of the Construction Code.

#### Section 2.02 - RESPONSIBILITY FOR ADMINISTRATION

- A. General Administration:** The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, the Planning Commission, the Zoning Board of Appeals, and such personnel as designated by the Township Board in accordance with P.A. 110 of 2006, as amended, and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance. The Zoning Administrator may simultaneously serve as the Building Inspector.
- B. Duties of the Zoning Administrator:** Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. The Zoning Administrator shall perform the duties specified in this Ordinance including, at a minimum:
1. Review Applications: Undertake and/or assist in the review of Zoning Permit applications and other applications made under this Ordinance, including applications for plot plans, site plans, special land use approvals, and variances.
  2. Issue Zoning Permits: Issue Zoning Permits and other approvals when all provisions of this Ordinance have been met and the necessary approval has been granted by the proper body or official.
  3. File of Applications: Maintain files of all applications submitted under this Ordinance, action on such applications, and any performance guarantees associated with permits.
  4. Inspections and Violations: Assist in the investigation and resolution of violations of this Ordinance including inspections to investigate, monitor and ensure conformance with this Ordinance.
  5. Record of Complaints: The Zoning Administrator shall keep a record of any complaint of a violation of this Ordinance and of the action taken consequent to each complaint.
  6. Reports: The Zoning Administrator shall report to and attend meetings of the Planning Commission, Zoning Board of Appeals, and Township Board, as may be requested, to report on activities pertaining to the issuance of permits, complaints of violation, actions taken on such complaints, and other Ordinance administrative and enforcement matters as may arise.

#### Section 2.03 - ZONING PERMIT and BUILDING PERMIT REQUIRED

No excavation shall be initiated, no structure or building shall be erected, altered, or moved, and no land or building shall be used or undergo a change in use until the Zoning Administrator has issued a Zoning Permit that shall signify the proposed activity conforms to the requirements of this Ordinance and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the State Construction Code through the issuance of a Building Permit. No Zoning Permit or Building Permit shall be issued for any structure, building or use of land where the use, construction, addition, or alteration would be in violation of this Ordinance. At the preference of the applicant, an application for a Building Permit may simultaneously serve as an application for a Zoning Permit. See Section 2.07(B) regarding simultaneous applications.

#### Section 2.04 - CERTIFICATE of OCCUPANCY REQUIRED

It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, located, erected, changed, converted or enlarged wholly or partly until a certificate of occupancy has been issued for that premises certifying that the structure or use complies with the provisions of this Ordinance and the State Construction Code. Prior to the issuance of such certificate of occupancy, the Building Inspector shall be satisfied that the building to be erected or that the alterations to be done shall comply in all respects with this Ordinance, the State Construction Code, and all other applicable laws and regulations including those pertaining to sewage disposal and potable water.

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### Section 2.05 - ZONING PERMIT APPLICATION and REVIEW PROCEDURES

**A. General Application and Review Procedures:** An application for a Zoning Permit shall be available from the Zoning Administrator. Upon approval of the application, which is to include, at a minimum, the application form and all required supporting data and documents including a plot plan or site plan, a Zoning Permit shall be issued. Whenever the Zoning Administrator determines an application for a single-family or two-family dwelling and accessory uses and structures thereto is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the Zoning Permit. Zoning Permit applications for uses, buildings and structures not associated with a single-family or two-family dwelling shall be issued by the Zoning Administrator only after the designated approving body, consisting of the Planning Commission unless expressly provided otherwise by this Ordinance, directs the Zoning Administrator to do so.

1. **Plot Plan / Site Plan:** An application for a Zoning Permit shall include the submittal of a plot plan or site plan. An application for a single family or two-family dwelling and accessory structures thereto, shall include the submittal of a plot plan according to Section 2.07. A site plan shall be required for all other uses, structures and buildings and shall be prepared according to Article XVIII (Site Plan Review), unless expressly provided otherwise by this Ordinance.
2. **Special Land Uses/Special Exception Uses:** In addition to meeting the site plan requirements of Article XVIII, a Zoning Permit application for a use classified as a “special land use” or “special exception use” according to Article III shall be processed according to the provisions of Article XIX (Special Land Uses), which requires a public hearing and final action by the Planning Commission.
3. **Variances:** Where the approval of a variance by the Zoning Board of Appeals pursuant to Article XVII is necessary for the approval of a proposed plot plan or site plan, the applicant shall go before the Zoning Board of Appeals on the variance matter prior to seeking approval of the plot plan or site plan.
4. **Incomplete Applications:** If Zoning Permit application materials are not administratively complete when received by the body that is to take action on the application, the body may deny such application or otherwise delay action on the application until it is made complete in a readily comprehensible manner.
5. **Performance Guarantees:** A performance guarantee may be required as a condition to the issuance of a permit in order to ensure conformance with the requirements of this Ordinance. See Section 2.10.
6. **Permit Refusal in Writing:** In any case where a Zoning Permit or other approval requested under this Ordinance is refused, the reasons shall be provided to the applicant in writing. Such notification may include a copy of the meeting minutes and motion containing such reasons.

### Section 2.06 - PERMIT WITHHOLDING AND REVOCATION

- A. Withholding Permit:** Where this Ordinance grants approval authority to a specific body, as in the case of plot plan approval by the Zoning Administrator and variance approval by the Zoning Board of Appeals, the designated approving body may withhold approval of an application pending verification that an applicant has received required county, state or federal permits including but not limited to sewage disposal and potable water permits, soil erosion and sedimentation control permits, flood plain permits, and MDEQ permits for alteration of wetlands. Similarly, the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Township Board may condition its approval of the requested application on which it is required to act upon the receipt of any of the above mentioned county, state or federal approvals or withhold the issuance of a Zoning Permit until said permits from other agencies have been obtained.
- B. Revocation/Stop Work Order:** A body which grants approval of a permit or application under this Ordinance, such as in the case of a Zoning Administrator’s approval of a plot plan and the Planning Commission’s approval of a special exception use application, may revoke or cancel such approval in the case of failure or neglect to comply with this Ordinance, or in the case of any false statement or misrepresentation made in the application. Prior to the revocation of a permit for any use or building subject to site plan approval, the body which approved such permit shall hold a hearing on such revocation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on the revocation. At the hearing, the body holding the hearing shall state the basis for the revocation and the permit holder shall be given the opportunity to present evidence and testimony against such revocation. Following the hearing, the approving body may revoke the permit, delay such revocation for a specified time period to permit the permit holder time to correct specified violations, or find there is no basis for such revocation. Upon permit revocation, or in the case where revocation is delayed to correct violations, all further construction and usage shall cease other than for the purpose of correcting violations, unless specifically provided for otherwise by the revocation body. Failure to comply with a revocation order is a violation of this Ordinance.

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### Section 2.07 - SINGLE-FAMILY AND TWO-FAMILY DWELLINGS

- A. Zoning Permit Application Review Procedures:** An application for a Zoning Permit for single-family and two-family dwellings and accessory uses and structures thereto shall be available from the Zoning Administrator. The Zoning Administrator shall be the approving body for such permits. Following the receipt of a complete application, the Zoning Administrator shall review the application and determine its compliance with this Ordinance. Upon a determination that the application is in conformity with this Ordinance, the Zoning Administrator shall issue the Zoning Permit.
1. **Calhoun Conservation District Review:** The Zoning Administrator shall forward a copy of all zoning permit applications to the Calhoun Conservation District, which shall review such applications within the context of the impact of the proposal on the natural environment including such matters as wetlands, surface waters, and stream banks, including how impacts can be minimized, and provide advisory comments in writing to the applicant and Zoning Administrator. The Zoning Administrator need not delay taking action on the application if the Zoning Administrator has not received correspondence from the Calhoun Conservation District within fifteen (15) days of submitting the application to the District.
- B. Zoning Permit Application Requirements:** An application for a Zoning Permit shall include the following minimum materials and information, and three (3) copies of all application materials shall be submitted. At the preference of the applicant, an application for a Building Permit may simultaneously serve as an application for a Zoning Permit provided all of the following information is made part of the Building Permit application.
1. **Application Form:** The completed application form, and all permit applications, approvals and supporting documents associated with required county, state or federal approvals and permits including, but not necessarily limited to, MDEQ wetland permits and approvals by the County Drain Commissioner for grading and soil and erosion control.
  2. **Plot Plan:** An accurate, readable, scale drawing constituting a plot plan, identifying the following:
    - a. Name, address and telephone number of the applicant (and owner if different).
    - b. A property line survey showing property dimensions, bearings, lot area, legal description, and an arrow pointing north, prepared by a Michigan-licensed surveyor.
    - c. The location and footprint of existing structures, and the location, height, and footprint of proposed structures to be erected, altered, or moved on the lot.
    - d. Distances of buildings and structures from lot lines.
    - e. A description of proposed use(s) of the building(s), land and structures.
    - f. Configuration of the driveway and parking areas.
    - g. Existing public and private right-of-ways and easements.
    - h. Existing and/or proposed location of septic drain field or sewer hook-up, and potable water well.
    - i. The general location of on-site natural features consisting of wetlands and similar marshy environments; lakes, rivers, streams and other surface waters; and wooded areas.
    - j. Any other information deemed necessary by the Zoning Administrator to determine Ordinance compliance and provide for the enforcement of this Ordinance.
- C. Approved Plot Plans:** At least two (2) copies of an approved plot plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. For identification of the approved plans, each copy shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the plot plan and delivered to the applicant.
- D. Plot Plan Changes:** The Zoning Administrator shall review proposed changes to an approved plot plan in the same manner as an original plot plan application.

### Section 2.08 - APPLICATION FEES

- A. Application Fees Required:** Fees for the administration and review of development proposals, rezoning requests, actions before the Zoning Board of Appeals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Township Clerk in advance of processing any application. The amount of such fees shall be established by the Township Board by resolution and may be revised from time to time. Such fees shall be limited to covering actual costs incurred by the Township and may include but are not limited to costs associated with conducting meetings and inspections, public notices, postage, photocopying, staff time, mileage, and any costs associated with assistance provided by qualified professionals including planners, engineers, and/or attorneys.

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- B. Professional Review and Fee:** For any application for a Zoning Permit, variance, or other approval under this Ordinance, the Township Board or the designated reviewing body may require the payment of a professional review fee when professional input is desired before a decision is made due to the character or complexity of the proposal or concern over the potential impacts of the project including environmental impacts. The applicant is entitled to a refund of any unused professional review fee. If actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to final action on such application. A professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and matters which may create a threat to public health, safety or the general welfare, and may include a recommended course of action. Mitigation measures or alterations to a proposed design may be suggested where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review contracted for by the Township and a copy of the statement of expenses for the professional services rendered.

### Section 2.09 - SITE INSPECTIONS

The Zoning Administrator shall have the authority to make inspections of premises for the purposes of verifying information on an application, monitoring conformance with the regulations and standards of this Ordinance, and for any other purpose associated with responsibilities of the Zoning Administrator granted by this Ordinance. The owner or his agent or representative, and the occupant or lessee of every building, or other person having the care and management thereof, shall give the Zoning Administrator free access thereto upon request at all reasonable times. No person shall interfere with the Zoning Administrator in the discharge of his/her duties.

### Section 2.10 - PERFORMANCE GUARANTEES

- A. Purpose:** In authorizing any Zoning Permit or granting other approvals under this Ordinance other than a single-family or two-family dwelling and accessory structures and uses thereto, but including platted subdivision and site condominium approvals, the approving body for such permit or approval may require that a performance guarantee be furnished to ensure compliance with the requirements, specifications and conditions imposed with the granting of such permit or approval.
- B. Requirements of Guarantee:** The performance guarantee shall meet the following requirements:
1. **Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features of a project that are considered necessary by the body or official granting approval to protect the natural resources or the health, safety and welfare of residents of the Township and future users or inhabitants of the proposed project area including roadways, lighting, utilities, sidewalks, screening and drainage. In no case shall any portion of a performance guarantee be required for improvements intended to principally serve the public at large versus users of the development site.
  2. **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, or surety bond, acceptable to the Township Treasurer, which names the property owner as the obligor and the Township as the obligee. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an account in a financial institution with which the Township regularly conducts business.
  3. **Amount and Time Required:** The amount of the performance guarantee shall be equal to the estimated cost of improvements for which the performance guarantee is to cover, according to a detailed cost estimate submitted by the applicant and found satisfactory by the Township Board. After approval of the cost estimate, the performance guarantee shall be submitted at the time of issuance of the permit authorizing the approved use or construction. No performance guarantee shall be required prior to the date on which the Township is prepared to issue the Zoning Permit.
- C. Return of Performance Guarantee:** The following procedure shall be followed in the return of performance guarantees:
1. **Request for Payment:** As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. The Zoning Administrator shall inspect said improvements and shall transmit a recommendation to the Township Board indicating either approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejection.
  2. **Approval of Payment:** The Township Board shall either approve, partially approve or reject the return of the performance guarantee for the improvements or conditions, after consideration of the recommendation of the Zoning Administrator's written statement, and shall notify the obligor in writing of the action of the Township Board within forty-five (45) days after receipt of the notice from the obligor of the completion of improvements. Where approval or partial approval is granted, the Township Clerk shall release the approved

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payment to the applicant within ten (10) days of the approval. The portion of the performance guarantee to be returned shall be proportional to the work completed and shall be based on the itemized cost estimate for the applicable improvement.

3. **Lack of Full Completion:** Should installation of improvements fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent contractor, and assess all costs of completing the improvements or conditions against the performance guarantee. Any balance remaining shall be returned to the applicant.

**D. Record of Performance Guarantees:** A record of performance guarantees shall be maintained by the Zoning Administrator.

### Section 2.11 - TIMELY ACTION on APPLICATIONS

**A. General Intent:** All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all requirements and standards have been met and the public health, safety and welfare is preserved.

**B. Specific Guidelines:** The following time provisions shall apply unless specifically provided otherwise by this Ordinance or special circumstances arise such as delays associated with the acquisition of county, state or federal permits, the submittal of an incomplete application, the need to submit additional application materials following initial deliberations, or unforeseeable practical delays in distributing applications to the necessary review bodies. The prescribed review periods below require that an application must be received by the Zoning Administrator at least thirty (30) days prior to the meeting when the designated reviewing body would normally begin deliberation on such application and, if submitted within a lesser time, the Planning Commission may delay initiating deliberations until its next regularly scheduled meeting or special meeting called for the purpose of deliberating said application.

1. **Applications Requiring Zoning Administrator Action:** A complete application for a Zoning Permit for a single-family or two-family dwelling or an accessory structure or use thereto shall be acted upon by the Zoning Administrator within fifteen (15) days of the submittal of the complete application.
2. **Applications Requiring Planning Commission Action:** Action on an application by the Planning Commission, as in the case of making a decision on an application for special land use approval or an amendment petition, shall occur within ninety (90) days of receipt of a complete application. Where a public hearing is required to be held, this time frame shall be extended by thirty (30) days.
3. **Applications Requiring Township Board Action:** Where this Ordinance requires the Township Board to act on an application, as in the case of an amendment petition, the Township Board shall take action on the application within ninety (90) days of the receipt of a complete application. Where the Township Board must delay action until receipt of a recommendation from the Planning Commission, as in the case of an amendment petition, the Township Board shall take action on the application within ninety (90) days of the receipt of such recommendation.
4. **Applications Requiring Zoning Board of Appeals Action:** Where the Zoning Board of Appeals is required by this Ordinance to act upon a request for a variance, ordinance interpretation, administrative appeal, or other request as provided by this Ordinance, the Zoning Board of Appeals shall take action on the request within ninety (90) days of the receipt of a complete application.
5. **Public Hearing Notices:** See Section 2.12.

### Section 2.12 - PUBLIC HEARING NOTICES

**A. Hearing Notice Content:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.

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- B. Recipients and Means of Notice:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the information specified in (A) above.
1. General public, by publication of the hearing notice in a newspaper of general circulation in the Township.
  2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
  3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Clarence Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
    - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.
    - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
  4. To each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, 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, by mail, in the case of a text amendment or zoning map amendment.
- C. Timing of Notice and Determination of Notice Given:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.
- D. Confirmation of Notices Made by Mail or Personal Delivery:** The Township Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

### End of Article II

*(Art. II Amended 6-14-10 / Ord. 24-3, to address ordinance administration, previously comprised of "Definitions" that were relocated to Article XXIV)*



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Article III  
ZONING DISTRICTS, REGULATIONS, and MAP

Section 3.01 Establishment of Districts

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names, and shall have boundaries as delineated on the Official Zoning Map.

Conservation Districts

RC Resource Conservation District

Agricultural Districts

AG Agricultural District

Residential Districts

R-1 Low Density Residential District  
R-2 Medium Density Residential District  
R-3 High Density Residential District  
R-MF Multiple Family Residential District  
R-MHC Manufactured Housing Community District

Commercial Districts

C-1 Local Commercial District

Industrial Districts

I-1 Light Industrial District

Section 3.02 Zoning District Map

A. The boundaries of the respective Districts enumerated in Section 3.01 are defined and established as depicted on the Official Zoning Map entitled CLARENCE TOWNSHIP ZONING MAP, which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

B. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following: *This is to certify that this is the Official Zoning Map of the Clarence Township Zoning Ordinance, the map being adopted on the \_\_\_ day of \_\_\_\_\_, 20\_\_.* If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map.

C. The Official Zoning Map shall be located at the official offices of Clarence Township and shall be the final authority with regard to the current zoning status of all land in the Township, along with supporting minutes of Township Board meetings regarding zoning district changes, regardless of the existence of copies of the Official Zoning Map which may be made and published from time to time.

Section 3.03 Purposes of Zoning Districts

See Table 3-1 of this Article.

Section 3.04 Interpretation of District Boundaries

A. Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application for an interpretation to the Zoning Board of Appeals. The Zoning Board of Appeals shall apply the following standards in arriving at a decision on such matters:

1. Boundaries indicated as approximately following roads shall be construed as following the center lines of said roads or highways.
2. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as specified on the Official Zoning Map. If no distance is specified, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
3. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.
4. Boundaries indicated as approximately following Township boundary lines shall be construed as following such boundary lines.

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5. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other water courses shall be construed to follow such centerlines.
6. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern. The “more restrictive district” shall be construed to mean the district that places greater restrictions on development based on such factors as authorized uses and standards for lot area, setbacks, lot coverage, and related development features.

### Section 3.05 Permitted Uses in Zoning Districts

**A. Compliance with Zoning Regulations:** Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of or addition to an existing use, building and structure, occurring after the effective date of this Ordinance, shall be subject to all regulations of this Ordinance including regulations specific to the Zoning District in which such use, building, or structure shall be located. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent.

**B. Principal Uses Permitted in Each Zoning District:** Tables 3-2 and 3-3 of this Article identify the principal land uses permitted in each of the districts enumerated in Section 3.01. No land use shall be established on a lot except in conformance with Tables 3-2 and 3-3. In order to insure all possible benefits and protection for the zoning districts in this Ordinance, the Tables delineate whether a land use permitted in a particular District is a “Permitted by Right Uses” or a “Special Land Use”.

1. Permitted by Right Uses: Land uses permitted by right are the primary uses and structures specified for which the District has been established, and are typically subject to plot plan approval or site plan approval (Sec. 2.05).
2. Special Land Uses: Special land uses are uses and structures that have been generally accepted as reasonably compatible with the primary uses and structures permitted in the District, but could present potential injurious effects upon the primary uses and structures within the District or are otherwise unique in character and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses shall be subject to a public hearing and site plan approval. Special land uses may also be referred to as “special exception uses.” See Article XIX, Special Land Uses.

**C. Accessory Uses:** Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to and customarily associated with the principal use of the property are permitted in all Districts and shall conform to the provisions of this Ordinance. Such uses shall include, for example purposes, home occupations in association with a dwelling, garages in association with a dwelling, and a farm market in association with a farm.

**D. Prohibited Uses:** Any use of land not specifically permitted is prohibited, including any use of land not specifically identified in Tables 3-2 and 3-3. The Planning Commission may be petitioned to initiate an amendment to the Ordinance to authorize an otherwise prohibited use and standards that will apply for that use. If the Township Board approves such an amendment, then an application can be processed to establish that use. Nothing in this subsection (D) shall be interpreted to infer that approval of such an amendment will result in an approval of a subsequent application for the use in question.

### Section 3.06 Site Development Requirements of Zoning Districts

**A.** All land uses shall comply with the site development requirements of the District in which it is located, as delineated in Table 3-4, in addition to all other applicable site development provisions of this Ordinance including, but not limited to, provisions and standards pertaining to signs, off-street parking and loading, lighting, landscaping and screening, environmental protection, and access.

**B.** No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

**C.** No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including lot area and lot width.

**D.** No portion of one lot shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform to all of the requirements established herein.

## CLARENCE TOWNSHIP ZONING ORDINANCE

E. Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such law or ordinance shall govern.

### Section 3.07 Special District Provisions

#### A. Manufactured Housing Community District (R-MHC)

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan need not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall generally follow the procedures and requirements in Article XVIII of this Ordinance, except where said procedures and requirements are superseded by the requirements of P.A. 96 of 1987, as amended, or the Mobile Home Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action of the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission pursuant to the authority vested in the Mobile Home Commission by such Act. The construction of a manufactured housing community shall not be initiated, nor shall a manufactured housing community be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Labor and Economic Growth and all other agencies pursuant to the Mobile Home Commission Act.
3. In addition to complying with the provisions of P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission, the following standards and provisions shall apply:
  - a. Minimum Parcel Size: Ten (10) acres.
  - b. Minimum Site Size: The manufactured housing community shall be developed with sites averaging a minimum of 5,500 square feet per mobile home unit. This 5,500 square foot standard for any one site may be reduced provided that the individual site shall be equal to at least 4,400 square feet and that for each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space.

### Section 3.08 Essential Services

Essential services as defined in this Ordinance shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance. This exemption shall not apply to administrative buildings, communication towers, public utility storage yards and substations, and similar above-ground facilities and uses associated with such essential services.

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**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Table 3-1  
PURPOSES of ZONING DISTRICTS**

Table 3-1 identifies the principal purposes of the Districts of this Ordinance. Tables 3-2 and 3-3 identify the specific uses permitted in each District. Tables 3-2 and 3-3 may identify uses permitted in each District in addition to those referenced in the following purpose statements where considered compatible with and/or supportive of the principal purposes of the District, including certain special land uses.

DISTRICTS	PURPOSE
<b><u>ALL DISTRICTS</u></b>	
<b>All Districts</b>	It is the purpose of all Districts to protect important environmental resources to the greatest extent practical; that all Districts be located in coordination with the Clarence Township Master Plan; that uses minimize negative impacts on surrounding land uses; that all non-residential uses complement the community’s rural character through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting; that development ensure safe and efficient vehicular travel and access and minimizes congestion, turning conflicts, and pedestrian hazards; that all residential uses provide for adequate open spaces and a healthy living environment; and that each use be adequately served by facilities and services including sewage disposal, potable water, fire protection, and roads. Additional and more specific purposes of each District follow.
<b><u>CONSERVATION DISTRICTS</u></b>	
<b>RC</b>	It is the purpose of the <b>RC Resource Conservation District</b> to protect the more expansive areas of wetlands in the Township as well as smaller wetlands adjacent to lakes and ponds. The long-term protection of the Township’s wetlands is of great public interest and importance to the Township, the State of Michigan, and the nation. The wetlands of the Township are important in providing for wildlife habitats including special fauna and flora, water and air purification, flood control, and recreation opportunities, and support the desired rural character of the Township. The primary uses in the District are intended to be limited to agriculture, conservation areas, low density residential development, and outdoor resource-based uses that support the overall intent of this district. It is the purpose of this District to limit uses that could undermine the environmental benefits derived from the wetlands contained within. See also the “All Districts” purpose statement.
<b><u>AGRICULTURAL DISTRICTS</u></b>	
<b>AG</b>	It is the purpose of the <b>AG Agricultural District</b> to encourage and provide opportunities for agriculture and retain land areas in Clarence Township that are well suited for production of plants and animals useful to humans due to soil, topographic and other conditions, while also providing opportunities for comparatively low density rural residential lifestyles and development patterns that encourage the preservation of farmland, open spaces, natural resources, and the Township’s rural character. Persons considering residing in this District should be aware that noise, dust, odors, crop protection product applications and other generally accepted agricultural management practices may continue on a long term basis. See also the “All Districts” purpose statement.
<b><u>RESIDENTIAL DISTRICTS</u></b>	
<b>R-1 R-2 R-3</b>	It is the principal purpose of the <b>R-1, R-2, and R-3 Residential Districts</b> to provide opportunities for single and two-family residential development patterns of varying lot sizes and density, to accommodate differing suburban and urban residential lifestyles and meet the varied housing needs of current and future residents. The R-1 District provides for the lowest densities and, conversely, the R-3 District provides for the highest densities, through incrementally smaller lot size requirements. The Districts are intended to recognize the presence of existing settlement areas whose predominant development features are comparable with the requirements of the R-1, R-2 or R-3 District, and to protect the character of these areas and investments therein such as the long-standing plats along Duck Lake. See also the “All Districts” purpose statement.

Table 3-1 Continued on Next Page

**CLARENCE TOWNSHIP ZONING ORDINANCE**

*Table 3-1 Continued (Purposes of Zoning Districts)*

<b>DISTRICTS</b>	<b>PURPOSE</b>
<b><u>RESIDENTIAL DISTRICTS</u></b> <i>(continued)</i>	
<b>R-MF</b>	It is the purpose of the <b>R-MF Multiple Family Residential District</b> to provide alternative housing opportunities of a greater density than those of the other Residential Districts, in the form of multiple family development such as apartments and townhouses, to meet the varied housing needs of current and future residents. It is intended that this District be established only where sanitary sewer is provided. See also the “All Districts” purpose statement.
<b>R-MHC</b>	It is the purpose of the <b>R-MHC Manufactured Housing Community District</b> to provide opportunities for residential development and lifestyles associated with manufactured housing communities as regulated by the Michigan Mobile Home Commission Act. It is the intent of this District that, in light of the comparative speed at which a manufactured housing community can be constructed and the resulting rapid increased demands on public infrastructure and community services, this District be established only where development of such acreage will not outpace the Township’s ability, and the ability of other public agencies, to effectively manage and accommodate demands upon public infrastructure and community services. See also the “All Districts” purpose statement.
<b><u>COMMERCIAL DISTRICTS</u></b>	
<b>C-1</b>	It is the principal purpose of the <b>C-1 Local Commercial District</b> to provide opportunities for businesses that primarily address the local day-to-day retail and service needs of Township residents and visitors, and in a manner that supports the desired character of the township. This District is not intended to accommodate retail and service uses that draw from a regional population, uses that generate traffic levels incompatible with the township’s road infrastructure and level of public services, or other uses that may undermine its intended function and local character as described in the Clarence Township Master Plan. See also the “All Districts” purpose statement.
<b><u>INDUSTRIAL DISTRICTS</u></b>	
<b>I-1</b>	It is the purpose of the <b>I-1 Light Industrial District</b> to provide for a variety of industrial uses that can be generally characterized as being of low intensity, including comparatively small building sizes and the absence of objectionable external affects beyond the District. It is the intent of this District to permit the manufacturing, compounding, processing, packaging, assembly or treatment of finished or semi-finished products from previously prepared material, but prohibit the processing of raw materials. See also the “All Districts” purpose statement.

See “All Districts” on previous page for further description of District purposes.

*End of Table 3-1*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Table 3-2  
Permitted Principal Uses in Conservation, Agricultural and Residential Districts**

	PRINCIPAL USES	ZONING DISTRICTS						
		RC	AG	R-1	R-2	R-3	R-MF	R-MHC
	<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character</b>							
1	Agriculture.	BR	BR	-	-	-	-	-
2	Areas set aside for the protection of wildlife and natural resources, wildlife management areas, nature preserves, and game refuges.	BR	BR	-	-	-	-	-
3	Commercial campgrounds.	S	S	-	-	-	-	-
4	Commercial stables.	S	S	-	-	-	-	-
5	Extraction operations.	S	S	S	S	S	S	S
6	Golf courses and country clubs.	-	S	S	S	S	S	-
7	Racetracks.	-	S	-	-	-	-	-
8	Retreat Centers.	S	S	-	-	-	-	-
9	Shooting ranges, outdoor only.	S	S	-	-	-	-	-
	<b>Uses of a Primarily Residential Character</b>							
1	Assisted living facilities.	-	S	S	S	S	S	S
2	Single family dwellings.	BR	BR	BR	BR	BR	-	BR <sup>3</sup>
3	Day care, family home.	BR	BR	BR	BR	BR	-	-
4	Day care, group home.	S	S	S	S	S	-	-
5	Foster care facility, family home.	BR	BR	BR	BR	BR	-	-
6	Foster care facility, group home.	S	S	S	S	S	S	-
7	Manufactured housing communities.	-	-	-	-	-	-	BR
8	Multiple family dwellings.	-	-	-	-	-	BR	-
9	Two family dwellings.	-	BR	BR	BR	BR	-	-
	<b>Uses of a Primarily Commercial, Business or Industrial Character</b>							
1	Bed and breakfast.	-	S	S	S	S	-	-
2	Day care center.	-	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S <sup>4</sup>	S
3	Wireless communication towers.	S <sup>2</sup>	S <sup>2</sup>	-	-	-	-	-
4	Kennels.	-	S	-	-	-	-	-
5	Taxidermy services.	-	S	-	-	-	-	-
6	The storage of a contractor's vehicles, equipment, and/or materials on a parcel, outdoors or in an accessory building, by a contractor residing on the same parcel and operating an excavation, well drilling, trenching, or similar business, and who may maintain an office in such accessory building.	-	S	-	-	-	-	-
	<b>Other Uses Not Listed Above</b>							
1	Clubs and similar social-centered organizations.	-	S	-	-	-	-	-
2	Public facilities owned by Clarence Township, such as township offices, sewer treatment facilities, cemeteries and parks.	BR	BR	BR	BR	BR	BR	BR
3	Public facilities owned by other than Clarence Township, not otherwise addressed in this Table.	S	S	S	S	S	S	S
4	Churches.	-	S	S	S	S	-	-
5	Public utility buildings, equipment facilities, and similar public utility support facilities including substations.	S	S	S	S	S	S	S

**Footnotes:**

1. Irrespective of the particular labeling of a cell in this table, any use that exceeds a single building of 8,000 sq. ft. in gross floor area, or 20,000 sq. ft. in gross floor area among all buildings on the lot, is classified as a Special Land Use. This provision shall not apply to agricultural or single-family residential buildings including accessory buildings thereto.
2. See Section 7.05 for special provisions regarding the classification of certain wireless communication towers/equipment as a use permitted by right in addition to special application procedures for communication towers/equipment.

**CLARENCE TOWNSHIP ZONING ORDINANCE**

- 3. Single family dwellings are permitted by right uses (BR) when located in a manufactured housing community.
- 4. Day care centers in an Agricultural or Residential District shall reflect a residential architectural theme.

End of Table 3-2

**Table 3-3  
Permitted Principal Uses in Commercial and Industrial Zoning Districts<sup>1</sup>**

PRINCIPAL USES		ZONING DISTRICTS	
		BR = Permitted By Right Uses <sup>1</sup> S= Special Land Use <sup>1</sup> – = Prohibited Use	
		C-1	I-1
<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character<sup>1</sup></b>			
1	Marinas and boat yards.	S	–
2	Extraction operations.	S	S
<b>Uses of a Primarily Residential Character</b>			
1	Dwellings when located on a second or third story above a business or storefront.	<b>BR</b>	–
<b>Uses of a Primarily Commercial or Business Character<sup>1</sup></b>			
1	Adult entertainment businesses.	S	–
2	Agricultural service establishments.	S	S
3	Building material sales yard, including retail lumber yards and incidental millwork, and storage facilities for building materials including sand, gravel, lumber, and contractor's equipment.	S	<b>BR</b>
4	Wireless Communication towers	S <sup>2</sup>	S <sup>2</sup>
5	Day care center.	S	–
6	Funeral homes and mortuaries, including a dwelling occupied by facility owner or manager.	S	–
7	Gasoline station.	S	–
8	Hospitals and medical clinics	S	–
9	Indoor commercial recreation such as bowling alleys, skating rinks, indoor shooting ranges, and similar uses.	S	–
10	Landscaping services.	S	–
11	Laundry and dry cleaning services.	S	–
12	Mini-storage.	S	S
13	Motels and hotels, including conference facilities.	S	–
14	Nurseries and greenhouses.	<b>BR</b>	–
15	Offices and showrooms of plumbers, electricians, decorators, and similar trades in connection with not more than 25% of the floor area of the building or part of the building occupied by said establishment used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.	<b>BR</b>	<b>BR</b>
16	Offices of a professional, executive, administrative, clerical and similar character, such as offices for accountants, doctors, lawyers, insurers, financial and other consultants, architects, realtors, and artist offices and galleries.	<b>BR</b>	–
17	Personal service establishments that perform services on the premises within a completely enclosed building not otherwise included in #15 above, such as shoe repair, barber and beauty shops, photographic studios, and appliance repair.	<b>BR</b>	–
18	Restaurants, standard.	<b>BR</b>	–
19	Restaurants, non-standard.	S	–
20	Retail business that supply commodities on the premises within a completely enclosed building including, but not limited to, groceries, foods, drugs, packaged liquor, furniture, clothing, dry goods, notions, books, flowers, jewelry, hardware, and sporting goods including bait supplies, but excluding adult entertainment businesses.	<b>BR</b>	–

*Table 3-3 Continued Next Page. See End of Table for Footnotes.*

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(Table 3-3 continued)

<b>PRINCIPAL USES</b>		<b>ZONING DISTRICTS<sup>1</sup></b>	
		<b>BR = Permitted By Right Use<sup>1</sup></b>	<b>S = Special Land Use<sup>1</sup></b>
		<b>- = Prohibited Use</b>	
		<b>C-1</b>	<b>I-1</b>
21	Sale of new or used cars, boats, mobile homes, farm machinery, and other vehicles and items intended for tow, and the service and repair of such vehicles and items.	S	-
22	Adult entertainment businesses.	S	-
23	Taverns.	S	-
24	Taxidermy services.	<b>BR</b>	-
25	Vehicle / car wash facility.	S	-
26	Vehicle repair shop including paint services.	S	S
27	Veterinary clinics.	<b>BR</b>	-
<b>Uses of a Primarily Industrial Character<sup>1</sup></b>			
1	Assembly of electrical appliances, instruments and devices, including the manufacture of small parts such as computer components.	-	<b>BR</b>
2	Junk yards and salvage yards.	-	S
3	Manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, canvas, cork, felt, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, sheet metal, wax, and wire. "Previously prepared materials" are materials processed, manufactured or created at another location and transported to the lot in this District for assembly into new products.	-	<b>BR</b>
4	Monument and art stone production and sales.	-	<b>BR</b>
5	Manufacturing, compounding, processing, treatment, fabrication or packaging of such products as: drugs, perfumes, pharmaceuticals, toiletries, bakery goods, candy, ceramics, clothing, jewelry, instruments, optical goods, hardware and cutlery, and food products, but excluding fish, sauerkraut, vinegar, yeast, rendering or refining of fats and oils, and other food products involving the creation of odors.	-	S
6	Plastic molding and extrusion.	-	S
7	Printing and publishing.	-	<b>BR</b>
8	Production, processing or testing utilized in product prototyping.	-	<b>BR</b>
9	Tool and die manufacturing.	-	<b>BR</b>
10	Warehousing.	S	S
<b>Other Uses Not Listed Above<sup>1</sup></b>			
1	Clubs, lodges, and similar social-centered organizations.	S	S
2	Public facilities owned by Clarence Township, such as township offices, sewer treatment facilities, cemeteries and parks.	<b>BR</b>	<b>BR</b>
3	Public facilities not owned by Clarence Township and not otherwise addressed in this Table.	S	-
4	Churches.	S	-
5	Public utility buildings, equipment facilities, and similar public utility support facilities including substations.	S	S

**Footnotes for Table 3-3**

1. Irrespective of the particular labeling of a cell in this table, any use that exceeds a single building of 8,000 sq. ft. in gross floor area, or 20,000 sq. ft. in gross floor area among all buildings on the parcel, is classified as a Special Land Use.
2. See Section 7.05 for special provisions regarding the classification of certain wireless communication towers/equipment as a use permitted by right in addition to special application procedures for communication towers/equipment.

End of Table 3-3



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**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Table 3-4  
Site Development Requirements<sup>1</sup>**

All principal land uses, structures and buildings shall comply with the site development requirements of Table 3-4 unless otherwise specified by this Ordinance. See also Section 3.06.

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage <sup>2</sup>	Maximum Building Height	Maximum Impervious Area	Minimum Yard Setback <sup>1, 8</sup>		
					Front <sup>1, 8</sup>	Side <sup>1, 8</sup>	Rear <sup>1, 8</sup>
<b>RC, Resource Conservation</b>	10 acres	330 ft.	35 ft. <sup>7</sup>	5%	68 ft. <sup>3</sup>	15 ft. <sup>5</sup> each	40 ft.
<b>AG, Agricultural</b>	1 acre	200 ft.	35 ft. <sup>7</sup>	See Sec. 13.04	68 ft. <sup>3</sup>	15 ft. <sup>5</sup> each	40 ft.
<b>R-1, Low Density Residential</b>	35,000 sq. ft.	100 ft.	35 ft. <sup>7</sup>	See Sec. 13.04,	68 ft. <sup>3</sup>	15 ft. <sup>5</sup> each	25 ft.
<b>R-2, Medium Density Residential</b>	<u>W/O Sewer</u> <sup>4</sup> 25,000 sq. ft. <u>With Sewer</u> <sup>4</sup> 15,000 sq. ft.	<u>W/O Sewer</u> <sup>4</sup> 80 ft. <u>With Sewer</u> <sup>4</sup> 65 ft.	35 ft. <sup>7</sup>	See Sec. 13.04	68 ft. <sup>3</sup>	See Foot. 5	25 ft.
<b>R-3, High Density Residential</b>	<u>W/O Sewer</u> 26,000 sq. ft. <u>With Sewer</u> 10,000 sq. ft.	<u>W/O Sewer</u> 75 ft. <u>With Sewer</u> 50 ft.	35 ft. <sup>7</sup>	See R-1 & R-2 Districts of Sec. 13.04	68 ft. <sup>3</sup>	10 ft. each	20 ft.
<b>R-MF, Multiple Family Residential</b>	2 acres	200 ft.	35 ft. <sup>7</sup>	See Sec. 13.04, Commer. Districts	83 ft.	50 ft. <sup>5</sup>	60 ft.
<b>R-MHC: Manufactured Housing Comm.</b>		See	Section	3.07			
<b>C-1, Local Commercial</b>	20,000 sq. ft.	100 ft.	35 ft. <sup>7</sup>	See Sec. 13.04	78 ft. <sup>3</sup>	9 ft. <sup>5</sup>	20 ft. <sup>6</sup>
<b>I-1, Light Industrial</b>	20,000 sq. ft.	100 ft.	35 ft. <sup>7</sup>	See Sec. 13.04	108 ft. <sup>3</sup>	20 ft. <sup>5</sup>	40 ft. <sup>6</sup>

*See following page for Footnotes.*

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**Footnotes for Table 3-4 – Site Development Requirements**

1. **Scope of Requirements:** All uses shall comply with the site development requirements in Table 3-4, unless specified otherwise by this Ordinance. See also additional provisions of this Ordinance pertaining to signs, off-street parking and loading, lighting, landscaping and screening, environmental protection, and other site development requirements.
2. **Lot Configurations:** All lots shall conform to the following configuration requirements:
  - a. The depth of a lot shall not exceed four (4) times its width.
  - b. The minimum frontage/lot width standard of Table 3-4 shall extend from the front lot line to the proposed building setback line and over at least seventy percent (70%) of the lot area. In addition, in the case of a waterfront lot, the minimum frontage/lot width standard shall apply to both the front and rear lot line.
  - c. Lesser frontage and width standards than those of Table 3-4 may be approved where the front lot line abuts a curvilinear road segment, such as a cul-de-sac, where without such reduction, such lots would be unnecessarily excessive in overall width or area, or otherwise result in irregular or impractical configurations. However, such reduction shall not exceed forty percent (40%), and the minimum front yard setback shall be increased to the line at which there is compliance with the lot width standard of Table 3-4.
3. **Front Yard Setbacks and Modifications**
  - a. The front yard setback for a lot that is not a waterfront lot shall be measured from the centerline of the gravel, paved, or other traveled road surface adjacent to such front yard. The front yard setback for a waterfront lot, being the yard adjacent to the water, shall be measured from the ordinary high water mark.
  - b. In the case of a waterfront lot, the minimum required front yard setback shall be 35' except as provided by 3(c) below.
  - c. The required front yard setback for a building in the AG, RC, R-1, R-2 and R-3 Districts shall be reduced to the average of the existing building setbacks along the same side of the street within 500' to either side of such building, but in no case shall such setback be required to be greater than 35' in the case of a waterfront lot and 68' for all other lots. Where only a portion of a dwelling is located within such five hundred (500) foot measured distance, the setback of the entire dwelling shall be used for determining such average setback.
4. **Lot Area, Width and Frontage, and Rear Yard Setback Exceptions for R-2 District**
  - a. Sewered Lots of Record: Minimum lot area, width and frontage in the R-2 District for single family dwelling lots recorded with the County Register of Deeds prior to the effective date of this Ordinance, where sanitary sewer is provided, shall be 3,000 sq. feet in area and 30' in width and frontage.
  - b. Non-Sewered Lots of Record: Minimum lot area, width and frontage in the R-2 District for single family dwelling lots recorded with the County Register of Deeds prior to the effective date of this Ordinance, where sanitary sewer is not provided, shall be 12,000 sq. feet in area and 55' in width and frontage.
  - c. In the case of a waterfront lot, the minimum required rear yard setback shall be 58' and shall be measured from the centerline of the gravel, paved, or other traveled road surface, except that such minimum setback shall be reduced to the average of the existing dwelling setbacks along the same side of the road within 500' to either side of such dwelling, but in no case shall such setback be required to be greater than 58' nor shall be less than 43'. Where only a portion of a dwelling is located within such five hundred (500) foot measured distance, the setback of the entire dwelling shall be used for determining such average setback.
5. **Side Yard Setbacks and Modifications**
  - a. For corner lots, the minimum required front yard setback shall apply to both yards abutting a road right-of-way or easement except that the side yard setback may be reduced the minimum amount necessary to ensure a thirty (30) foot buildable lot width. However, in no case shall such setback be less than 45'. "Buildable lot width" for this Footnote shall be defined as the dimensional width of the lot less both required side yard setback dimensions.
  - b. Side yard setbacks for structures in the R-2 District shall be 10' except that in the case of a lot recorded with the County Register of Deeds prior to the effective date of this Ordinance, the required side yard setbacks shall be as delineated in the table below, according to the width of the lot on which the structure is located.

Single and Combined Side Yard Setbacks	Lot Width			
	35' or less	35.1' – 40.0'	40.1' – 45.0'	45.1' or more
Minimum of each setback *	4', except 3' for one-story buildings	4'	4'	4'
Minimum combined setbacks:	10'	11'	12'	13'

\* Side yard setbacks for corner lots shall comply with 5(a) above.

- c. In the case of a Commercial or Industrial District, the minimum side yard setback shall be increased to 60 feet in the case where the side yard abuts an Agricultural, Conservation or Residential District.

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6. The minimum rear yard setback shall be increased to 60 feet in the case where the rear yard abuts an Agricultural, Conservation or Residential District.
7. The following height exceptions shall apply:
  - a. The maximum height of structures serving agricultural uses shall be 100' feet.
  - b. The following height exemptions apply provided no portion of the building or structure exceeding the height limitation may be used for human occupancy and the site plan approving body finds the exemption shall not undermine the character, use and enjoyment of nearby properties:
    - 1) Features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and similar features, provided such features do not exceed more than 5% of the structure's gross roof area. This exception shall not apply to single family and two-family dwellings.
    - 2) Necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell structures, ventilators, bulkheads, masts and aials, communication towers and antennas, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height, unless otherwise regulated by this Ordinance.
8. Miscellaneous Setback Provisions: The setback requirements of Table 3-4 shall apply except where provided otherwise by this Footnote or elsewhere in this Ordinance.
  - a. Decks, Patios and Porches
    - 1) Any portion of a porch, deck, or patio, that is covered, shall comply with the setback requirements for the principal use or structure according to Table 3-4, except as provided by Section 13.05, Natural Feature Setback.
    - 2) Any portion of a porch, deck, or patio, that is uncovered and has a floor surface greater than eighteen (18) inches above ground surface directly below, shall comply with the setback requirements for the principal use or structure according to Table 3-4, except as provided by Section 13.05, Natural Feature Setback..
    - 3) Any portion of a porch, deck, or patio, that is uncovered and has a floor surface eighteen (18) inches or less above ground surface directly below, is exempt from setback requirements, except that any railing that is constructed on said porch, deck, or patio shall conform with the setback requirements for the principal use or structure according to Table 3-4, except as provided by Section 13.05, Natural Feature Setback..
  - b. Animal Shelters
    - 1) Animal and poultry shelters, including, coops, barns, or sheds housing animals, shall have a minimum setback of seventy-five (75) feet from all lot lines, provided that on a platted lot, no such shelter shall be erected closer than twenty (20) feet to a side lot line of such lot.
  - c. Temporary Toilets
    - 1) No temporary outside toilets shall be erected closer than fifteen (15) feet to the side line of the lot on which such facility is located, provided however, that such facility shall not be closer than twenty-five (25) feet to any building used for permanent habitation and located on an adjacent lot.
  - d. Gasoline Stations and Sales/Storage of Vehicles
    - 1) There shall be maintained a minimum setback distance of thirty five (35) feet from all lots lines to gasoline pumps, display racks, air pumps, and other equipment.
    - 2) All fuel pump canopies shall be set back a minimum of fifteen (15) feet from all lot lines.
    - 3) There shall be maintained a minimum setback distance of seventy-five (75) feet from all lots lines to vehicles in storage awaiting repair, being maintained for the purpose of the sale of parts or junk there from, or otherwise inoperable.
    - 4) There shall be maintained a minimum setback distance of thirty-five (35) feet from all lots lines to vehicles being advertized for or otherwise available for sale and in operable condition.
  - e. See Article 13, Environmental Protection, including Sec. 13.05 regarding special setback provisions for natural features including lakes.

### End of Article III

*(Art. III Amended 3-14-11 / Ord. 24-4 for comprehensive revisions)*

*(Art. III Amended 10-10-11 / Ord. 24-5 to create new zoning map, revise Table 3-1 purpose statement for Resource Conservation District, and revise Table 3-2 to authorize contractors' yards/storage in AG District)*

*(Art. III Amended 5-14-12 / Ord. 24-6 to revise Tables 3-2 and 3-3 to authorize extraction operations in all districts, and revise Table 3-4 by inserting footnote references and footnote 8(e))*

*(Art. III Amended 8-12-13 / Ord. 24-7 to revise Footnote 2 of Table 3-2 and 3-3 regarding wireless communication towers, and Table 3-4 setback standards/footnotes according to measurement from road centerline)*

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**Article IV  
Reserved for Future Use**

**End of Article IV**

*(Art. IV amended 6-14-10 / Ord. 24-3 to reserve for future use)*

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## Article V NONCONFORMING LOTS, USES and STRUCTURES

### Section 5.01 Purpose

It is recognized that there exists lots, structures and uses within the Districts of this Ordinance and as may be amended, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

### Section 5.02 Nonconforming Lots

A. Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot recorded in the County Register of Deeds Office prior to the date of adoption or amendment of this Ordinance, where such use is an authorized permitted use in said District according to Article 3, even though such lot fails to meet the requirements for area, width, and/or frontage that are applicable in the District. However, the following provisions shall apply:

1. Aside from any requirement causing such lot to be nonconforming, the use of such lot shall comply with all other requirements of this Ordinance, such as required setbacks, unless a variance is obtained from the Zoning Board of Appeals according to Article XVII.
2. If two or more lots or combinations of lots and portions of lots, share continuous frontage and share a common side lot line or portion thereof, and are in single ownership of record at the time of passage or amendment of this Ordinance as recorded in the County Register of Deeds, and if all or part of the lots do not meet the requirements established for area, width, and/or frontage, the lands involved shall be considered to be an undivided lot for the purposes of this Ordinance. No portion of said lot shall be used or divided in a manner that diminishes compliance with the area, width and frontage requirements of this Ordinance.

### Section 5.03 Nonconforming Uses

A. Where, on the date of adoption or amendment of this Ordinance, a lawful use exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming use may be continued but shall not be enlarged, extended, added to or altered unless such change is in conformity with the provisions of this Ordinance.
2. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
3. Any nonconforming use of land or structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the use regulations for the District in which such use is located, and a nonconforming use may not thereafter be resumed or otherwise established.
4. If a nonconforming use of any building, structure, or land, or part thereof, ceases for any reason for a period of more than 365 consecutive days, the subsequent use of the property shall thereafter conform to the use regulations and provisions of this Ordinance for the respective District. Conditions that shall be considered in determining the cessation of a nonconforming use include, but are not limited to, disconnection of utilities, the property has fallen into a state of disrepair, the removal of equipment necessary for such use, and the removal of signage identifying the business or use.
  - a. Nothing in subsection (4) shall be construed to prohibit the reconstruction of a dwelling that constitutes a nonconforming use, subject to the provisions of this Article.

### Section 5.04 Nonconforming Structures

A. Where, on the date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the terms of this Ordinance or subsequent amendment by reason of restrictions on area, lot coverage, height, setbacks, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered so as to increase its nonconformity, such as in the case of a building's height or the cubic content of the portion of the building encroaching into a setback, except that in no case shall a nonconforming structure be enlarged or extended in any manner if such structure encroaches across a lot line into a road right-of-way or easement.
2. If a nonconforming structure is destroyed by any means, including acts of nature such as storms, wind and fire, or by acts of the lot owner or other entity, a replacement structure may be erected provided such replacement

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structure does not exceed the degree of nonconformity of the structure destroyed and the replacement structure is completed to an extent equal to ninety percent (90%) of its construction cost within twenty-four (24) months of the previous structure's destruction.

3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
4. A nonconforming structure may undergo repairs and maintenance, including the repair and refurbishing of walls, fixtures, wiring and plumbing, provided the extent of nonconformity existing at the time of Ordinance adoption or amendment shall not be increased.

### **Section 5.05 District Changes**

Whenever the boundaries of a District shall be changed so as to transfer a land area from one District to another District, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary change.

### **Section 5.06 Illegal Nonconformities**

Nonconforming lots, uses and structures existing on the effective date of this Ordinance or amendment thereto, that were established without approval of zoning compliance or without a valid building permit, or those nonconforming lots, uses and structures that cannot be proved conclusively as existing prior to the effective date of this Ordinance or amendment thereto, shall be declared illegal nonconformities and are not entitled to the status and rights accorded legally established nonconformities by this Article.

### **End of Article V**

*(Art. V Amended 3-14-11 / Ord. 24-4 for comprehensive revisions)*

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**Article VI  
Reserved for Future Use**

**End of Article VI**

*(Art. VI amended 3-14-11 / Ord. 24-4 to reserve for future use)*



# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article VII STANDARDS and REGULATIONS for SPECIFIC LAND USES

### Section 7.01 - PURPOSE and APPLICABILITY

The purpose of this Article is to establish standards and regulations in association with certain land uses to ensure the establishment of such uses minimizes negative impacts upon adjacent land uses and the Township as a whole, and encourages orderly development in coordination with surrounding conditions and within the development site itself. Where deemed beneficial to provide greater clarification of the purpose or character of use regulations addressed by this Article, such Sections are accompanied by a further defined “purpose” statement. Unless otherwise specified, each use addressed in this Article shall be subject to all requirements and standards of this Ordinance in addition to the requirements and standards of this Article including requirements and standards pertaining to setbacks, lot area, signage, parking and loading, and environmental protection. Where this Article establishes a standard more stringent than that required elsewhere in this Ordinance, including Table 3-4 of Article 3, the standard of this Article shall apply. Any requirements of this Article regarding application submittal data, plans, and drawings shall be in addition to the data requirements of Article XVIII, Site Plan Review. Compliance with the standards in this Article does not relieve the owner or operator of a permitted use from complying with additional standards in other applicable Township ordinances.

### Section 7.02 - OPEN SPACE PRESERVATION COMMUNITIES (OSPC)

- A. Purpose:** It is the purpose of this Section to provide opportunities for residential development which, because of the more flexible standards available to “Open Space Preservation Communities” (OSPC) under this Section, more effectively encourage the preservation of the Township’s natural resources including wetlands, woodlands, surface waters including stream banks and corridors, and the Township’s rural character. The regulations of this Section propose to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the zoning district within which the OSPC is proposed to be located, so that the remainder of the site can be preserved as open space including for agricultural use. This Section is established pursuant to Section 506 of the Michigan Zoning Enabling Act.
- B. Authorization / Special Land Use:** OSPCs are hereby authorized as special land uses in the RC, AG, R-1, R-2 and R-3 Districts.
- C. Review and Approval Process**
1. **Special Land Uses:** OSPCs are permitted as special land uses only, and their review and approval shall follow the same procedures and requirements for special land uses under Article XIX including the approval of a site plan according to Article XVIII, and conformance to the requirements and standards of this Section, except as provided below:
    - a. **Recording of Approval Action:** The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved OSPC plan unless a change is approved by the Planning Commission. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Township Clerk.
    - b. **Permit Issuance:** Upon receipt of the recorded documents, the Township Clerk shall direct the Zoning Administrator to issue a zoning permit for the OSPC.
    - c. **Conventional Plan:** At the time the applicant submits a site plan for the OSPC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the conventional development standards of the zoning district in which it is located. This plan shall identify the total number of lots and dwellings reasonably attainable. The Planning Commission shall be the determining body regarding the number of dwellings and lots reasonably attainable by conventional design. This information shall be used when determining the permissible number of dwellings and lots for the OSPC proposal.
      - (1) The conventional plan referenced in subsection (c) need not be an engineered set of construction drawings, but shall be of such detail and clarity to demonstrate conformity with all state, county and township regulations including, but not limited to, potable water and sewage disposal, storm water management including necessary detention and retention ponds, and general road design and construction. The conventional plan shall demonstrate the feasibility of the proposed plan both in regard to its construction and its negligible impact upon sensitive environmental resources including wetlands and drainage courses and, in doing so, shall include the following: natural features such as wetlands, woodlands, flood plains, streams, rivers, county drains, lakes, ponds, and topography (at two-foot intervals); and man-made features such as existing roads, structures, utilities, easements,

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and adjacent land use conditions. A conventional plan shall not be considered by the Planning Commission if the Planning Commission determines that it does not provide the necessary level of detail or information to assess such conventional plan for the purposes of subsection (c) above.

### D. Approval Standards

1. Approval Standards: No application for an OSPC shall be approved except upon a finding that the following standards have been met:
  - a. Section 18.05, Site Plan Approval Standards
  - b. Section 19.06, Special Land Use Approval Standards
  - c. Section 7.02(E), OSPC Use and Design Standards
  - d. Unified Control: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  - e. Intent: The OSPC proposal shall support the intent of this Section as defined in Section 7.02(A).

### E. Use And Design Standards:

1. Regulatory Flexibility: To encourage flexibility and creativity consistent with the OSPC concept, departures from the conventional regulations of the zoning district may be permitted, subject to review and approval by the Planning Commission. For example, such departures may include but are not limited to modifications to lot dimensional standards, setback requirements, and lot area requirements. However, in no case shall an OSPC's design features exceed the following:
  - a. Permitted Principal Uses: Principal permitted uses shall be limited to dwellings as authorized by the district in which the OSPC is located, and the associated required open space as provided by this Article.
  - b. Number of Lots/Dwellings: The number of dwellings and lots in an OSPC shall not exceed the number attainable by the Conventional Plan according to Sec. 7.02(C)(1)(c).
  - c. Building Setbacks: All buildings shall have a minimum front and rear yard setback of twenty-five (25) feet, and a minimum side yard setback of ten (10) feet, except as otherwise required below:
    - (1) All buildings shall have a minimum setback of seventy-five (75) feet from all lot lines that serve as the exterior boundary of the OSPC parcel.
    - (2) All buildings shall have a minimum setback of seventy-five (75) feet from lakes, ponds, rivers, streams, and wetlands.
  - d. Minimum Lot Area: The minimum lot area for a dwelling in an OSPC shall be forty percent (40%) of the conventional minimum lot area for the district in which the OSPC is located, provided all necessary potable water and sewage disposal permits are acquired.
2. Location of Lots: The arrangement of lots on the OSPC parcel shall be based upon the following standards. Recognizing that satisfying all of the standards equally may not be feasible in some circumstances, the preservation of important natural resources shall take priority.
  - a. Preservation of important natural resources such as surface waters, wetlands, and woodlands.
  - b. Minimize visual impact of new dwellings on surrounding properties.
  - c. Preservation of the rural character of existing public roads abutting the OSPC project.
  - d. Minimize interruptions of scenic vistas, as viewed from abutting public roads.
3. Natural Features: The development shall be designed to promote the preservation of natural features such as mature woodlands, steep slopes, wetlands, floodplains, stream corridors, and special plant and animal habitats. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the OSPC plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. See Section 13.05, Natural Features Setbacks and Buffers.
4. Storm Water Management: Provisions shall be made for appropriate storm water management, including the construction of necessary storm water facilities. The storm water management plan shall rely upon natural systems to the greatest extent possible and preserve the quality and integrity of such systems, rather than systems that encourage unnecessary topographic alternations, erosion, heightened impurities directed to surface and ground water systems, and similar negative impacts. See Section 13.06, Storm Water Management..
5. Guarantee of Open Space: An OSPC shall include permanently dedicated open space. The dedicated open space shall forever remain open space, subject only to uses approved by the Planning Commission on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation, or agricultural uses or preservation in an undeveloped state shall be strictly prohibited. The applicant shall

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guarantee to the satisfaction of the Township that all open space portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OSPC plan.

- a. **Amount of Open Space:** A minimum of fifty percent (50%) of the OSPC parcel shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land and found acceptable to the Planning Commission. For the purposes of this subsection, the following terms and phrases shall have the following meanings:
  - (1) “Undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
  - (2) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.
- b. **Irrevocable Conveyance:** The dedicated open space shall be set aside by the owner through an irrevocable conveyance that is found acceptable to the Township Attorney, such as recorded deed restrictions, covenants that run perpetually with the land, transfer to a nonprofit land trust, or a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended. Such conveyance shall assure that the open space will be protected from all forms of development, except as specifically delineated on an approved site plan. All subsequent use and improvements to the dedicated open space shall comply with the approved site plan. Changes to the authorized uses or improvements to the open space are prohibited except where the Planning Commission approves a revised site plan upon finding that the applicant’s proposed changes shall not alter the essential character of the open space or undermine the purpose and spirit of the OSPC concept as presented in this Section. Such conveyance shall:
  - (1) Indicate the proposed allowable use(s) of the dedicated open space.
  - (2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  - (3) Provide standards for scheduled maintenance of the open space such as the removal of litter and diseased or dead vegetation.
  - (4) Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

### Section 7.03 - ADULT ENTERTAINMENT BUSINESSES

- A. **Clarification of Purpose:** There is convincing documented evidence that adult entertainment businesses, because of their very nature, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These impacts are incompatible with activities and uses in residential areas, near educational, recreational, and religious facilities, and among local businesses and their immediate neighborhood. Such impacts can be exacerbated when such businesses locate in close proximity to each other or near establishments serving alcoholic beverages. Impacts contribute to blight and downgrading the quality of life in the adjacent area. The Township desires to prevent adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of blight. It is not the intent of this Ordinance, including this Section, to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral provisions that address the adverse effects of adult entertainment businesses. It is the purpose of this Section to regulate adult entertainment businesses and related activities to promote the health, safety, and general welfare of the Township. It is not the intent of this Section to condone or legitimize the distribution of adult entertainment materials.
- B. **Definitions:** For the purposes of this Section, the following terms, phrases and definitions shall apply:
  1. **Adult Entertainment Business:** A business or commercial enterprise engaging in or consisting of an adult bookstore, adult live entertainment center, adult motel, adult motion picture theater, adult smoking or sexual paraphernalia store, adult theater, escort, escort agency, massage parlor, nude model studio, open dance hall, or sexual encounter center.
  2. **Adult Bookstore:** A commercial establishment that, as a principal business purpose, offers for sale or rental or for any form of consideration any one or more of the items set forth in subsection (a) or (b). The sale of such materials shall be deemed to constitute a “principal business purpose” of an establishment if it comprises

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fifteen percent (15%) or more of sales volume or occupies fifteen percent (15%) or more of the display area, or visible inventory, within the establishment.

- a. Books, magazines, periodicals or other printed matter or photographs, films, motion picture video or other video reproductions, slides, or other visual representations or media, that depict or describe specified anatomical areas or specified sexual activity.
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
3. Adult Live Entertainment Center: A nightclub, bar, restaurant, or similar commercial establishment that features one (1) or more of the following:
- a. Persons who appear in the state of nudity.
  - b. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
  - c. Films, motion pictures, video reproductions, slides, and other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
4. Adult Motel: A hotel or motel or similar commercial establishment that provides or permits one (1) or more of the following:
- a. Accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, videos, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
  - b. Sleeping rooms for rent for a period of time that is less than twelve (12) hours.
  - c. The sub-renting of a sleeping room for a period of time that is less than twelve (12) hours by the tenant or occupant of the room.
5. Adult Motion Picture Theater: A commercial establishment that shows films, motion pictures, videos, slides, or other photographic reproductions or visual media, that depicts or describes specified anatomical areas or specified sexual activities, including commercial establishments that offer individual viewing booths. This phrase shall not apply to a motel or hotel, as defined in this Ordinance, which offers for a fee the viewing of movies within a customer's room including movies that depict specified anatomical areas or specified sexual activity.
6. Adult Smoking or Sexual Paraphernalia Store: An establishment having, as part of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting, or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.
7. Adult Theater: A theater, concert hall auditorium, or similar commercial establishment that 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 specified sexual activities.
8. Escort: A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
9. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
10. Manager's Station: Designated area from which a premise is managed or supervised.
11. Massage Parlor: Any establishment having a fixed place of business where massages are administered for a fee or other consideration including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing homes, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet two (2) or more of the following criteria:
- a. Proof of graduation from a school of massage licensed by the State of Michigan.
  - b. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from professional massage therapists who are members of a massage association referred to in this subsection.
  - c. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or other recognized massage association with equivalent professional membership standards.
  - d. A current occupational license from another state.

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12. **Nude Model Studio**: Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include the following:
    - a. An educational institution funded, chartered, or recognized by the State of Michigan.
    - b. Any modeling session for a local, nonprofit organization that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two (2) dimensional or three (3) dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
  13. **Open Dance Hall**: An establishment where open dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
  14. **Public Nudity or State of Nudity**: Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or promise of 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:
    - a. A woman's breast feeding of an infant irrespective of whether the nipple is covered during or incidental to the feeding.
    - b. Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
  15. **Sexual Encounter Center**: A business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan, that, as one of its principal business purposes, offers for any form of consideration one (1) or more of the following:
    - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
    - b. Activities between male and female and/or persons of the same sex when one (1) or more of the persons is in a state of nudity.
  16. **Specified Anatomical Areas**: Any of the following:
    - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola.
    - b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
  17. **Specified Sexual Activities**: Any of the following:
    - a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
    - b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
    - c. Masturbation, actual or simulated.
    - d. Human genitals in a state of sexual stimulation or arousal.
    - e. Excretory functions as part of or in connection with any of the activities set forth in (a), (b), (c) or (d) above.
- C. Compliance with Table 3-4:** See Table 3-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.
- D Additional Standards:**
1. No exterior portion of the adult entertainment business, including signage, shall have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas or specified sexual activities.
  2. Separation Requirements
    - a. No adult entertainment business shall be located within seven hundred fifty (750) feet of any of the following:
      - 1) A church, synagogue or regular place of worship.
      - 2) A public or private elementary or secondary school.
      - 3) A Residential District.
      - 4) Any dwelling irrespective of the District.
      - 5) A public park.
      - 6) A licensed day-care center or preschool.
      - 7) Another adult entertainment business.
    - b. For the purposes of subsection (2)(a) above, measurement shall be made as a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a adult entertainment business is conducted to the nearest property line of the

## CLARENCE TOWNSHIP ZONING ORDINANCE

- premises of a public park, church, synagogue, regular place of worship, public or private elementary or secondary school or preschool, or licensed day care center, or to the nearest boundary of a Residential District or dwelling. However, the distance between any two (2) adult entertainment business uses shall be made from the closest exterior wall of the structure in which each business is located and in no case shall an adult entertainment business be located in the same building, structure, or portion thereof, containing another adult entertainment business.
- c. An adult entertainment business lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of a use within the separation requirements of subsection (2)(a) and (b) above.
  3. Signs of a minimum 24" by 36" size shall be posted on both the exterior and interior walls of the entrances of the business, in a location that is clearly visible to those entering and exiting the business. In addition, such signs shall be posted in at least two (2) conspicuous places, easily viewed by persons occupying the premises. Such signs shall have lettering that is at least two (2) inches in height, with the following printed statements:
    - a. Persons under the age of eighteen (18) years are not permitted to enter the premises.
    - b. 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.
  4. No merchandise or activities of the establishment shall be visible from any point outside the establishment.
  5. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
  6. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's stations of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Said unobstructed view from manager's stations shall remain unobstructed by any doors, walls, merchandise or display racks, or other materials at all times. No patron shall be permitted to access any area of the premises which has been designated on the approved site plan as an area in which patrons shall not be permitted.
  7. At least one (1) employee shall be on duty and situated in a manager's station at all times that any patron is present inside the premises.
  8. Rest rooms shall not contain any video reproduction equipment.
  9. Operational hours shall not exceed 9:00 a.m. – 1:00 p.m.
  10. An adult entertainment business that offers live entertainment shall provide all of the following:
    - a. A dressing room for performers with direct access between said dressing area and the performance area or stage, so that the performer may enter the performance area without entering the area from which patrons view the performance. The dressing area for performers shall be separate and not freely accessible from areas of the business accessible to patrons, and such dressing area shall contain hot and cold running water and toilet facilities.
    - b. All performances shall occur on a stage elevated at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or patron.
- D. Additional Application Requirements:** In addition to complying with the submittal requirements of Article XVIII, Site Plan Review, and Article XIX, Special Land Uses, application for an adult entertainment business shall include the following additional information:
1. A diagram of the premises specifying the location of manager's stations. A manager's station shall not exceed thirty-six (36) square feet of floor area.
  2. The location of all overhead lighting fixtures and illumination levels (in foot candles) at floor level throughout the premises.
  3. Any portion of the premises in which patrons are not permitted.

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## CLARENCE TOWNSHIP ZONING ORDINANCE

### Section 7.04 - EXTRACTION OPERATIONS

- A. Extraction operations are permitted in all districts, subject to special land use review and approval provisions of this Ordinance. When reviewing and taking action on a special land use application for an extraction operation, and in addition to reviewing such application according to the general special land use approval standards of Section 19.06, such application shall also be reviewed to determine whether adequate documentation has been submitted demonstrating that “no very serious consequences” will result by the approval of such application. The determination of “no very serious consequence” may be based on any of the following factors as may be applicable:
1. The relationship of extraction and associated activities with existing land uses.
  2. The impact on existing land uses in the vicinity of the property.
  3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
  4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
  5. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
  6. The overall public interest in the extraction of the specific natural resources on the property.

### Section 7.05 - WIRELESS COMMUNICATION TOWERS and EQUIPMENT

#### A. Definitions.

1. Definitions. For the purposes of this Section, the following terms shall have the following meaning:
  - a. “Collocate” means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. “Collocation” has a corresponding meaning.
  - b. “Equipment compound” means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
  - c. “Wireless communications equipment” means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.
  - d. “Wireless communications support structure” means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

#### B. Exceptions from Special Land Use Classification: Wireless communications equipment shall be classified as a Use Permitted by Right and shall not be subject to special land use proceedings if an application meets all of the following requirements:

1. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
2. The existing wireless communications support structure or existing equipment compound is in compliance with this Ordinance or was previously approved by the Township.
3. The proposed collocation will not do any of the following:
  - a. Increase the overall height of the wireless communications support structure by more than 20 (twenty) feet or 10% (ten percent) of its original height, whichever is greater.
  - b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
  - c. Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - d. The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the then-designated approving body of the Township.

#### C. Special Application Review Provisions:

1. In the case where a special land use application for wireless communication equipment is filed with the Planning Commission, the Planning Commission shall determine whether the application is administratively complete. Unless the Planning Commission proceeds as provided under subsection (b) below, the application shall be considered to be administratively complete when the Planning Commission makes that determination or the passing of fourteen (14) business days after the Planning Commission receives the application, whichever occurs first.

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2. If, before the expiration of the fourteen (14) day period under subsection (1) above, the Planning Commission notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (1) above is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
3. The Planning Commission shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete, except that in the case of a special land use application for wireless communications equipment that does not meet the requirements of subsection (B)(1) or for a wireless communications support structure, the period for approval or denial shall be 90days. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

### End of Article VII

*(Art. VII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, floor area requirements, relocated to Art. XXIII)*

*(Art. VII amended 3-14-11 / Ord. 24-4 to address "Standards and Regulations for Specific Land Uses" – Open Space Preservation Communities and Adult Entertainment Businesses)*

*(Art. VII amended 5-14-12 / Ord. 24-6 to insert Sec. 7.04, Extraction Operations)*

*(Art. VII Amended 8-12-13 / Ord. 24-7 to insert Sec. 7.05, Wireless Communication Towers and Equipment)*



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Article VIII

Section 8.01 - OFF-STREET PARKING OF MOTOR VEHICLES

Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto in each district for all occupants, employees and patrons of said property.

Section 8.02 - REQUIRED PARKING AND LOADING SPACES

A plan showing the required parking and loading spaces including the means of access and interior circulation, except for one-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.

Section 8.03 - REQUIREMENTS for ALL PARKING SPACES and PARKING LOTS

- A. In the case of single family and two-family dwellings, each automobile parking space shall be not less than two hundred (200) square feet nor less than ten (10) feet wide exclusive of driveway and aisle widths. In the case of other uses including multiple family developments and commercial, industrial, public, and institutional uses, each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes, backing directly onto a public road right-of-way shall be prohibited, and the layout of off-street parking areas shall comply with the minimum standards of the table below. In no case shall the standards be exceeded by more than ten percent (10%), rounded to the next higher one-half foot increment, except upon a finding by the site plan approving body that such additional widths or lengths are necessary due to the unique character of the use or the vehicles anticipated to be present.

Table with 4 columns: Parking Pattern, Maneuvering Lane Width (One-Way, Two-Way), Parking Space Width, and Parking Space Length. Rows include 0° (Parallel), 30°- to 53°, 54°- to 74°, and 75°- to 90°.

Where a parking space is curbed, the vehicle overhang off the curb may be credited as two (2) feet if adjacent to landscaping, or adjoining a sidewalk at least seven (7) feet wide.

- B. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged to reflect the light away from any adjoining property.
C. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
D. The number of parking spaces required for land or buildings used for two (2) or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use.

However, the joint use of parking facilities by two or more uses may be granted during site plan review proceedings whenever such joint use is practical and satisfactory to each of the uses intended to be served, and when all site development requirements of Section 18.06(C) are met.

- 1. Computing Capacities: In computing capacities of any joint use, the total space requirement shall be the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
2. Record of Agreement: A copy of a proposed agreement between joint users shall be filed with the application for a zoning permit and a copy shall be recorded with the County Register of Deeds upon approval of the application. The agreement shall include a guarantee for continued use of the parking facility by each party and a provision requiring written approval by all joint users and the site plan approving body for termination of such agreement.

## CLARENCE TOWNSHIP ZONING ORDINANCE

- E. All required off-street parking shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent direct drainage onto abutting properties and public streets. See also Section 26.06, Storm Water Management.

### Section 8.04 - MINIMUM REQUIRED PARKING SPACES

This Section identifies the minimum number of required off-street parking spaces by land use type. However, in no case shall additional parking spaces of a concrete, asphalt or similar impervious surface be provided in excess of twenty-five percent (25%) of the minimum required number, except upon a finding by the site plan approving body that such additional spaces are necessary due to the unique character of the use in relation to the standards of this Section.

- A. Apartment houses: Two (2) parking spaces for family unit.
- B. Retail stores, supermarkets, department stores, personal service shops, and shopping centers: One (1) parking space for each one hundred (100) square feet area in the basement and on the first floor used for retail sales; one (1) space for each one hundred fifty (150) square feet of floor area on the second floor unused for retail sales; one (1) space for each three hundred (300) square feet of floor area on the third floor used for retail sales; and one (1) space for each four hundred (400) square feet of any additional floor used for retail sales.
- C. Manufacturing buildings: One (1) parking space for each three (3) employees on the maximum shift.
- D. Motels and tourist homes: One (1) parking space for each separate unit.
- E. Theaters, auditoriums, stadiums and churches: One (1) parking space for each four (4) seats.
- F. Dance halls, assembly halls and convention halls without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.
- G. Restaurants and night clubs: One (1) parking space for each one hundred (100) square feet of floor area.
- H. Roadside stands: Two (2) parking spaces.
- I. Other uses not specifically mentioned: In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.

**Section 8.05** - The zoning board of appeals shall have authority to grant variance from the foregoing where it is satisfied under the circumstances prevailing that the requirements for off-street parking are unnecessarily too large for the particular development.

### Section 8.06 – DEFERMENT OF PARKING SPACES

In recognition that certain commercial uses generate significantly heightened demands for parking spaces during seasonal or holiday shopping periods, the site plan approving body may, upon request by the applicant, waive up to twenty-five percent (25%) of the required number of parking spaces as a reserved parking area for possible future use. However, the site plan approving body may subsequently require the applicant to construct such parking spaces upon a determination by the site plan approving body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within 6 months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures, or similar improvements shall be established in the reserve parking area. This subsection shall apply only to commercial uses that are required to provide more than thirty (30) parking spaces.

### End of Article VIII

*(Art. VIII Amended 5-11-09 / Ord. 24-1)*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article IX  
Reserved for Future Use**

**End of Article IX**

*(Art. IX amended 3-14-11 / Ord. 24-4 to reserve for future use)*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article X**  
**Reserved for Future Use**

**End of Article X**

*(Art. X amended 3-14-11 / Ord. 24-4 to reserve for future use, its previous subject matter, buffer areas, relocated to Art. III)*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article XI  
Reserved for Future Use**

**End of Article XI**

*(Art. XI amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, lighting and screening, relocated to Art. XXIII)*

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**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article XII  
Reserved for Future Use**

**End of Article XII**

*(Art.XII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, tents and trailers, relocated to Art. XXIII)*

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# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XIII

### ENVIRONMENTAL PROTECTION

#### Section 13.01 - PURPOSE

The purpose of this Article is to promote a healthy environment as it relates to the Township's natural resources and sensitive ecosystems, addressing such matters compliance with environmental protection laws, erosion control and sedimentation, storm water management, minimizing disturbances to natural resources, and assuring adequate provisions for sewage disposal and potable water. This Article is intended to protect the Township's natural resources for the important environmental roles they play including wildlife habitats, flood control, water purification, groundwater recharge, and air quality enhancement, as well as the impacts such resources have on recreation and property values. All provisions of this Article apply to all structures, buildings and uses unless otherwise specified.

#### Section 13.02 - GENERAL REQUIREMENTS

- A. Compliance with Local, County, State, and Federal Regulations:** All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal regulations including, but not limited to the Michigan Department of Environmental Quality, Calhoun County Health Department, and any other agency of jurisdiction including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, waste disposal, and the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable and toxic materials.
1. Except where required to do so by law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits, or satisfactory evidence has been submitted to the approving body verifying the acquisition of such permit is not necessary.
- B. Atmospheric Discharge:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use. This subsection shall not apply to farm operations in compliance with most current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.
- C. Sensitive Environmental Areas:** Where a portion of a parcel is characterized by sensitive or fragile environmental features, including wetlands, hydric soils, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
- D. Removal of Topsoil:** The stripping and removal of topsoil from a lot for storage, use or deposit at or on another lot is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized as part of an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed to be paved or otherwise built upon. This subsection (D) shall not apply in the case of single family and two-family dwellings for which a Zoning Permit and Building Permit has been issued, provided the topsoil to be removed is limited to the immediate area of the proposed site improvements according to such permits.
- E. Mitigation:** The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

#### Section 13.03 - POTABLE WATER and SEWAGE DISPOSAL

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of generated wastes. All sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Calhoun County Health Department as well as those of other applicable local, county, state, or federal agencies.

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**Section 13.04 - LIMITATIONS on IMPERVIOUS COVER**

The maximum portion of a lot or parcel that may be of an impervious cover, measured as a percent (%) of the area of the lot or parcel, shall not exceed the standards of the table below. For the purpose of this Section 13.04, “impervious cover” shall mean any manmade paved or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, and any concrete or asphalt. However, in the case of a residence, “impervious cover” shall not include swimming pools, any portion of a walkway less than five (5) feet in width, and any portion of a driveway less than twelve (12) feet in width.

<b>Zoning District</b>	<b>Maximum Impervious Cover</b>
AG District	15% of Lot/Parcel Area
R-1 and R-2 Districts	<p align="center"><u>Lot Area of Less Than 5,000 sq. ft.</u></p> <p>The greater of either 2,000 square feet or 50% of the lot/parcel area. For example, the maximum impervious cover for a lot of 3,500 sq. ft. would be the greater of 2,000 sq. ft. or 50% of 3,500 sq. ft. which is equal to 1,750 sq. ft. The maximum permissible impervious cover would be 2,000 sq. ft.</p> <p align="center"><u>Lot Area of Between 5,000 sq. ft. – 10,000 sq. ft.</u></p> <p>The greater of either 2,500 square feet or 35% of the lot/parcel area. For example, the maximum impervious cover for a lot of 8,000 sq. ft. would be the greater of 2,500 sq. ft. or 35% of 8,000 sq. ft. which is equal to 2,800 sq. ft. The maximum permissible impervious cover would be 2,800 sq. ft.</p> <p align="center"><u>Lot Area of Between 10,001 sq. ft. – 20,000 sq. ft.</u></p> <p>The greater of either 3,500 square feet or 25% of the lot/parcel area. For example, the maximum impervious cover for a lot of 12,000 sq. ft. would be the greater of 3,500 sq. ft. or 25% of 12,000 sq. ft. which is equal to 3,000 sq. ft. The maximum permissible impervious cover would be 3,500 sq. ft.</p> <p align="center"><u>Lot Area of More Than 20,000 sq. ft.</u></p> <p>The greater of either 5,000 square feet or 20% of the lot/parcel area. For example, the maximum impervious cover for a lot of 30,000 sq. ft. would be the greater of 5,000 sq. ft. or 20% of 30,000 sq. ft. which is equal to 6,000 sq. ft. The maximum permissible impervious cover would be 6,000 sq. ft.</p>
Commercial and Industrial Districts	50% of Lot/Parcel Area

**Section 13.05 - NATURAL FEATURES SETBACKS and BUFFERS**

- A. Definitions:** For the purpose of this Section, the following words and phrases shall have the following meanings:
- Impervious Cover:** Any manmade paved, hardened or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, swimming pools, and any concrete or asphalt.
  - Natural Feature:** A wetland or watercourse.
  - Natural Feature Edge:** The ordinary high water mark as defined below, except that in the case where there exists a bank along the natural feature such as a stream bank, where the bank exceeds a slope of ten percent (10%), the natural feature edge shall be considered the top of the bank or a line thirty (30) feet from the ordinary high water mark, whichever is less.
  - Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
  - Watercourse:** Any waterway including a river, stream, creek, lake, vernal pool, pond, or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
  - Wetlands:** Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.



## CLARENCE TOWNSHIP ZONING ORDINANCE

### **B. Natural Feature Setback Required:**

1. Unless otherwise specified in this Ordinance, a natural features setback of sixty (60) feet shall be maintained from the natural feature edge for all buildings, and any structures in excess of three (3) feet in height above the ground below, except that where there exists one (1) or more dwellings located along such natural feature and where such one or more dwelling is within one hundred fifty (150) feet of a side lot line of the lot on which construction of a dwelling is proposed, the required setback shall be the average setback of such existing dwellings measured from the natural feature edge. However, in no case shall such natural feature setback be less than twenty-five (25) feet nor shall such setback be required to be greater than sixty (60) feet. Steps, and those portions of unroofed decks and porches with a floor surface eighteen (18) inches or less above the ground, shall not be considered in determining such average setback. Where only a portion of a dwelling is located within such one hundred fifty (150) foot measured distance, the setback of the entire dwelling shall be used for determining such average setback.
2. Unless otherwise specified in this Ordinance, a natural features setback of twenty-five (25) feet shall be maintained from the natural feature edge for all decks, patios, and any structures of three (3) feet or less in height above the ground below.

### **C. Use Restrictions within a Natural Feature Setback:** Within a natural feature setback, unless and only to the extent determined to be in the public interest by the designated approving body for the development under consideration, there shall be no clearing, grubbing or stripping; removal of vegetation; application of fertilizers or pesticides; dredging, grading, excavation, removal or addition of soil or transporting and filling of land; erection or addition of structures, buildings or any other construction including concrete or asphalt paving; or the installation of any impervious cover. In addition, no vegetation cutting or removal within the natural features setback shall occur prior to all approvals from the designated approving body(s) have been obtained.

1. **Determination of Public Interest:** In determining whether proposed construction or operations in a natural resources setback are in the public interest, the benefit which would reasonably be expected to result from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration the local, state and national concern for the protection and preservation of the natural feature in question. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural feature setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:
  - a. The relative extent of the public and private need for the proposed activity;
  - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity;
  - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides;
  - d. The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by other existing and anticipated activities on the natural feature to be protected;
  - e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health;
  - f. The degree of proposed encroachment into the natural features setback, and the proximity of the proposed construction and/or operation in relation to the general natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected;

### **D. Exemptions:** If and to the extent Clarence Township is prohibited by its ordinances and/or law from regulating the proposed activity in or on the respective natural feature, regulation under this Section shall be exempted. In addition, the following activities shall be exempted from regulation under this Section provided it is not the intent of this provision to exempt regulation by other ordinance provisions relative to the natural feature itself:

1. Installation of a fence;
2. Maintenance of previously established lawn areas;
3. Grading and filling necessary in order to conform to express requirements imposed by the Township;
4. Installation of docks for watercourse use provided the portion of such dock or access way extending through or across a wetland does not exceed seventy-five (75) feet.
5. Planting of non-invasive trees and other vegetation, but not the use of fertilizers.
6. Work consisting of the repair or maintenance of any lawful use of land approved for such use.
7. Existing agriculture, silviculture, landscaping, gardening and lawn maintenance, including the removal of dead and diseased trees.

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8. The clearing of up to thirty percent (30%) of the vegetation in the natural features setback to afford views and/or access to the natural feature, provided adequate measures are taken to prohibit the exposure of bare soil and soil erosion, such as the establishment of grasses or other vegetative ground cover.
9. Any lawful activity that is under construction, fully approved for development prior to the effective date of this Ordinance.

### Section 13.06 - STORM WATER MANAGEMENT

- A. Applicability:** Uses subject to this Section shall be limited to those uses subject to site plan approval according Article XVIII of this Ordinance unless expressly provided otherwise by this Ordinance.
- B. General Standards:** All uses shall be designed, constructed, and maintained to prevent flooding, protect water quality, reduce soil erosion, maintain and improve wildlife habitat, and contribute to the aesthetic values of the project. In meeting these requirements, the following standards shall apply to the greatest extent practical and feasible:
  1. All storm water drainage and erosion control plans shall meet the rules and regulations of the Calhoun County Drain Commissioner and any additional regulations as this or other ordinance may provide, including standards pertaining to discharge volumes and the design of retention and detention areas. Compliance with such standards shall, to the maximum extent feasible, utilize nonstructural control techniques including, but not limited to: limitation of land disturbance and grading; maintenance of vegetated buffers and natural vegetation; minimization of impervious surfaces; use of terraces, contoured landscapes, runoff spreaders, and grass or rock-lined swales; and use of infiltration devices.
  2. The particular facilities and measures required on-site shall reflect and incorporate existing grade, natural features, wetlands, and watercourses on the site.
  3. Storm water management systems shall be designed to prevent flooding and the degradation of water quality related to storm water runoff and soil erosion from proposed development for adjacent and downstream property owners.
  4. Site development and storm water management systems shall maintain natural drainage patterns and watercourses.
  5. The conveyance of storm water shall rely on swales and vegetated buffer strips to the greatest extent feasible and practical.
  6. Drainage systems shall be designed to be visually attractive including the integration of storm water conveyance systems and retention and detention ponds into the overall landscape concept. Ponds shall be designed to be naturally contoured, rather than a square or rectangular design.
  7. It shall be prohibited to increase the rate or quantity of runoff upon adjacent properties or public roads, to cause erosion or filling of a roadside ditch, stream or other water body, to block a public watercourse, or create standing water over a sewage disposal drainage field.
  8. Whenever a landowner is required to provide on-site storm water retention and/or surface drainage to wetlands, or whenever other protective environmental measures including monitoring devices are required, such measures or facilities shall be provided and maintained at the landowner's expense. The landowner shall provide satisfactory assurance to the Township whether by written agreement or otherwise, that the landowner will bear the responsibility for providing and maintaining such methods or facilities.
- C. Minimizing Storm Water Runoff**
  1. Roads constructed as part of a subdivision or similar unified development shall be designed to minimize storm waste runoff such as limiting road paving to the minimum necessary width, including cul-de-sacs, while adequately addressing anticipated traffic levels, on-street parking, and emergency vehicle needs.
  2. See Sections 8.03(D) and 8.06 regarding minimizing impervious surfaces in association with off-street parking through shared parking facilities and deferred parking spaces.
  3. Roof-top runoff shall be directed to pervious areas such as yards, open channels, or other vegetated areas.
  4. Clearing and grading shall be limited to only those locations approved for such landscape alterations as delineated on the approved site plan.
- D. Use Of Wetlands:** Wetlands may be used for storm water management if all the following conditions are met:
  1. All runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland. Such treatment facilities shall be constructed before property grading begins. Storm water runoff discharged to wetlands must be diffused to non-erosive velocities before it reaches the wetland. Direct discharge of untreated storm water to a natural wetland is prohibited.
  2. Wildlife, fish, or other beneficial aquatic organisms and their habitat within the wetland shall not be impaired.
  3. The wetland has sufficient holding capacity for storm water, based upon calculations prepared by the applicant and reviewed and approved by the township after consultation with an engineer of applicable expertise.
  4. Adequate on-site erosion control is provided to protect the natural functioning of the wetland.
  5. Adequate private restrictions are established, such as a conservation easement over the wetlands, to insure that

## CLARENCE TOWNSHIP ZONING ORDINANCE

- the wetland is not disturbed or impaired in the future relative to the needed storage capacity.
6. Applicable permits from the Michigan Department of Environmental Quality and any other agency of jurisdiction are obtained.

### End of Article XIII

*(Art. XIII amended 6-14-10 / Ord. 24-3 to reserve for future use)*

*(Art. XIII amended 3-14-11 / Ord. 24-4 for "Environmental Protection," previously comprising Article XXVI)*

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**Article XIV**

**ADVERTISING SIGNS and BILLBOARDS**

**Section 14.01** - No advertising signs or billboards of any kind or nature shall be erected in an “R-1”, “R-2”, or “R-3” Residence District or any variation of the same except as follows:

- A.** In an “R-1”, “R-2”, or “R-3” Residence District, a name plate not exceeding six (6) square feet in area containing the name and the home occupation of the occupant of the premises. Temporary signs not exceeding eight (8) square feet in area may be installed or constructed.
- B.** In an “A” Agricultural District, a sign not exceeding thirty-two (32) square feet in area advertising permitted services rendered or offered upon or from the premises where the same is situated so that in no way, constitutes a traffic hazard; is of a subdued nature commensurate with the residential or agricultural character of the neighborhood; is maintained in a neat and attractive manner: contains no neon or intermittent lighting or other bright or blaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein.
- C.** Advertising signs, (not exceeding thirty-two (32) square feet) advertising goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located, may be installed or constructed within a “C-1” Commercial District provided they are located not less than ten (10) feet from the side line of the property nor less than one-half the required building setback distance from the abutting street right-of-way line; in no manner constitute a traffic hazard; are not less than eleven (11) feet above any sidewalk or passway for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or unreasonable size, and are not constructed or installed until a permit has first been obtained therefor from the building and zoning inspector of the township.
- D.** No advertising sign permit shall be issued until the building and zoning inspector is satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy, and durable manner with proper bracing anchorage, and foundation.

**End of Article XIV**

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**ARTICLE XV  
FLOOD HAZARD AREAS**

**Section 15.01 - INTENT AND PURPOSE**

- A.** It is the purpose of this Section to significantly reduce hazards to persons and damage to property as a result of flood conditions in Clarence Township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended, and subsequent enactment's and the rules and regulations promulgated in furtherance of this program by the Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976.
- B.** Further, the intent of this Section is to protect human life, health and property from the dangerous and damaging effects of flood conditions; to minimize public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas; to prevent private and public economic loss and social disruption as a result of flood conditions; to insure that the public has access to information indicating that the location of land areas subject to periodic flooding; and to preserve the ability of floodplains to carry and discharge a base flood.

**Section 15.02 - FLOOD HAZARD AREA DELINEATION**

- A.** The flood hazard area shall overlay the zoning districts delineated on the official Clarence Township District Map. The boundaries of the flood hazard area shall coincide with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the Flood Hazard Boundary Maps, which are hereby adopted by reference, and declared to be part of this ordinance.
- B.** When Flood Hazard Boundary Maps are not available, the flood hazard area boundaries shall coincide with the Intermediate Region Flood designations as established by the U.S. Army Corps of Engineers, "Flood Plain Information" reports, which are hereby adopted by reference, and declared to be a part of this ordinance.
- C.** When neither of the above documents are available, the Planning Department shall utilize flood hazard information to determine the Flood Hazard Area Boundaries. Such information may include:
  - 1. Testimony of reliable persons knowledgeable of the area concerning the highest known flood elevation;
  - 2. Estimates of the Flood Hazard areas or elevations provided by the Water Management Divisions of the Michigan Department of Natural Resources, and
  - 3. Engineering reports prepared in connection with County Drains Intercounty Drains, and other drainage projects which document the flood potential of a particular water course.
- D.** Any person aggrieved by the determination of a Flood Hazard Area Boundary may appeal said determination to the Board of Appeals pursuant to Article XVI of this ordinance.

**Section 15.03 - DEVELOPMENT PERMITS**

No new construction, including the erection of structures and the placement of mobile homes, or prefabricated buildings, within a flood hazard area shall occur, except upon issuance of a development permit in accordance with the requirements of Article XVII of this ordinance and the following standards:

- A.** All applicable permits shall have been issued by the appropriate authorities including but not limited to the following:
  - 1. Flood Plain Permit, or letter of no authority from the Water Resources Division of the Michigan Department of Natural Resources, pursuant to Act 24 of the Public Acts of 1929, as amended.
  - 2. Soil Erosion and Sedimentation Control Permit from the Calhoun County Drain Commissioner pursuant to Act 347 of the Public Acts of 1972 as amended.
  - 3. Inland Lakes and Streams Act and U.S. Army Corps of Engineers 404 Permit which area administered by the Michigan Department of Natural Resources pursuant to Public Act 346 of 1972 as amended.
- B.** All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above base flood level.
- C.** All mobile homes shall be placed on a lot which is elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above base flood level.

## CLARENCE TOWNSHIP ZONING ORDINANCE

- D. All new construction and substantial improvements of non-residential structures shall have either:
  - 1. The lowest floor, including basement, elevated to or above the base of flood level; or
  - 2. Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall indicate the elevation to which the structure is flood proofed.
- E. Public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- F. At least one access drive shall be provided to any building which has a finished grade elevation which is no lower than sixteen (16) inches below the base flood level in order to provide for potential evacuation of the building.

### **Section 15.04 - DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this Section shall not be considered a guarantee or warranty of safety from flood damage.

This ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This ordinance does not create liability on the part of Clarence Township or any officers or employee thereof for any flood damages that result from reliance of this ordinance or any administrative decision lawfully made thereunder.

**End of Article XV**

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XVI

### WATERFRONT PROPERTY RESTRICTIONS

#### Section 16.01 - INTENT AND PURPOSE

It is the intent of this Article to protect the environmental integrity and recreational value of the lakes in Clarence Township, and the value of property along such lakes, through controls intended to balance such protection interests with opportunities for the reasonable use of such lakes and shoreline areas. The Township's lakes and connecting water courses are a valuable and irreplaceable natural resource providing important recreational, aesthetic, economic, and residential opportunities to Township residents and visitors. The lack of management of the use of lake waters and shoreline areas will encourage the deterioration of wildlife habitat, water quality, property values and recreation opportunities, and threaten the health and safety of persons in, on or about the lake. The provisions of this Article are intended to protect the public health, safety and welfare by establishing reasonable limitations on boating activity, construction of docks and piers, and use of lake waters and shoreline areas.

**Section 16.02 - DEFINITIONS.** For the purposes of this Article, the following terms and phrases shall have the following meanings:

- A. "Commercial Marina" shall mean a facility for the docking of watercraft that is made available for use to non-owners of the lot for remuneration including, but not limited to rental fees and user fees, and which may provide accessory services including boat service, repair, storage, and sales.
- B. "Common Use Lot" shall mean a lot, parcel, or condominium unit, with water frontage on a lake, which allows, has been created to allow, and/or is proposed to allow, the common use thereof by non-owners of the common use lot, multiple owners of the common use lot, non-riparian land owners, the public, members of an association, occupants of a campground, or by more than the residents of one single family dwelling unit or, in the case of a two family dwelling on such lot, parcel, or condominium unit, by more than the residents of such two family dwelling. The phrase "common use lot" shall apply to such lot, parcel or condominium unit irrespective of its creation or recordation date, or the date when such common use was initiated or permitted to be initiated, including in the case of a deed, grant, reservation, easement, covenant, or other recorded instrument. The phrase "common use lot" shall not apply to a commercial marina or a recreation facility under the ownership of a township, county or state.
- C. "Dock" shall mean a permanent or seasonal structure, pier or platform extending from lake or water course shorelines on or over the waters of the lake or water course, designed or used for pedestrian passage and mooring of watercraft.
- D. "Dock", "Docked", and "Docking" shall mean: the mooring of watercraft to a dock or waterfront land or anchoring of watercraft adjacent to waterfront land.
- E. "Lake" shall mean a body of water situated wholly within the Township exceeding forty (40) acres in size and three (3) feet or more in depth in any location, together with all navigable water courses, streams, ditches, inlets and outlets connected to the lake.
- F. Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
- G. "Watercraft" shall include any vessel or device built, designed or used for transportation of humans on liquid water including, but not limited to boats, jet skis, canoes, rafts, and sailboats.
- H. "Waterfront Parcel" shall mean a lot or parcel of land which abuts the ordinary high water mark of a lake:
  - 1. defined by a separate legal description contained in a recorded conveyance or land contract in the case of unimproved land, or
  - 2. on which a dwelling is located in the case of improved land.
- I. Water Frontage: That portion of a lot, parcel, or condominium unit of land, of record as documented by an instrument duly recorded within the Calhoun County Register of Deeds, that abuts or intersects with the ordinary high water mark of a lake, irrespective of the nature or character of the ownership of such lot, parcel or condominium unit.

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### Section 16.03 - SCOPE

This article shall not interfere with, abrogate or limit grants or easements existing prior to the date of adoption of this Article or lawful non-conforming uses of property within the Township as defined and limited by Article V of this ordinance, except as otherwise provided by Section 16.05(L).

### Section 16.04 - REGULATIONS FOR WATERFRONT PARCELS:

No person shall place, erect or maintain a dock on any waterfront parcel, on any lake within the Township except in conformance with the following requirements:

- A. The dock shall not exceed one hundred fifty (150) feet in length.
- B. Not more than six (6) watercraft shall be docked at and/or launched from any waterfront parcel except as may be authorized by Section 16.05.
- C. The launching or docking of watercraft from or at any waterfront parcel for remuneration or any other consideration is prohibited.
- D. The placement of any anchored raft, dock or other structure, excluding boat lifts used or designed primarily for tethering or docking of watercraft on the waters of any lake unless such structure is attached to a waterfront parcel, is prohibited.
- E. Where a waterfront parcel is used or proposed to be used as a common use lot, such common use lot shall comply with the provisions of Section 16.05 in addition to the provisions of Section 16.04.

### Section 16.05 - REGULATIONS FOR COMMON USE LOTS

- A. Common use lots are classified as special land uses/special exception uses and subject to the provisions of Article IV in addition to the provisions of this Article XVI.
- B. A common use lot shall comply with the regulations of the District in which it is located except as otherwise provided in this Article.
- C. The minimum area of a common use lot shall be 15,000 square feet plus one thousand (1,000) square feet for each dwelling unit or campground campsite served by the common use lot. The calculation of minimum lot area shall exclude any portion of the lot that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS maps, or National Wetland Inventory Maps, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
- D. The minimum water frontage of a common use lot, measured by a straight line that intersects each side lot line of the common use lot at the ordinary high water mark, shall be the greater of 120 feet or 60 feet for each dwelling unit or campground campsite served by the common use lot. For example purposes, a common use lot that serves four dwelling units shall have a minimum water frontage of 240 feet.
  1. Alterations to the shoreline shall not be a basis for increasing the calculated water frontage including dredging, the addition of earth or fill material, or by the drainage of water.
  2. The calculation of water frontage shall exclude any frontage that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS map, or National Wetland Inventory map, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
  3. In the case where the common use lot shall not be used for the docking or launching of motorized watercraft and/or is used as part of a campground, the Planning Commission may permit a lesser frontage than that of the 60 foot standard referenced in (2) above after finding that the proposed character and intensity of use complies with the provisions of Section 16.05(K).
- E. The minimum road frontage of a common use lot shall be one hundred twenty (120) feet.
- F. The minimum depth of a common use lot across a minimum of eighty percent (80%) of the lot shall be one hundred twenty (120) feet, measured as a straight line generally perpendicular from the road right-of-way to the ordinary high water mark.
- G. There shall be no vehicular parking on a common use lot except where expressly authorized according to an approved site plan that delineates the specific location and dimensions of such spaces, permissible hours of such parking, and screening measures to minimize negative impacts of such parking areas on adjacent properties.



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- H.** The following regulations shall apply to common use lots that permit watercraft docking.
1. The development of and the operation of a boat dock shall comply with all applicable local, county, state and federal rules and regulations, including but not limited to the rules and regulations of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, the Michigan Department of Natural Resources, and the Michigan Department of Environmental Quality.
  2. Docking and launching from any manmade channel or canal is prohibited.
  3. Docking and launching shall be restricted to only those individuals residing on or in the lot, parcel, condominium unit or dwelling unit identified as required in Section 16.05(J).
  4. Docking, launching, lake access, and storage of watercraft on a common use lot, and privileges for the same, shall not be leased, rented, conveyed, granted, gifted, or in any way used for compensation, except in conjunction with the lease or rental of the dwelling unit entitled to use the common use lot as provided by these regulations.
  5. Devices or structures from common use lots for docking, such as piers, shall be no closer than fifty (50) feet from one another and no more than one (1) pier or dock shall be established for the lesser of each sixty (60) feet of water frontage of such common use lot and each dwelling unit or campground campsite served by the common use lot.
- I.** No common use lot shall be used for any business, entertainment facility, or institutional or non-residential purpose, unless such use is authorized by the respective zoning district and all zoning permit and all other required approvals have been obtained.
- J.** Application for a common use lot shall require the submittal and approval of a deed, plat, covenant, restriction, easement, or other instrument conveying, granting and/or reserving the right to common use of the lot, parcel or condominium unit, specifically identifying the parcels, lots, properties, dwelling units or persons that are entitled to use of the common use lot. Such instrument shall include a restrictive covenant prohibiting the use of the common use lot for boat liveries, public or commercial beaches, commercial marinas, public boat launching sites, public access, or for any recreational use operated for profit, except where such uses and activities are the subject of the application for the common use lot and expressly approved. Said instrument shall further provide that the uses of the common use lot shall be limited to and enjoyed exclusively by the owners, occupants and designated users of the property included in said instrument, and that the right of use may not be further assigned, gifted, leased or rented.
- K.** In addition to compliance with the general approval standards for all special land use/special exception use according to Article IV, the following additional approval standards shall apply to common use lots. The applicant shall submit evidence documenting the extent to which the application complies with these standards.
1. The proposed use shall not unreasonably interfere with the rights of usage and enjoyment by owner's of property abutting the lake.
  2. The proposed use shall not unreasonably interfere with the enjoyment of owner's of property in the general vicinity of the common use lot.
  3. The proposed use shall not result in the overcrowding of the common use lot.
  4. The proposed use shall not result in the overcrowding or overuse of the lake or the lake's surface, and that the lake has surface area capacity available to handle increased traffic upon the lake without impairment to health, safety and welfare of the users of the lake.
- L.** Exemption for Existing Common Use Lots
1. Common use lots existing prior to the effective date of these regulations, that have been providing common use access to a lake through an association, subdivision, condominium deed, grant, reservation, covenant, or other recorded instrument, or by campground arrangement, are exempt from the regulations of this Section except under the following conditions:
    - a. where it is proposed to expand the geographical area, number of parcels, lots or persons that are provided common use access to a lake through said common use lot; or
    - b. where improvements on such common use lot, including repairs, shall result in the expansion, enlargement, or increase in intensity of use of such lot, parcel or condominium unit.

### End of Article XVI

*(Art. XVI Amended 5-11-09 / Ord. 24-2)*

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XVII

### ZONING BOARD of APPEALS (ZBA)

#### Section 17.01 - PURPOSE

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the purpose of this Ordinance is fully and equitably achieved.

#### Section 17.02 - CREATION and MEMBERSHIP

- A. Establishment and Appointment of Members:** The ZBA first established by the Township Board pursuant to the Zoning Ordinance adopted on July 8, 1991, as amended, is hereby retained in accordance with Public Act 110 of 2006, as amended. The ZBA shall consist of five (5) members, appointed by the Township Board by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the Township Board but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the ZBA.
- B. Alternate Members:** The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.
- C. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.
- D. Removal from Office / Conflict of Interest:** A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

#### Section 17.03 - ORGANIZATION

- A. Rules of Procedure and Officers:** The ZBA may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.
- B. Meetings and Quorum:** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the total regular membership of the ZBA shall comprise a quorum. The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.
- C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.
- D. Records:** The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

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### Section 17.04 - JURISDICTION

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.

### Section 17.05 - APPEALS FOR ADMINISTRATIVE REVIEWS

- A. Authority:** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator, Planning Commission or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken. However, in no case shall the ZBA hear an appeal of a Special Land Use decision. Such appeals shall be subject to circuit court appeal only.
- B. Standards:** The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if the ZBA finds that the action or decision appealed:
1. was arbitrary or capricious, or
  2. was based upon an erroneous finding of a material fact, or
  3. constituted an abuse of discretion, or
  4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
  5. did not follow required procedures.
- C. Procedures:**
1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
  2. Stay: An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed. However, if the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would in the opinion of such officer or body cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the ZBA or a circuit court.
  3. Record of Facts / Transmission of Record: Upon receipt of an application for an administrative review, the Zoning Administrator shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken.
  4. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the Township Board.
  5. Decision: The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

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### Section 17.06 - INTERPRETATIONS

- A. Authority:** The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts (see Article III).
- B. Procedures:**
1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of ten (10) copies of the completed application shall be submitted along with any application fees.
  2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
  3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and interpretation of the ZBA, and basis for such interpretation. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the matter in question is contained, and all other relevant provisions in the Ordinance.
    - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
    - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance.

### Section 17.07 - VARIANCES

- A. Authority:** The ZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses in a District.
- B. Standards:** The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.
1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances, such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property in relation to such conditions, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of the particular parcel of land.
  2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
  3. That the variance will relate only to property described in the variance application.
  4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
  5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
  6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
  7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

## CLARENCE TOWNSHIP ZONING ORDINANCE

### C. Procedures

1. **Application Requirements:** Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings, including any information the applicant may choose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
  - a. In granting a variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See "Supplemental Provisions" regarding conditional approvals.
  - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance; and the occupancy or use of the land, structure, and/or building for which the variance was granted has taken place within one (1) year after the granting of the variance. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
  - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, in the discretion of the ZBA.

### Section 17.08 - REVIEW by CIRCUIT COURT

- A. **Circuit Court Review:** The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:
  1. Complies with the constitution and laws of the State.
  2. Is based upon proper procedure.
  3. Is supported by competent, material, and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the ZBA.

### End of Article XVII

*(Art. XVII amended 6-14-10 / Ord. 24-3 to expand scope and clarification of ZBA provisions)*

## CLARENCE TOWNSHIP ZONING ORDINANCE

- E. All required off-street parking shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent direct drainage onto abutting properties and public streets. See also Section 26.06, Storm Water Management.

### Section 8.04 - MINIMUM REQUIRED PARKING SPACES

This Section identifies the minimum number of required off-street parking spaces by land use type. However, in no case shall additional parking spaces of a concrete, asphalt or similar impervious surface be provided in excess of twenty-five percent (25%) of the minimum required number, except upon a finding by the site plan approving body that such additional spaces are necessary due to the unique character of the use in relation to the standards of this Section.

- A. Apartment houses: Two (2) parking spaces for family unit.
- B. Retail stores, supermarkets, department stores, personal service shops, and shopping centers: One (1) parking space for each one hundred (100) square feet area in the basement and on the first floor used for retail sales; one (1) space for each one hundred fifty (150) square feet of floor area on the second floor unused for retail sales; one (1) space for each three hundred (300) square feet of floor area on the third floor used for retail sales; and one (1) space for each four hundred (400) square feet of any additional floor used for retail sales.
- C. Manufacturing buildings: One (1) parking space for each three (3) employees on the maximum shift.
- D. Motels and tourist homes: One (1) parking space for each separate unit.
- E. Theaters, auditoriums, stadiums and churches: One (1) parking space for each four (4) seats.
- F. Dance halls, assembly halls and convention halls without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.
- G. Restaurants and night clubs: One (1) parking space for each one hundred (100) square feet of floor area.
- H. Roadside stands: Two (2) parking spaces.
- I. Other uses not specifically mentioned: In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.

**Section 8.05** - The zoning board of appeals shall have authority to grant variance from the foregoing where it is satisfied under the circumstances prevailing that the requirements for off-street parking are unnecessarily too large for the particular development.

### Section 8.06 – DEFERMENT OF PARKING SPACES

In recognition that certain commercial uses generate significantly heightened demands for parking spaces during seasonal or holiday shopping periods, the site plan approving body may, upon request by the applicant, waive up to twenty-five percent (25%) of the required number of parking spaces as a reserved parking area for possible future use. However, the site plan approving body may subsequently require the applicant to construct such parking spaces upon a determination by the site plan approving body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within 6 months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures, or similar improvements shall be established in the reserve parking area. This subsection shall apply only to commercial uses that are required to provide more than thirty (30) parking spaces.

### End of Article VIII

*(Art. VIII Amended 5-11-09 / Ord. 24-1)*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article IX  
Reserved for Future Use**

**End of Article IX**

*(Art. IX amended 3-14-11 / Ord. 24-4 to reserve for future use)*

**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article X**  
**Reserved for Future Use**

**End of Article X**

*(Art. X amended 3-14-11 / Ord. 24-4 to reserve for future use, its previous subject matter, buffer areas, relocated to Art. III)*



**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article XI  
Reserved for Future Use**

**End of Article XI**

*(Art. XI amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, lighting and screening, relocated to Art. XXIII)*

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**CLARENCE TOWNSHIP ZONING ORDINANCE**

**Article XII  
Reserved for Future Use**

**End of Article XII**

*(Art.XII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, tents and trailers, relocated to Art. XXIII)*

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# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XIII

### ENVIRONMENTAL PROTECTION

#### Section 13.01 - PURPOSE

The purpose of this Article is to promote a healthy environment as it relates to the Township's natural resources and sensitive ecosystems, addressing such matters compliance with environmental protection laws, erosion control and sedimentation, storm water management, minimizing disturbances to natural resources, and assuring adequate provisions for sewage disposal and potable water. This Article is intended to protect the Township's natural resources for the important environmental roles they play including wildlife habitats, flood control, water purification, groundwater recharge, and air quality enhancement, as well as the impacts such resources have on recreation and property values. All provisions of this Article apply to all structures, buildings and uses unless otherwise specified.

#### Section 13.02 - GENERAL REQUIREMENTS

- A. Compliance with Local, County, State, and Federal Regulations:** All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal regulations including, but not limited to the Michigan Department of Environmental Quality, Calhoun County Health Department, and any other agency of jurisdiction including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, waste disposal, and the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable and toxic materials.
1. Except where required to do so by law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits, or satisfactory evidence has been submitted to the approving body verifying the acquisition of such permit is not necessary.
- B. Atmospheric Discharge:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use. This subsection shall not apply to farm operations in compliance with most current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.
- C. Sensitive Environmental Areas:** Where a portion of a parcel is characterized by sensitive or fragile environmental features, including wetlands, hydric soils, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
- D. Removal of Topsoil:** The stripping and removal of topsoil from a lot for storage, use or deposit at or on another lot is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized as part of an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed to be paved or otherwise built upon. This subsection (D) shall not apply in the case of single family and two-family dwellings for which a Zoning Permit and Building Permit has been issued, provided the topsoil to be removed is limited to the immediate area of the proposed site improvements according to such permits.
- E. Mitigation:** The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

#### Section 13.03 - POTABLE WATER and SEWAGE DISPOSAL

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of generated wastes. All sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Calhoun County Health Department as well as those of other applicable local, county, state, or federal agencies.

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**Section 13.04 - LIMITATIONS on IMPERVIOUS COVER**

The maximum portion of a lot or parcel that may be of an impervious cover, measured as a percent (%) of the area of the lot or parcel, shall not exceed the standards of the table below. For the purpose of this Section 13.04, “impervious cover” shall mean any manmade paved or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, and any concrete or asphalt. However, in the case of a residence, “impervious cover” shall not include swimming pools, any portion of a walkway less than five (5) feet in width, and any portion of a driveway less than twelve (12) feet in width.

<b>Zoning District</b>	<b>Maximum Impervious Cover</b>
AG District	15% of Lot/Parcel Area
R-1 and R-2 Districts	<p align="center"><u>Lot Area of Less Than 5,000 sq. ft.</u></p> <p>The greater of either 2,000 square feet or 50% of the lot/parcel area. For example, the maximum impervious cover for a lot of 3,500 sq. ft. would be the greater of 2,000 sq. ft. or 50% of 3,500 sq. ft. which is equal to 1,750 sq. ft. The maximum permissible impervious cover would be 2,000 sq. ft.</p> <p align="center"><u>Lot Area of Between 5,000 sq. ft. – 10,000 sq. ft.</u></p> <p>The greater of either 2,500 square feet or 35% of the lot/parcel area. For example, the maximum impervious cover for a lot of 8,000 sq. ft. would be the greater of 2,500 sq. ft. or 35% of 8,000 sq. ft. which is equal to 2,800 sq. ft. The maximum permissible impervious cover would be 2,800 sq. ft.</p> <p align="center"><u>Lot Area of Between 10,001 sq. ft. – 20,000 sq. ft.</u></p> <p>The greater of either 3,500 square feet or 25% of the lot/parcel area. For example, the maximum impervious cover for a lot of 12,000 sq. ft. would be the greater of 3,500 sq. ft. or 25% of 12,000 sq. ft. which is equal to 3,000 sq. ft. The maximum permissible impervious cover would be 3,500 sq. ft.</p> <p align="center"><u>Lot Area of More Than 20,000 sq. ft.</u></p> <p>The greater of either 5,000 square feet or 20% of the lot/parcel area. For example, the maximum impervious cover for a lot of 30,000 sq. ft. would be the greater of 5,000 sq. ft. or 20% of 30,000 sq. ft. which is equal to 6,000 sq. ft. The maximum permissible impervious cover would be 6,000 sq. ft.</p>
Commercial and Industrial Districts	50% of Lot/Parcel Area

**Section 13.05 - NATURAL FEATURES SETBACKS and BUFFERS**

- A. Definitions:** For the purpose of this Section, the following words and phrases shall have the following meanings:
- Impervious Cover:** Any manmade paved, hardened or structural surface regardless of material including but not limited to rooftops, buildings, streets, roads, decks, patios including those of a brick or stone material, swimming pools, and any concrete or asphalt.
  - Natural Feature:** A wetland or watercourse.
  - Natural Feature Edge:** The ordinary high water mark as defined below, except that in the case where there exists a bank along the natural feature such as a stream bank, where the bank exceeds a slope of ten percent (10%), the natural feature edge shall be considered the top of the bank or a line thirty (30) feet from the ordinary high water mark, whichever is less.
  - Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
  - Watercourse:** Any waterway including a river, stream, creek, lake, vernal pool, pond, or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.
  - Wetlands:** Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

## CLARENCE TOWNSHIP ZONING ORDINANCE

### **B. Natural Feature Setback Required:**

1. Unless otherwise specified in this Ordinance, a natural features setback of sixty (60) feet shall be maintained from the natural feature edge for all buildings, and any structures in excess of three (3) feet in height above the ground below, except that where there exists one (1) or more dwellings located along such natural feature and where such one or more dwelling is within one hundred fifty (150) feet of a side lot line of the lot on which construction of a dwelling is proposed, the required setback shall be the average setback of such existing dwellings measured from the natural feature edge. However, in no case shall such natural feature setback be less than twenty-five (25) feet nor shall such setback be required to be greater than sixty (60) feet. Steps, and those portions of unroofed decks and porches with a floor surface eighteen (18) inches or less above the ground, shall not be considered in determining such average setback. Where only a portion of a dwelling is located within such one hundred fifty (150) foot measured distance, the setback of the entire dwelling shall be used for determining such average setback.
2. Unless otherwise specified in this Ordinance, a natural features setback of twenty-five (25) feet shall be maintained from the natural feature edge for all decks, patios, and any structures of three (3) feet or less in height above the ground below.

### **C. Use Restrictions within a Natural Feature Setback:** Within a natural feature setback, unless and only to the extent determined to be in the public interest by the designated approving body for the development under consideration, there shall be no clearing, grubbing or stripping; removal of vegetation; application of fertilizers or pesticides; dredging, grading, excavation, removal or addition of soil or transporting and filling of land; erection or addition of structures, buildings or any other construction including concrete or asphalt paving; or the installation of any impervious cover. In addition, no vegetation cutting or removal within the natural features setback shall occur prior to all approvals from the designated approving body(s) have been obtained.

1. Determination of Public Interest: In determining whether proposed construction or operations in a natural resources setback are in the public interest, the benefit which would reasonably be expected to result from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration the local, state and national concern for the protection and preservation of the natural feature in question. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural feature setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:
  - a. The relative extent of the public and private need for the proposed activity;
  - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity;
  - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides;
  - d. The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by other existing and anticipated activities on the natural feature to be protected;
  - e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health;
  - f. The degree of proposed encroachment into the natural features setback, and the proximity of the proposed construction and/or operation in relation to the general natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected;

### **D. Exemptions:** If and to the extent Clarence Township is prohibited by its ordinances and/or law from regulating the proposed activity in or on the respective natural feature, regulation under this Section shall be exempted. In addition, the following activities shall be exempted from regulation under this Section provided it is not the intent of this provision to exempt regulation by other ordinance provisions relative to the natural feature itself:

1. Installation of a fence;
2. Maintenance of previously established lawn areas;
3. Grading and filling necessary in order to conform to express requirements imposed by the Township;
4. Installation of docks for watercourse use provided the portion of such dock or access way extending through or across a wetland does not exceed seventy-five (75) feet.
5. Planting of non-invasive trees and other vegetation, but not the use of fertilizers.
6. Work consisting of the repair or maintenance of any lawful use of land approved for such use.
7. Existing agriculture, silviculture, landscaping, gardening and lawn maintenance, including the removal of dead and diseased trees.

## CLARENCE TOWNSHIP ZONING ORDINANCE

8. The clearing of up to thirty percent (30%) of the vegetation in the natural features setback to afford views and/or access to the natural feature, provided adequate measures are taken to prohibit the exposure of bare soil and soil erosion, such as the establishment of grasses or other vegetative ground cover.
9. Any lawful activity that is under construction, fully approved for development prior to the effective date of this Ordinance.

### Section 13.06 - STORM WATER MANAGEMENT

- A. Applicability:** Uses subject to this Section shall be limited to those uses subject to site plan approval according Article XVIII of this Ordinance unless expressly provided otherwise by this Ordinance.
- B. General Standards:** All uses shall be designed, constructed, and maintained to prevent flooding, protect water quality, reduce soil erosion, maintain and improve wildlife habitat, and contribute to the aesthetic values of the project. In meeting these requirements, the following standards shall apply to the greatest extent practical and feasible:
  1. All storm water drainage and erosion control plans shall meet the rules and regulations of the Calhoun County Drain Commissioner and any additional regulations as this or other ordinance may provide, including standards pertaining to discharge volumes and the design of retention and detention areas. Compliance with such standards shall, to the maximum extent feasible, utilize nonstructural control techniques including, but not limited to: limitation of land disturbance and grading; maintenance of vegetated buffers and natural vegetation; minimization of impervious surfaces; use of terraces, contoured landscapes, runoff spreaders, and grass or rock-lined swales; and use of infiltration devices.
  2. The particular facilities and measures required on-site shall reflect and incorporate existing grade, natural features, wetlands, and watercourses on the site.
  3. Storm water management systems shall be designed to prevent flooding and the degradation of water quality related to storm water runoff and soil erosion from proposed development for adjacent and downstream property owners.
  4. Site development and storm water management systems shall maintain natural drainage patterns and watercourses.
  5. The conveyance of storm water shall rely on swales and vegetated buffer strips to the greatest extent feasible and practical.
  6. Drainage systems shall be designed to be visually attractive including the integration of storm water conveyance systems and retention and detention ponds into the overall landscape concept. Ponds shall be designed to be naturally contoured, rather than a square or rectangular design.
  7. It shall be prohibited to increase the rate or quantity of runoff upon adjacent properties or public roads, to cause erosion or filling of a roadside ditch, stream or other water body, to block a public watercourse, or create standing water over a sewage disposal drainage field.
  8. Whenever a landowner is required to provide on-site storm water retention and/or surface drainage to wetlands, or whenever other protective environmental measures including monitoring devices are required, such measures or facilities shall be provided and maintained at the landowner's expense. The landowner shall provide satisfactory assurance to the Township whether by written agreement or otherwise, that the landowner will bear the responsibility for providing and maintaining such methods or facilities.
- C. Minimizing Storm Water Runoff**
  1. Roads constructed as part of a subdivision or similar unified development shall be designed to minimize storm waste runoff such as limiting road paving to the minimum necessary width, including cul-de-sacs, while adequately addressing anticipated traffic levels, on-street parking, and emergency vehicle needs.
  2. See Sections 8.03(D) and 8.06 regarding minimizing impervious surfaces in association with off-street parking through shared parking facilities and deferred parking spaces.
  3. Roof-top runoff shall be directed to pervious areas such as yards, open channels, or other vegetated areas.
  4. Clearing and grading shall be limited to only those locations approved for such landscape alterations as delineated on the approved site plan.
- D. Use Of Wetlands:** Wetlands may be used for storm water management if all the following conditions are met:
  1. All runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland. Such treatment facilities shall be constructed before property grading begins. Storm water runoff discharged to wetlands must be diffused to non-erosive velocities before it reaches the wetland. Direct discharge of untreated storm water to a natural wetland is prohibited.
  2. Wildlife, fish, or other beneficial aquatic organisms and their habitat within the wetland shall not be impaired.
  3. The wetland has sufficient holding capacity for storm water, based upon calculations prepared by the applicant and reviewed and approved by the township after consultation with an engineer of applicable expertise.
  4. Adequate on-site erosion control is provided to protect the natural functioning of the wetland.
  5. Adequate private restrictions are established, such as a conservation easement over the wetlands, to insure that

## CLARENCE TOWNSHIP ZONING ORDINANCE

- the wetland is not disturbed or impaired in the future relative to the needed storage capacity.
6. Applicable permits from the Michigan Department of Environmental Quality and any other agency of jurisdiction are obtained.

### End of Article XIII

*(Art. XIII amended 6-14-10 / Ord. 24-3 to reserve for future use)*

*(Art. XIII amended 3-14-11 / Ord. 24-4 for "Environmental Protection," previously comprising Article XXVI)*

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**Article XIV**

**ADVERTISING SIGNS and BILLBOARDS**

**Section 14.01** - No advertising signs or billboards of any kind or nature shall be erected in an “R-1”, “R-2”, or “R-3” Residence District or any variation of the same except as follows:

- A.** In an “R-1”, “R-2”, or “R-3” Residence District, a name plate not exceeding six (6) square feet in area containing the name and the home occupation of the occupant of the premises. Temporary signs not exceeding eight (8) square feet in area may be installed or constructed.
- B.** In an “A” Agricultural District, a sign not exceeding thirty-two (32) square feet in area advertising permitted services rendered or offered upon or from the premises where the same is situated so that in no way, constitutes a traffic hazard; is of a subdued nature commensurate with the residential or agricultural character of the neighborhood; is maintained in a neat and attractive manner: contains no neon or intermittent lighting or other bright or blaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein.
- C.** Advertising signs, (not exceeding thirty-two (32) square feet) advertising goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located, may be installed or constructed within a “C-1” Commercial District provided they are located not less than ten (10) feet from the side line of the property nor less than one-half the required building setback distance from the abutting street right-of-way line; in no manner constitute a traffic hazard; are not less than eleven (11) feet above any sidewalk or passway for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or unreasonable size, and are not constructed or installed until a permit has first been obtained therefor from the building and zoning inspector of the township.
- D.** No advertising sign permit shall be issued until the building and zoning inspector is satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy, and durable manner with proper bracing anchorage, and foundation.

**End of Article XIV**



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**ARTICLE XV  
FLOOD HAZARD AREAS**

**Section 15.01 - INTENT AND PURPOSE**

- A.** It is the purpose of this Section to significantly reduce hazards to persons and damage to property as a result of flood conditions in Clarence Township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended, and subsequent enactment's and the rules and regulations promulgated in furtherance of this program by the Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976.
- B.** Further, the intent of this Section is to protect human life, health and property from the dangerous and damaging effects of flood conditions; to minimize public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas; to prevent private and public economic loss and social disruption as a result of flood conditions; to insure that the public has access to information indicating that the location of land areas subject to periodic flooding; and to preserve the ability of floodplains to carry and discharge a base flood.

**Section 15.02 - FLOOD HAZARD AREA DELINEATION**

- A.** The flood hazard area shall overlay the zoning districts delineated on the official Clarence Township District Map. The boundaries of the flood hazard area shall coincide with the boundaries of the areas of special flood hazards (A zones) designated by the Federal Insurance Administration in the Flood Hazard Boundary Maps, which are hereby adopted by reference, and declared to be part of this ordinance.
- B.** When Flood Hazard Boundary Maps are not available, the flood hazard area boundaries shall coincide with the Intermediate Region Flood designations as established by the U.S. Army Corps of Engineers, "Flood Plain Information" reports, which are hereby adopted by reference, and declared to be a part of this ordinance.
- C.** When neither of the above documents are available, the Planning Department shall utilize flood hazard information to determine the Flood Hazard Area Boundaries. Such information may include:
  - 1. Testimony of reliable persons knowledgeable of the area concerning the highest known flood elevation;
  - 2. Estimates of the Flood Hazard areas or elevations provided by the Water Management Divisions of the Michigan Department of Natural Resources, and
  - 3. Engineering reports prepared in connection with County Drains Intercounty Drains, and other drainage projects which document the flood potential of a particular water course.
- D.** Any person aggrieved by the determination of a Flood Hazard Area Boundary may appeal said determination to the Board of Appeals pursuant to Article XVI of this ordinance.

**Section 15.03 - DEVELOPMENT PERMITS**

No new construction, including the erection of structures and the placement of mobile homes, or prefabricated buildings, within a flood hazard area shall occur, except upon issuance of a development permit in accordance with the requirements of Article XVII of this ordinance and the following standards:

- A.** All applicable permits shall have been issued by the appropriate authorities including but not limited to the following:
  - 1. Flood Plain Permit, or letter of no authority from the Water Resources Division of the Michigan Department of Natural Resources, pursuant to Act 24 of the Public Acts of 1929, as amended.
  - 2. Soil Erosion and Sedimentation Control Permit from the Calhoun County Drain Commissioner pursuant to Act 347 of the Public Acts of 1972 as amended.
  - 3. Inland Lakes and Streams Act and U.S. Army Corps of Engineers 404 Permit which area administered by the Michigan Department of Natural Resources pursuant to Public Act 346 of 1972 as amended.
- B.** All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above base flood level.
- C.** All mobile homes shall be placed on a lot which is elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above base flood level.

## CLARENCE TOWNSHIP ZONING ORDINANCE

- D. All new construction and substantial improvements of non-residential structures shall have either:
  - 1. The lowest floor, including basement, elevated to or above the base of flood level; or
  - 2. Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall indicate the elevation to which the structure is flood proofed.
- E. Public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- F. At least one access drive shall be provided to any building which has a finished grade elevation which is no lower than sixteen (16) inches below the base flood level in order to provide for potential evacuation of the building.

### **Section 15.04 - DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this Section shall not be considered a guarantee or warranty of safety from flood damage.

This ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This ordinance does not create liability on the part of Clarence Township or any officers or employee thereof for any flood damages that result from reliance of this ordinance or any administrative decision lawfully made thereunder.

**End of Article XV**

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XVI

### WATERFRONT PROPERTY RESTRICTIONS

#### Section 16.01 - INTENT AND PURPOSE

It is the intent of this Article to protect the environmental integrity and recreational value of the lakes in Clarence Township, and the value of property along such lakes, through controls intended to balance such protection interests with opportunities for the reasonable use of such lakes and shoreline areas. The Township's lakes and connecting water courses are a valuable and irreplaceable natural resource providing important recreational, aesthetic, economic, and residential opportunities to Township residents and visitors. The lack of management of the use of lake waters and shoreline areas will encourage the deterioration of wildlife habitat, water quality, property values and recreation opportunities, and threaten the health and safety of persons in, on or about the lake. The provisions of this Article are intended to protect the public health, safety and welfare by establishing reasonable limitations on boating activity, construction of docks and piers, and use of lake waters and shoreline areas.

**Section 16.02 - DEFINITIONS.** For the purposes of this Article, the following terms and phrases shall have the following meanings:

- A. "Commercial Marina" shall mean a facility for the docking of watercraft that is made available for use to non-owners of the lot for remuneration including, but not limited to rental fees and user fees, and which may provide accessory services including boat service, repair, storage, and sales.
- B. "Common Use Lot" shall mean a lot, parcel, or condominium unit, with water frontage on a lake, which allows, has been created to allow, and/or is proposed to allow, the common use thereof by non-owners of the common use lot, multiple owners of the common use lot, non-riparian land owners, the public, members of an association, occupants of a campground, or by more than the residents of one single family dwelling unit or, in the case of a two family dwelling on such lot, parcel, or condominium unit, by more than the residents of such two family dwelling. The phrase "common use lot" shall apply to such lot, parcel or condominium unit irrespective of its creation or recordation date, or the date when such common use was initiated or permitted to be initiated, including in the case of a deed, grant, reservation, easement, covenant, or other recorded instrument. The phrase "common use lot" shall not apply to a commercial marina or a recreation facility under the ownership of a township, county or state.
- C. "Dock" shall mean a permanent or seasonal structure, pier or platform extending from lake or water course shorelines on or over the waters of the lake or water course, designed or used for pedestrian passage and mooring of watercraft.
- D. "Dock", "Docked", and "Docking" shall mean: the mooring of watercraft to a dock or waterfront land or anchoring of watercraft adjacent to waterfront land.
- E. "Lake" shall mean a body of water situated wholly within the Township exceeding forty (40) acres in size and three (3) feet or more in depth in any location, together with all navigable water courses, streams, ditches, inlets and outlets connected to the lake.
- F. Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
- G. "Watercraft" shall include any vessel or device built, designed or used for transportation of humans on liquid water including, but not limited to boats, jet skis, canoes, rafts, and sailboats.
- H. "Waterfront Parcel" shall mean a lot or parcel of land which abuts the ordinary high water mark of a lake:
  - 1. defined by a separate legal description contained in a recorded conveyance or land contract in the case of unimproved land, or
  - 2. on which a dwelling is located in the case of improved land.
- I. Water Frontage: That portion of a lot, parcel, or condominium unit of land, of record as documented by an instrument duly recorded within the Calhoun County Register of Deeds, that abuts or intersects with the ordinary high water mark of a lake, irrespective of the nature or character of the ownership of such lot, parcel or condominium unit.

## CLARENCE TOWNSHIP ZONING ORDINANCE

### Section 16.03 - SCOPE

This article shall not interfere with, abrogate or limit grants or easements existing prior to the date of adoption of this Article or lawful non-conforming uses of property within the Township as defined and limited by Article V of this ordinance, except as otherwise provided by Section 16.05(L).

### Section 16.04 - REGULATIONS FOR WATERFRONT PARCELS:

No person shall place, erect or maintain a dock on any waterfront parcel, on any lake within the Township except in conformance with the following requirements:

- A. The dock shall not exceed one hundred fifty (150) feet in length.
- B. Not more than six (6) watercraft shall be docked at and/or launched from any waterfront parcel except as may be authorized by Section 16.05.
- C. The launching or docking of watercraft from or at any waterfront parcel for remuneration or any other consideration is prohibited.
- D. The placement of any anchored raft, dock or other structure, excluding boat lifts used or designed primarily for tethering or docking of watercraft on the waters of any lake unless such structure is attached to a waterfront parcel, is prohibited.
- E. Where a waterfront parcel is used or proposed to be used as a common use lot, such common use lot shall comply with the provisions of Section 16.05 in addition to the provisions of Section 16.04.

### Section 16.05 - REGULATIONS FOR COMMON USE LOTS

- A. Common use lots are classified as special land uses/special exception uses and subject to the provisions of Article IV in addition to the provisions of this Article XVI.
- B. A common use lot shall comply with the regulations of the District in which it is located except as otherwise provided in this Article.
- C. The minimum area of a common use lot shall be 15,000 square feet plus one thousand (1,000) square feet for each dwelling unit or campground campsite served by the common use lot. The calculation of minimum lot area shall exclude any portion of the lot that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS maps, or National Wetland Inventory Maps, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
- D. The minimum water frontage of a common use lot, measured by a straight line that intersects each side lot line of the common use lot at the ordinary high water mark, shall be the greater of 120 feet or 60 feet for each dwelling unit or campground campsite served by the common use lot. For example purposes, a common use lot that serves four dwelling units shall have a minimum water frontage of 240 feet.
  1. Alterations to the shoreline shall not be a basis for increasing the calculated water frontage including dredging, the addition of earth or fill material, or by the drainage of water.
  2. The calculation of water frontage shall exclude any frontage that consists of a swamp, marsh, wetland or bog as shown on the most recent U.S. Geological Survey Maps, Michigan Department of Natural Resources MIRIS map, or National Wetland Inventory map, or have otherwise been determined to be a wetland by the Michigan Department of Environmental Quality.
  3. In the case where the common use lot shall not be used for the docking or launching of motorized watercraft and/or is used as part of a campground, the Planning Commission may permit a lesser frontage than that of the 60 foot standard referenced in (2) above after finding that the proposed character and intensity of use complies with the provisions of Section 16.05(K).
- E. The minimum road frontage of a common use lot shall be one hundred twenty (120) feet.
- F. The minimum depth of a common use lot across a minimum of eighty percent (80%) of the lot shall be one hundred twenty (120) feet, measured as a straight line generally perpendicular from the road right-of-way to the ordinary high water mark.
- G. There shall be no vehicular parking on a common use lot except where expressly authorized according to an approved site plan that delineates the specific location and dimensions of such spaces, permissible hours of such parking, and screening measures to minimize negative impacts of such parking areas on adjacent properties.

## CLARENCE TOWNSHIP ZONING ORDINANCE

- H.** The following regulations shall apply to common use lots that permit watercraft docking.
1. The development of and the operation of a boat dock shall comply with all applicable local, county, state and federal rules and regulations, including but not limited to the rules and regulations of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, the Michigan Department of Natural Resources, and the Michigan Department of Environmental Quality.
  2. Docking and launching from any manmade channel or canal is prohibited.
  3. Docking and launching shall be restricted to only those individuals residing on or in the lot, parcel, condominium unit or dwelling unit identified as required in Section 16.05(J).
  4. Docking, launching, lake access, and storage of watercraft on a common use lot, and privileges for the same, shall not be leased, rented, conveyed, granted, gifted, or in any way used for compensation, except in conjunction with the lease or rental of the dwelling unit entitled to use the common use lot as provided by these regulations.
  5. Devices or structures from common use lots for docking, such as piers, shall be no closer than fifty (50) feet from one another and no more than one (1) pier or dock shall be established for the lesser of each sixty (60) feet of water frontage of such common use lot and each dwelling unit or campground campsite served by the common use lot.
- I.** No common use lot shall be used for any business, entertainment facility, or institutional or non-residential purpose, unless such use is authorized by the respective zoning district and all zoning permit and all other required approvals have been obtained.
- J.** Application for a common use lot shall require the submittal and approval of a deed, plat, covenant, restriction, easement, or other instrument conveying, granting and/or reserving the right to common use of the lot, parcel or condominium unit, specifically identifying the parcels, lots, properties, dwelling units or persons that are entitled to use of the common use lot. Such instrument shall include a restrictive covenant prohibiting the use of the common use lot for boat liveries, public or commercial beaches, commercial marinas, public boat launching sites, public access, or for any recreational use operated for profit, except where such uses and activities are the subject of the application for the common use lot and expressly approved. Said instrument shall further provide that the uses of the common use lot shall be limited to and enjoyed exclusively by the owners, occupants and designated users of the property included in said instrument, and that the right of use may not be further assigned, gifted, leased or rented.
- K.** In addition to compliance with the general approval standards for all special land use/special exception use according to Article IV, the following additional approval standards shall apply to common use lots. The applicant shall submit evidence documenting the extent to which the application complies with these standards.
1. The proposed use shall not unreasonably interfere with the rights of usage and enjoyment by owner's of property abutting the lake.
  2. The proposed use shall not unreasonably interfere with the enjoyment of owner's of property in the general vicinity of the common use lot.
  3. The proposed use shall not result in the overcrowding of the common use lot.
  4. The proposed use shall not result in the overcrowding or overuse of the lake or the lake's surface, and that the lake has surface area capacity available to handle increased traffic upon the lake without impairment to health, safety and welfare of the users of the lake.
- L.** Exemption for Existing Common Use Lots
1. Common use lots existing prior to the effective date of these regulations, that have been providing common use access to a lake through an association, subdivision, condominium deed, grant, reservation, covenant, or other recorded instrument, or by campground arrangement, are exempt from the regulations of this Section except under the following conditions:
    - a. where it is proposed to expand the geographical area, number of parcels, lots or persons that are provided common use access to a lake through said common use lot; or
    - b. where improvements on such common use lot, including repairs, shall result in the expansion, enlargement, or increase in intensity of use of such lot, parcel or condominium unit.

### End of Article XVI

*(Art. XVI Amended 5-11-09 / Ord. 24-2)*

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XVII

### ZONING BOARD of APPEALS (ZBA)

#### Section 17.01 - PURPOSE

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the purpose of this Ordinance is fully and equitably achieved.

#### Section 17.02 - CREATION and MEMBERSHIP

- A. Establishment and Appointment of Members:** The ZBA first established by the Township Board pursuant to the Zoning Ordinance adopted on July 8, 1991, as amended, is hereby retained in accordance with Public Act 110 of 2006, as amended. The ZBA shall consist of five (5) members, appointed by the Township Board by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the Township Board but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the ZBA.
- B. Alternate Members:** The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.
- C. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.
- D. Removal from Office / Conflict of Interest:** A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

#### Section 17.03 - ORGANIZATION

- A. Rules of Procedure and Officers:** The ZBA may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.
- B. Meetings and Quorum:** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the total regular membership of the ZBA shall comprise a quorum. The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.
- C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.
- D. Records:** The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

## CLARENCE TOWNSHIP ZONING ORDINANCE

### Section 17.04 - JURISDICTION

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.

### Section 17.05 - APPEALS FOR ADMINISTRATIVE REVIEWS

- A. Authority:** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator, Planning Commission or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken. However, in no case shall the ZBA hear an appeal of a Special Land Use decision. Such appeals shall be subject to circuit court appeal only.
- B. Standards:** The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if the ZBA finds that the action or decision appealed:
1. was arbitrary or capricious, or
  2. was based upon an erroneous finding of a material fact, or
  3. constituted an abuse of discretion, or
  4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
  5. did not follow required procedures.
- C. Procedures:**
1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
  2. Stay: An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed. However, if the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would in the opinion of such officer or body cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the ZBA or a circuit court.
  3. Record of Facts / Transmission of Record: Upon receipt of an application for an administrative review, the Zoning Administrator shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken.
  4. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the Township Board.
  5. Decision: The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing, deliberation, or vote, on the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

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### Section 17.06 - INTERPRETATIONS

- A. Authority:** The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts (see Article III).
- B. Procedures:**
1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of ten (10) copies of the completed application shall be submitted along with any application fees.
  2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
  3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and interpretation of the ZBA, and basis for such interpretation. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the matter in question is contained, and all other relevant provisions in the Ordinance.
    - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
    - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance.

### Section 17.07 - VARIANCES

- A. Authority:** The ZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses in a District.
- B. Standards:** The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.
1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances, such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property in relation to such conditions, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of the particular parcel of land.
  2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
  3. That the variance will relate only to property described in the variance application.
  4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
  5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
  6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
  7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.



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### C. Procedures

1. **Application Requirements:** Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings, including any information the applicant may choose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.12. See Sec. 2.10 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
  - a. In granting a variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See "Supplemental Provisions" regarding conditional approvals.
  - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance; and the occupancy or use of the land, structure, and/or building for which the variance was granted has taken place within one (1) year after the granting of the variance. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
  - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, in the discretion of the ZBA.

### Section 17.08 - REVIEW by CIRCUIT COURT

- A. **Circuit Court Review:** The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:
  1. Complies with the constitution and laws of the State.
  2. Is based upon proper procedure.
  3. Is supported by competent, material, and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the ZBA.

### End of Article XVII

*(Art. XVII amended 6-14-10 / Ord. 24-3 to expand scope and clarification of ZBA provisions)*

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XVIII SITE PLAN REVIEW

### Section 18.01 - PURPOSE

It is the purpose of this Article to specify standards, application and data requirements, and the review process that shall be followed in the preparation of site plans as required by this Ordinance. These requirements are incorporated into the Zoning Permit application process to ensure that the appropriate bodies are afforded an opportunity to review and evaluate proposed uses and development of sites with regard to such considerations as parking, vehicular and pedestrian circulation, drainage, landscaping and screening, signage, lighting, environmental and community character protection, and conformance with all applicable provisions and standards of this Ordinance. This Article establishes a review process that requires the application materials to be subject to Planning Commission approval except where expressly provided otherwise by this Ordinance.

### 18.02 - SITE PLAN APPROVAL REQUIRED

**A. Uses Requiring Site Plan Approval:** Except as provided by subsection (1) below, site plan approval by the Planning Commission is required prior to the Zoning Administrator's issuance of a Zoning Permit for all authorized uses including, but not limited to, commercial and industrial uses, special land uses, site condominiums, and platted subdivisions.

1. **Exceptions:** Site plan approval shall not be required for single family and two-family dwellings and accessory uses and structures thereto, including temporary dwellings, and any other use expressly exempted elsewhere by this Ordinance. See Sec. 2.07 regarding plot plan approval for single family and two-family dwellings and accessory uses and structures thereto.

### Section 18.03 - SITE PLAN DATA and PREPARATION

**B. Requirements:** Twelve (12) copies of a site plan shall be submitted. The site plan shall be provided on a professional quality drawing of scale not less than 1" = 100' and shall clearly present the required information. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion and be of such clarity and detail to permit determination of its conformance to this Ordinance and the satisfactory construction of the project, if approved, to ensure public health, safety and welfare. A site plan shall include, at a minimum, the following except where the Planning Commission determines, upon a request by the applicant, that the waiving of specific submittal items identified below, due to the particular character of proposed development or site or surrounding conditions, shall not undermine officials' ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protects the public health, safety and welfare:

1. The applicant's full name, address and phone number, and the name and address of the person and firm who prepared the plan and the date on which each drawing contained within was prepared or last revised.
2. Maps or other illustrative material showing the location of the site in relation to the surrounding road system, the current use of all properties within two-hundred (200) feet in every direction of the proposed use, including land uses on the opposite side of any road, and the location of all structures, buildings and curb cuts within two-hundred (200) feet of the property.
3. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area, graphic scale, and a north arrow.
4. Existing uses, buildings, structures, roads, easements and all other existing site improvements, with a designation as to which are to be retained, removed, or otherwise altered.
5. Existing natural features on and within three-hundred (300) feet of the site including wetlands; drainage courses, water bodies, and 100-year flood plain areas; topography at no greater than two-foot contour intervals; soils by type and drainage features according to the County Soil Survey or well/boring logs; and wooded areas including a differentiation between those that are characterized by understory ground cover growth such as grasses and those that do not permit such ground cover growth.
6. Required front, side and rear yard setbacks for proposed principal buildings.
7. Proposed uses; buildings; structures; lots; signage; trash storage areas including any enclosures; carports or garages; exterior lighting; any areas to be dedicated as open space including recreational areas; and a project narrative that addresses the intended use of the property and each building proposed, the total number of dwelling units and density for each housing type and for the project as a whole, the total and usable floor area of each building, the amount of recreational and open space and type of recreation facilities to be provided,

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computations associated with the number of parking spaces required and provided, and related information as pertinent or otherwise required by this Ordinance.

8. Proposed public right-of-ways, private easements, and deed restrictions.
9. Proposed roads, drives, and alleys (including widths, cross-sections and profiles); acceleration, deceleration and turn lanes; driveways, parking spaces, and parking aisles, with an indication of the total number of spaces and typical space and aisle/driveway dimensions, the direction of travel, and the inside radii of all curves including driveway curb returns; and sidewalks and other non-motorized travel ways. Proposed traffic control measures (including signs) shall also be indicated.
10. Source and location of all public and private utilities including potable water, sewage disposal, and electrical and communication lines, and the necessary easements that exist or are proposed to be established for installation, repair and maintenance of such utilities.
11. Any proposed landscaping/screening to mitigate negative impacts on adjacent uses.
12. A graphic illustration of the location and extent to which natural features on the site shall be disturbed or otherwise cleared including those under subsection (5) above.
13. A grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and grades. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills, or other grading, and the finished floor elevations of all buildings.
14. The location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains, and sanitary sewers; and a proposed storage and disposal plan for such materials including their transfer and/or transport.
15. A statement identifying all other federal, state and local permits required, if any.
16. Anticipated project completion schedule.
17. Such other information as is necessary to enable the reviewing body to determine whether the proposed site plan shall conform to the provisions of this Ordinance including, but not necessarily limited to, aerial photographs and environmental and traffic impact and mitigation reports.

### Section 18.04 - REVIEW PROCEDURES

- A. Application Submittal/Distribution:** Upon receipt of the site plan copies, the Zoning Administrator shall record the date of their receipt and transmit copies of the site plan, and the accompanying zoning permit application form, to the designated approving body. Such designated approving body shall be the Planning Commission except where this Ordinance expressly provides otherwise.
  1. Outside Agency Review: Upon receipt of complete application materials, the Zoning Administrator shall also transmit copies to the Calhoun Conservation District and other agencies or individuals selected to review such plans including but not necessarily limited to engineering and planning consultants, County Road Commission and County Drain Commissioner. The Zoning Administrator shall request all reviewing agencies to respond in writing within twenty (20) days of receipt of the materials. The designated approving body need not delay taking action on the application if such response has not been received within such period.
- B. Review and Action:** The designated approving body shall review the application and upon finding that the application is complete, shall determine its conformity to the requirements and standards of this Ordinance. The designated approving body shall approve, approve with conditions, or deny the application. An application that complies with the requirements and standards of this Ordinance, including Section 18.05, shall be approved or approved with conditions. If it is determined that the site plan is deficient in adequately portraying the required information, the approving body shall delay further consideration of the application until such time that the application materials have been made satisfactory, and shall notify the applicant in writing of the deficiencies. In the case of a special land use, the site plan shall be subject to the same public hearing held according to Article XIX.
  1. Conditions: Any conditions required by the approving body as part of an approval of an application shall be stated in writing, together with the reasons. The approving body may require the submittal of a fully revised site plan upon its determination that the conditions necessary for the approval of such plan are of such an extent or character that a fully revised set of documents is necessary before an approval action can be granted.

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2. Approved Site Plans: Three (3) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each of the three approved copies shall be signed and dated with the date of approval specified, by the Planning Commission Chairperson and Zoning Administrator.

### Section 18.05 - SITE PLAN APPROVAL STANDARDS:

- A. Specific and General Standards:** Site plan approval is required for the issuance of a Zoning Permit. No site plan shall be approved except where the designated approving body finds that such site plan complies with all of the following standards:
1. Specific Site Development Standards: Each site plan shall conform with the specific site development standards of this Ordinance including, but not limited to, requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, lot coverage, off-street parking, natural features setbacks, lighting, potable water, and sewage disposal.
  2. General Site Plan Approval Standards: In addition to compliance with the standards of subsection (1) above, all site plans shall comply with the following general site plan approval standards:
    - a. All elements of the Plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another both visually and physically, and the character of the proposal as viewed from nearby properties and roads and in relation to the intent of the District in which the property is located.
    - b. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts from lighting, signage, outdoor storage, and off-street parking.
    - c. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, water courses and wetlands, and ensuring adequate setbacks and buffers are provided between site modifications and such natural features.
    - d. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property, while not adversely affecting adjacent properties and public and natural drainage systems due to flooding, erosion, sedimentation, or other negative impacts. Storm water management plans shall rely on existing drainage patterns where practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and impurities entering into the groundwater and nearby water courses.
    - e. The applicant shall demonstrate that sufficient precautions will be made to prevent hazardous materials from entering the environment including adequate measures for sewage and waste disposal and the storage of hazardous substances.
    - f. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizes negative impacts upon abutting properties and roads including coordination with the existing and planned public circulation system and improvements thereto and the avoidance of unnecessary curb cuts, and ensures that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
    - g. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent feasible.
    - h. All development phases shall be designed in logical sequence to ensure that each phase can independently function in a manner that supports the public health, safety and welfare, should subsequent phases not be completed.
    - i. Site plans shall conform to all applicable Township planning documents including the goals and objectives of the Clarence Township Master Plan, other applicable ordinances, and state and federal statutes.

### Section 18.06 - CONFORMITY to APPROVED SITE PLAN

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved Zoning Permit shall be subject to revocation by the Zoning Administrator pursuant to Section 2.06.

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### Section 18.07 - CHANGES to APPROVED SITE PLAN:

No changes shall be made to an approved site plan prior to, during, or after construction except upon approval by the body that approved the original site plan. Such approving body shall require the applicant to submit all information the approving body considers necessary to accurately determine the extent that the proposed site plan changes comply with the standards of this Ordinance including Section 18.05. The approving body shall refer to Section 18.03(A) to determine all necessary information.

### Section 18.08 - PRELIMINARY SITE PLAN OPTION

- A. Authorization, Standards, and Approval Period:** Prior to preparing a detailed site plan and seeking approval of such site plan according to Sections 18.03 and 18.04, an applicant may seek approval of a preliminary site plan for the purpose of receiving approval of the general design and layout of the project. A preliminary site plan shall be reviewed and acted upon in the same manner as a final site plan, and according to the following:
1. **Level of Detail:** The preliminary site plan shall be prepared according to the manner and information required for a final site plan pursuant to Section 18.03, except that detailed construction drawings to address specific site improvements are not necessary. However, the detail of the preliminary information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, storm water management including flow direction and preliminary location of detention/retention basins; proposed preliminary grading including limits of clearing and one (1) foot contours; vehicular circulation including road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.
  2. **Approval Standards:** A preliminary site plan shall be evaluated according to the same approval standards for a final site plan in Section 18.05, but within the context of the lesser information required at the preliminary plan level. A preliminary plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, conditions imposed pursuant to this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
  3. **Approval Period:** Approval of the preliminary site plan is valid for a period of one (1) year. If a complete final site plan has not been submitted during this period, the approval of the preliminary site plan shall be null and void. This time limit may be extended by the site plan approval body upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the layout and/or design of the development. In the case of an expired preliminary site plan that is not granted an extension of time, such plan shall not undergo review or action except upon a wholly new application according to Sections 18.03 and 18.04.”

### End of Article XVIII

*(Article XVIII Amended 5-11-09 / Ord. 24-1 to clarify and expand scope of ordinance administration provisions)*

*(Article XVIII Amended 6-14-10 / Ord. 24-3 to address site plan review provisions only)*

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## Article XIX SPECIAL LAND USES

### Section 19.01 - PURPOSE

It is the purpose of this Article to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the landowner, investor or developer, but that will, at the same time, promote the purpose of this Zoning Ordinance and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide control and reasonable flexibility, this Article provides for the review of certain specified land uses, referred to as "special land uses" or "special exception uses," which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and/or to the community as a whole. Land uses and structures possessing these characteristics may be authorized within certain zoning districts as specified in Article III (Zoning Districts), by the issuance of a Zoning Permit for the specified Special Land Use. This Article establishes a review process that requires the application materials to be subject to Planning Commission review and final action.

### Section 19.02 - REVIEW PROCEDURE

- A. Application:** An application for a Zoning Permit for a Special Land Use shall consist of the following:
1. An application form available from the Zoning Administrator, signed by the property owner(s) and applicant(s).
  2. A preliminary or final site plan prepared according to Article XVIII.
  3. A detailed description of the proposed project, in narrative form.
- B. Preliminary Approval/Public Hearing:**
1. An application for a Zoning Permit for a Special Land Use shall follow the same general procedures as delineated for site plan review according to Article XVIII except that upon finding that the application materials are complete, the Planning Commission shall hold a public hearing on such application. Notice of the hearing shall comply with Section 2.12.
  2. Following the hearing and after deliberations, the Planning Commission shall deny, approve, or approve with conditions the preliminary application for special land use/site plan.
  3. An application for a Zoning Permit for a Special Land Use shall be an application to determine the appropriateness of both the proposed use on the subject property, and the manner in which the proposed use is to be arranged and function on the site as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
  4. Action on the preliminary application by the Planning Commission shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission shall refer to the approval standards set forth in Sec. 19.06 in addition to those specified for site plan approval (Sec. 18.05) prior to taking preliminary action.
- C. Final Approval:** Following approval of a Special Land Use preliminary application, final application approval shall follow the same general procedures as delineated for final site plan review according to Article XVIII. The Planning Commission shall deny, approve, or approve with conditions the final application for special land use/site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion. A public hearing on the final application, including final site plan, shall not be required provided such final application is substantively similar to the approved preliminary application including both the character and features of the use and site plan.
1. Action on the final application by the Planning Commission shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission shall refer to the approval standards set forth in Sec. 19.06 in addition to those specified for site plan approval (Sec. 18.05) prior to taking final action.
- D. Simultaneous Preliminary/Final Approval:** An applicant may voluntarily submit a special land use application that is intended to meet both the preliminary and final application provisions of this Article, including preliminary and final site plan approval, the effect being to avoid the formal and separate preliminary approval phase and seek immediate final approval. An applicant choosing to exercise this option bears the risk of expending the additional time and money that may be required for preparation of final application materials without the benefit of any formal action on a preliminary application. This option is made available in recognition that certain special land uses may be of such character that the normally required two-phased preliminary and final approval process is not necessary. Uses that may be more appropriate for simultaneous preliminary and final approval may be uses that include the erection of no new buildings, uses that do not require alterations to existing topographic conditions,

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uses that require no new off-street parking areas, and/or uses that do not rely on new underground storm or sanitary sewer infrastructure. However, nothing in this subsection (D) shall be construed to require simultaneous preliminary/final approval even if such conditions are part of an application. In the case of a simultaneous preliminary/final application, the applicant shall specify in writing the applicant's intent to seek simultaneous preliminary and final approval.

1. In the case of a simultaneous application and where the Planning Commission denies final approval, the Planning Commission shall specify in its motion whether the denial applies to both the final and preliminary application or whether the alleged final application is approved as a preliminary application only, along with any conditions that may be made part of such preliminary approval.

### Section 19.03 - APPEALS

A person aggrieved in association with a special land use decision may appeal the special land use application decision to the circuit court only.

### Section 19.04 - REAPPLICATION

No application for a Zoning Permit for a Special Land Use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, as determined by the Planning Commission. Reapplication shall follow all provisions of Section 19.02. The time restrictions of this Section 19.04 shall not apply in the case where the principal basis for the denial of the application was a lack of completeness of the application.

### Section 19.05 - CHANGES

A change in the character of the special land use from what the originally approved Zoning Permit authorized is prohibited until such change is applied for and approved according to the application and review procedures of Section 19.02. Examples requiring a new special land use application and review procedure include the erection of additional buildings, the addition of two-hundred (200) square feet or more of floor area to an existing building, or the establishment of another special land use. Any change in the character of the special land use from what the originally approved Zoning Permit authorized shall be subject to the site plan review provisions of this Ordinance.

### Section 19.06 - APPROVAL STANDARDS

- A. **General Standards:** No Special Land Use application shall be approved except where the application complies with the following standards:
  1. Be consistent with the goals, objectives, and policies of the Clarence Township Master Plan.
  2. Be designed, constructed, operated and maintained so as to be compatible with the existing and planned character of the general vicinity, taking into consideration such features as the bulk, placement, and materials of construction of proposed structures, open space areas, lighting, and landscaping and screening.
  3. Will not be hazardous, disturbing, or detrimental to the use, peaceful enjoyment, economic value or development of neighboring property, or the vicinity in general, taking into consideration such features as the location of driveways and traffic flow patterns including turning patterns, vehicular and pedestrian safety, the intensity and character of traffic and parking conditions, hours of operation, and the production of noise, glare, vibration, odors, or other external impacts.
  4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water, and ground water resources.
  5. Be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
  6. Will not create excessive additional requirements at public cost for public facilities and services.
  7. Comply with the site plan approval standards of this Ordinance.
- B. **Specific Standards:** In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific land use as may be identified in this Ordinance.

### End of Article XIX

*(Art. XIX amended 6-14-10 / Ord. 24-3 to relocate from Art. IV to Art. XIX, and expand and clarify special use provisions)*

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## Article XX ZONING MAP and TEXT AMENDMENTS

### Section 20.01 - PURPOSE

This Article establishes procedures for the review and action on amendment requests. Requested amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error, to address changed or changing conditions including in a particular area in the Township and in strategies to ensure the public health, safety and welfare, to conform with the Master Plan and/or other ordinances of the Township, and to meet a public need for new or additional land uses in appropriate locations.

### Section 20.02 - INITIATION OF AMENDMENTS

Petitions for amendments may be initiated by the Township Board or Planning Commission, by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

### Section 20.03 - PROCEDURES

**A. Application, Distribution and Data:** A petitioner shall submit twenty (20) copies of a completed application to the Zoning Administrator on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such material including but not necessarily limited to Township departments and staff, consultants, and the Calhoun County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
  - a. A legal description of the property and a scaled map of the property correlated with the legal description, which clearly shows the property's location within the surrounding road network.
  - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
  - c. The desired change and reasons for such change.
  - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

#### **B. Planning Commission Action**

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactorily complete and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. Notice of the public hearing shall comply with Section 2.12. Any application not properly filed or complete may be returned to the applicant with a written notice of deficiencies.
2. **Planning Commission Review / Recommendation:** In reviewing any amendment application, the Planning Commission shall identify and evaluate all factors relevant to the application.
  - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
    - 1) What, if any, identifiable conditions related to the petition have changed which justify the change in zoning district classification?
    - 2) What is the impact of the proposed district change on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed change is adopted?
    - 3) Will the district change adversely affect the value of the surrounding property?
    - 4) Is the site's environmental features compatible with the host of uses permitted in the proposed district, and will development under the petitioned district change be likely to adversely affect environmental conditions?
    - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?
    - 6) Is the subject property able to be put to a reasonable economic use in the zoning district in which it is presently located?



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- 7) Is the proposed district change consistent with the zoning classification of surrounding land?
  - 8) Does the petitioned district change generally comply with the Master Plan?
  - 9) What are the precedents and the possible effects of such precedents which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
- 1) Is the proposed amendment supported by documentation, such as from past minutes of the Planning Commission or the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
  - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively deal with certain zoning issues?
  - 3) Is the proposed amendment supported by significant case law?
3. Planning Commission Recommendation/Transmission: The Planning Commission shall transmit its findings and a summary of comments received at the public hearing to the Township Board, along with its recommended action on the amendment request. The Planning Commission shall also forward the same to the Calhoun County Planning Commission.

### C. Township Board Action

1. After receiving the findings and recommendations of the Clarence Township Planning Commission, and after considering the comments of the Calhoun County Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. The Township Board may refer any proposed amendment back to the Planning Commission for further consideration and comment within a time specified by the Township Board. The Township Board may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
  - a. If the Township Board has not received County Planning Commission comments within thirty (30) days of the submittal of the Township Planning Commission's recommendation and summary of public hearing comments, the Township Board need not delay taking action on the amendments.
  - b. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any interested property owner who has filed a written request to be heard. Such written request shall take the form of a certified mail letter from the property owner to the Township Clerk. A hearing under this subsection (a) is not subject to the notice requirements of Section 2.12, except that notice of the hearing shall be given to the interested property owner according to Section 2.12 (A) and (C). The Township Board may require the property owner to justify the property owner's interest on which the additional hearing request is based.

### D. Publication of Notice of Ordinance Amendments:

Following adoption of amendments by the Township Board, the amendments shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Following adoption of an amendment by the Township Board, the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice. The adoption notice shall provide either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment, the effective date of the amended Ordinance, and the place and time where a copy of the amendment ordinance may be purchased or inspected.

1. Effective Date: The effective date of an amendment shall occur no less than the expiration of 7 days after publication of the notice of adoption as provided in (D) above.

### Section 20.04 - RESUBMITTAL

No application for an amendment which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions, found upon inspection by the Planning Commission to be valid.

### End of Article XX

*(Art. XX amended 6-14-10 / Ord. 24-3 to relocate from Art. XIII to Art. XX, and expand and clarify amendment provisions)*

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Article XXI

VIOLATIONS, ENFORCEMENT and PENALTIES

Section 21.01 - VIOLATIONS, ENFORCEMENT and PENALTIES

- A. **Notice of Violation:** The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, the Zoning Administrator shall issue a written Notice of Violation that specifies all circumstances found to be in violation. Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
- B. **Violation Correction Period:** All violations shall be corrected within a period of fifteen (15) days after the violation notice is issued except where the Zoning Administrator permits a longer correction period due to seasonal or other conditions that make a fifteen (15) day correction period impractical or unfeasible. In no case shall the authorized correction period exceed 180 days.
- C. **Stop Work Order:** The Zoning Administrator may issue a stop work order upon determining that work on any structure or premises is being conducted contrary to the provisions of this Ordinance, and such work shall be immediately stopped. The stop work order shall be posted on the property. The stop work order shall be in writing and shall be served upon the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop work order, except such work as such person is directed by the Zoning Administrator to perform in order to remove violations or unsafe conditions, shall be liable for penalties set forth in subsection (D) below.
- D. **Misdemeanors / Penalties.** Any person who shall violate any provision of this Ordinance or shall fail to comply with any of its requirements, or who shall erect, construct, alter or repair a structure in violation of an approval, permit or directive as provided in this Ordinance, shall be guilty of a misdemeanor. Upon conviction, such person shall be punishable by a fine of not more than Five Hundred (\$500) Dollars, or by imprisonment not exceeding ninety (90) days, or both. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law. The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.
- E. **Nuisance Per Se:** Any structure which is erected, altered or converted, or any use of any structure or lot which is commenced, exists or changes in violation of any of the provisions of this Ordinance or approval, permit or directive as provided in this Ordinance, is declared to be a nuisance per se, and shall be abated by order of any Court of competent jurisdiction.

End of Article XXI

*(Art. XXI amended 6-14-10 / Ord. 24-3 to expand and clarify enforcement and penalty provisions)*

*(Art. XXI amended 5-14-12 / Ord. 24-6 for comprehensive revisions)*

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**ARTICLE XXII**  
**Reserved for Future Use**

**End of Article XXII**

*(Art. XXII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, validity, relocated to Art.I)*

# CLARENCE TOWNSHIP ZONING ORDINANCE

## Article XXIII SUPPLEMENTAL PROVISIONS

### Section 23.01 - PURPOSE

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such exceptions, regulations, and standards. The following supplemental provisions apply to all zoning districts unless otherwise indicated.

### Section 23.02 - CONDITIONAL APPROVALS

- A. Conditions on Discretionary Decisions:** Any person or body may attach conditions to a discretionary approval that it is authorized to grant, such as in the case of the Planning Commission's approval of a site plan and the Zoning Board of Appeals' approval of a variance. Such conditions shall be based upon standards in this Ordinance and may be imposed to:
1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  2. Protect the natural environment and conserve natural resources and energy.
  3. Insure compatibility with adjacent uses of land.
  4. Promote the use of land in a socially and economically desirable manner.
- B. Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  3. 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 insure compliance with those standards.
- C. Record of Conditions and Changes:** Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.
- D. Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 2.10.

### Section 23.03 - ONE SINGLE-FAMILY DWELLING TO A LOT

No more than one (1) single family dwelling unit shall be permanently established on a platted lot unless specifically provided for elsewhere in this Ordinance.

### Section 23.04 - MOVING BUILDINGS

No existing building or structure within or outside of the Township shall be relocated on any lot within the Township unless the building or structure meets all provisions of this Ordinance and the State Construction Code.

### Section 23.05 - FLOOR AREA REQUIREMENTS for DWELLINGS

All single family dwelling units hereafter constructed containing not more than two (2) bedrooms shall contain not less than seven hundred twenty (720) square feet of first-floor space as measured around the exterior of said dwelling. All single family dwelling units hereafter constructed containing more than two (2) bedrooms shall contain an additional one hundred fifty (150) square feet of habitable floor area for each bedroom in excess of two (2) within said dwelling unit; provided, however, that a three (3) bedroom, single-level private dwelling unit shall contain not less than nine hundred (900) square feet of first floor space as measured around the exterior of said dwelling.

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### Section 23.06 - GENERAL OUTDOOR LIGHTING and SCREENING REQUIREMENTS

- A. General Outdoor Lighting:** All outdoor lighting upon any premises used principally for commercial, industrial, or other non-residential purpose, regardless of district, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.
- B. Screening**
1. Except as otherwise provided in this Ordinance, any parcel located in a Commercial District or Industrial District, and any other parcel in any other district that is used principally for business or institutional purposes, including public buildings and religious institutions, shall be screened from adjoining parcels by either of the following:
    - a. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
    - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat attractive manner, commensurate with the adjoining residential district.
  2. No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way line.
  3. The designated site plan approval body may require additional vegetative screening than that specified in subsection (1)(a) above, and/or a wall or fence be erected, where it determines the proposed vegetative screening will not adequately mitigate the potential impacts upon adjoining premises. Further, any of the requirements of this Section may be modified through site plan review proceedings provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required screening or fencing unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.
  4. Plant material used to meet the requirements of this Section shall be free of insects and diseases, and hardy to the climate. Plant species which are generally considered undesirable due to limited disease tolerance, low wood strength and/or high wood-splitting tendencies, such as boxelder, mulberry, and willows, are prohibited unless specifically authorized by the site plan approving body based on the manner in which the plant material is to be used or located. All plant material shall be maintained in a healthy condition, and free of refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All proposed plant material shall be specified on the site plan including species, size, number and location.
  5. All required fencing and walls shall be constructed and maintained in a sound manner to assure long-term structural integrity and visual character. Site plans shall include all necessary construction details to illustrate compliance with this requirement. The finished side of fencing required under this Section shall face abutting properties.

### Section 23.07 - TENTS and RECREATIONAL VEHICLES

Tents and recreational vehicles shall not be used for dwelling purposes within the township limits; provided, however, that recreational vehicles may be used for temporary dwellings for a total period of not more than thirty (30) days in any one (1) calendar year when located upon premises having running water and sewage facilities, and provided further that recreational vehicles may be occupied for dwelling purposes within campgrounds or other recreational facilities as may be permitted by and approved under this Ordinance and appropriate licensing has been obtained. For the purposes of this Section, a recreational vehicle shall be defined as a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, and includes but is not limited to vehicles commonly referred to as travel trailers, motor homes, and pop-ups.

### Section 23.08 - DISMANTLED, NON-OPERATING and UNLICENSED MOTOR VEHICLES

- A.** For the purposes of this Section, the following phrases shall have the following meanings:
1. Motor vehicles are hereby defined as any licensed wheeled vehicles which are self-propelled or intended to be self-propelled.
  2. Inoperable vehicles are defined as motor vehicles which, by reason of dismantling, disrepair or other cause, are incapable of being propelled under their own power.
  3. Dismantled and partially dismantled motor vehicles are defined as motor vehicles from which some parts, which are ordinarily a component part of such motor vehicle, has been removed or is missing.

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- B.** No person, firm or corporation shall use or permit to be used any lot to park or store any unlicensed, dismantled, partially dismantled or inoperable motor vehicle or parts thereof for a period of more than ninety (90) days in any calendar year. This section shall not apply to unlicensed, dismantled, partially dismantled or inoperable motor vehicles, partially dismantled or inoperable motor vehicles stored on a lot approved for such use under this Ordinance, such as in the case of a vehicle repair shop, or that which is not visible to the public and is in compliance with all the ordinances of the Township of Clarence and the Statutes of the State of Michigan.
1. Any person, firm or corporation owning a dismantled, partially dismantled or inoperable motor vehicle, who is repairing, or who is about to have said motor vehicle repaired, may apply to the Zoning Administrator for a single thirty (30) day extension period to have such motor vehicle remain on the premises. The Zoning Administrator shall approve such extension upon finding satisfactory evidence that the applicant is taking necessary actions for the repair of the vehicle within such time frame.
- C.** No inoperable vehicle shall be maintained on a parcel for more than thirty (30) days except where all fluids and other hazardous materials in such vehicle, including fuels, oils, and coolants, are fully drained. Such fluids shall be disposed of in accordance with all local, county, state and federal regulations. The leaking or discharging of such materials onto the ground is prohibited. Grasses within fifty (50) feet of an inoperable vehicle shall not be permitted to exceed two (2) inches in height, and articles other than those that are part of the vehicle shall not be stored in or around the vehicle.

### Section 23.09 - BOTTLED GAS and OIL STORAGE

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings.
1. Liquefied petroleum gas: Petroleum products of any chemical composition suited for use as fuel, which are gaseous at ordinary temperatures and atmospheric pressure but are sold, transported, dispensed, and stored, in liquid form.
  2. Fuel oil: A liquid petroleum product of any chemical composition, viscosity, and method of production suited for use as fuel.
  3. Tank or storage tank: Any container designed, suited or used for the storage of liquefied petroleum gas or fuel oil, which exceeds two (2) cubic feet in area or is otherwise intended to be moved by vehicle only.
- B. Restriction on placement.** No tank shall be placed in a front yard except in the case where the principal use of the lot is the sale of such tanks and such use has been approved according to this Ordinance including site plan approval.
- C. Building and Fire Codes; Conflicts.** This Section shall not be construed to waive or alter in any respect any applicable building, fire or other code or regulatory provision governing the placement of a tank, or the proximity of a tank, to a structure, which is more restrictive than this Section.

### Section 23.10 - SITE CONDOMINIUMS

- A. Intent:** The intent of this Section is to provide regulatory standards for site condominium projects similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than projects developed under another form of ownership.
- B. Applicability of District Regulations:** A site condominium project, including single family detached units, shall comply with all applicable site development standards of the district within which it is located including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.
- C. Review and Approval Procedures:**
1. Zoning Permit Required: No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of the final site plan, shall require an additional zoning permit prior to erection.
  2. Site Plan Approval Required: The issuance of a zoning permit shall require the submittal and approval of a site plan pursuant to Article XVIII, Site Plan Review, and master deed and bylaw documents.
    - a. In addition to the preliminary and final site plan information required by Article XVIII, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

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3. **Master Deed/Bylaws Approval Required:** The applicant shall include as part of the Zoning Permit application a copy of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
4. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Planning Commission a copy of the final bylaws and master deed, and a copy of the approved site plan on a mylar sheet of at least twenty-four inches by thirty-six inches (24" x 36"). Upon the satisfactory submittal of these documents, the Planning Commission shall direct the Zoning Administrator to issue a zoning permit.
5. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.

**D. Building Permit:** No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator, and a building permit by the Building Inspector.

**E. Utilities:** The site condominium shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

**F. Roads:** All roads within a site condominium shall be designed and constructed in conformance with the standards of the Calhoun County Road Commission.

**G. As-Built Plan and Occupancy:** Submission of as-built plans of a condominium subdivision is required. The Township Board may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee is posted pursuant to Section 2.10.

**H. Monuments:** All condominium units which are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

### Section 23.11 - STANDARDS for SINGLE-FAMILY DWELLINGS

- A.** All single family dwellings shall comply with the following standards, provided that the foregoing standards shall not apply to temporary dwellings, or mobile homes located in a licensed manufactured housing community except to the extent required by State and Federal law.
1. All single-family dwellings shall comply in all respects with the Michigan Construction Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction and different than those imposed by the Michigan Construction Code, then and in that event such federal standard or regulation shall apply.
  2. All single-family dwellings shall meet the minimum floor area requirements of Section 23.13 unless provided otherwise by this Ordinance..
  3. All single-family dwellings shall have a minimum front, side and rear elevation width of twenty (20) feet.
  4. All single-family dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the state building code and shall have a wall of the same approximate perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, shall be set on a concrete footing with a masonry wall extending from the perimeter wall of the dwelling to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt

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extending from perimeter to ground, made of commercial quality or equivalent. In the case of a mobile home, each mobile home shall be installed with the wheels removed and no mobile shall have any exposed towing mechanism, undercarriage or chassis.

5. All single family dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.
6. All single family dwellings shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, and such storage area shall be equal to 10% of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
7. All single family dwellings shall be aesthetically compatible in design and appearance with other such dwellings in the vicinity, with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from receipt of notice of the Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of one or more such dwellings located outside of manufactured housing communities within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more such dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
8. All single family dwellings shall contain no additions or rooms or other areas which are not constructed with similar or better quality workmanship as the original structure including permanent attachment to the principal structure and construction of a foundation as required herein.

### Section 23.12 - STANDARDS for HOME OCCUPATIONS

- A. Home occupations shall comply with the following standards.
  1. The occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential residential character of the premises including both the dwelling and yard areas. There shall be no change in the exterior appearance of the dwelling, nor shall there be any evidence of the conduct of such home occupation other than a sign according to Article IV. There shall be no evidence of the outdoor storage associated with a home occupation including vehicles, equipment, material, and refuse.
  2. The occupation, including associated equipment, shall not produce any noise, odors, vibration, fumes or smoke detectable to normal sensory perception beyond the lot lines. No equipment or process shall be used which creates electrical interference in any radio, television, or communication receivers off the premises, or cause fluctuations in line voltage off the premises.
  3. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature. Refuse generated by the occupation shall be safely and properly disposed of.
  4. The home occupation shall not employ any persons on the lot except for employees residing in the dwelling.
  5. The home occupation shall not occupy an area greater than one-quarter (1/4) of the gross floor area of the dwelling including the basement.
  6. Visitors, customers and deliveries to the home occupation shall not exceed a total of that which is customarily associated with a single family dwelling, and traffic associated with such home occupation shall not unreasonably interfere with the use and enjoyment of nearby properties, taking into consideration such matters as the size and noise characteristics of vehicles associated with visitors, customers and deliveries, and the location of the driveway and parking area on the lot and in relation to the lot lines and nearby dwellings.



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### Section 23.13 OUTDOOR FURNACES

**A. Definitions:** For the purpose of this Section and Ordinance, the following definitions shall apply:

1. **Natural wood:** Tree trunks and branches of a minimum diameter of one (1) inch excluding leaves and needles; wood that has been milled and dried including wood pellets; and corn and agricultural seeds. However, no such material shall constitute natural wood if it has been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.
2. **Outdoor furnace:** An accessory structure intended not to be located within a building occupied by humans or domestic animals, which is designed for heating spaces or liquids within an occupied building, or outdoor swimming pool or spa, through the burning of fuel.

**B. Approval Procedure:** Outdoor furnaces are classified as accessory structures and shall be subject to Zoning Administrator approval. A zoning permit application for an outdoor furnace shall include a clearly legible drawing, to scale, that identifies the parcel's lot lines and existing structures, the proposed location of the furnace, and the proposed furnace's distance from all lot lines, and a copy of the manufacture's specifications for such furnace. The Zoning Administrator shall issue a zoning permit for an outdoor furnace upon finding that the application complies with the standards and regulations of this Section and Ordinance.

**C. Standards:**

1. Outdoor furnaces are authorized on all lots in all districts provided the lot is of a minimum one (1) acre in area and where there is compliance with all other standards of this Section and Ordinance.
2. An outdoor furnace shall be equipped with properly functioning spark arrestors and shall comply with all building codes of the Township and all other regulations and requirements of county, state and federal agencies. Where local codes, state or federal regulations establish standards in excess of the manufacture's specifications, such furnace shall not be erected.
3. The furnace shall be located a minimum of one hundred (100) feet from a lot line except where the furnace is to be located in an R-2 or R-3 District, in which case such minimum setback shall be one hundred fifty (150) feet.
4. The outdoor furnace shall have a chimney that extends at least fifteen (15) feet above the average ground surface below as measured at all corner points of the furnace, and in no case shall the chimney be less than two (2) feet above the peak of any existing building on a separate lot that is within three hundred (300) feet of the furnace and intended for human occupancy. "Existing building" shall mean any building existing on the effective date of this Section 23.13 or any building for which a building permit has been issued prior to the effective date of this Section 23.13 but yet to be constructed. Nothing in this subsection (4) shall be construed to authorize a chimney height that exceeds the manufacturer's specifications. See subsection (1) above.
5. No outdoor furnace shall rely on any fuel except natural wood as defined in subsection (A) above. For clarification purposes, prohibited fuels include, but are not limited to, rubbish or garbage including but not limited to food wastes; food wraps; packaging; animal carcasses; paint or painted materials; furniture; composite shingles; construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; plywood or composite wood; any plastic material including but not limited to nylon, PVC, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products; and newspaper, corrugated cardboard, container board, office paper and other similar materials.

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### Section 23.14 FARM-BASED BIOFUEL PRODUCTION FACILITIES

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:
1. **Biofuel:** Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.
  2. **Ethanol:** A substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.
  3. **Farm:** That term as defined in section 2 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.472.
  4. **Proof gallon:** That term as defined in 27 CFR 19.907.
- B. Production Facilities Classified as “Accessory Uses”:** A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel, is classified as an “accessory use” and is not subject to special land use approval, provided all of the following requirements are met:
1. The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all other applicable setback requirements of this Ordinance.
  2. On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.
- C. Production Facilities Classified as “Special Land Uses”:**
1. A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel is classified as a “special land use” if the facility meets the requirements of subsection (B)(1) but that does not meet the requirements of subsection (B)(2).
  2. A biofuel production facility located on a farm with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel, is classified as a “special land use” if the facility meets the requirements of subsection (B)(1).
- D. Application Requirements:** An application for special land use approval for a biofuel production facility described in subsection (C) shall include the required information according to Article XIX in addition to the following:
1. A description of the process to be used to produce biofuel.
  2. The number of gallons of biofuel anticipated to be produced annually.
  3. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.
  4. For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.
  5. Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).
  6. Any additional information requested by the Planning Commission and relevant to compliance with this Ordinance.
- E. Special Land Use Public Hearing:** The Township shall hold a hearing on a special land use application for a biofuel production facility under subsection (C) not more than 60 days after the application is filed.
- F. Special Land Use Conditional Approval:** Special land use approval of a biofuel production facility described in subsection (C) shall be made expressly conditional on the facility meeting all of the following requirements before the facility begins operation and no additional requirements:
1. Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.
  2. The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
    - a. Air pollution emissions.
    - b. Transportation of biofuel or additional products resulting from biofuel production.
    - c. Use or reuse of additional products resulting from biofuel production.
    - d. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
  3. The biofuel production facility includes sufficient storage for both of the following:
    - a. Raw materials and fuel.

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- b. Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

### Section 23.15 MEDICAL MARIJUANA

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:
1. Marijuana: As defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
  2. Primary caregiver: A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana, who has been issued and possesses a registry identification card to do so according to the Medical Marijuana Act, MCL 333.26421 et seq, and who otherwise meets the definition of a primary caregiver under the Act.
  3. Qualifying patient: A person who has been diagnosed by a physician as having a debilitating medical condition, as defined by the Medical Marijuana Act, MCL 333.26421 et seq, and who has been issued and possesses a registry identification card according to the Act.
- B. Authorization:** The growing, distribution and use of marijuana is prohibited except as provided in this Section. The growing, possession and medical use of marijuana in accordance with the Michigan Medical Marijuana Act, MCL 333.26421 et seq, is permitted only as a home occupation though the growing and possession of the medical marijuana may occur in an accessory structure on the premises. Such home occupation may operate within a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient, and which may be located within the associated dwelling or within an accessory structure on the premises.
1. Nothing in this Section shall be construed as authorizing any retail store, store front, office building, or other structure or any type of mobile unit or entity that dispenses, facilitates, stores, sells, or provides, in any manner, marihuana or cannabis or any product containing marihuana or cannabis, or any facility used to cultivate marijuana, except as a Class 1 home occupation according to the requirements of this Section.
  2. Nothing in this Section shall be construed as authorizing any use of a parcel for a club or other entity whose purpose includes the gathering of qualified patients to smoke or otherwise ingest marijuana.
- C. Standards and Conditions:** The following standards and conditions shall apply in addition to the standards of Section 23.12, except where expressly provided otherwise. Where the following standards and conditions are more stringent than those of Section 23.12, the more stringent standards and conditions shall apply.
1. No medical marijuana home occupation shall be operated except in a single family dwelling or accessory structure thereto.
  2. No medical marijuana home occupation shall be operated by anyone other than a primary caregiver. Such primary caregiver shall reside in the dwelling on the parcel where the home occupation is occurring.
  3. No more than one (1) primary caregiver residing in a dwelling shall operate a medical marijuana home occupation.
  4. The growing of marijuana shall be contained in a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver according to the Medical Marijuana Act, MCL 333.26421 et seq., and such containment area shall not exceed 600 square feet in floor area.
  5. No more than seventy-two (72) marijuana plants shall be grown on the parcel at any one time.
  6. There shall be no sign erected pertaining to the home occupation.
  7. All aspects of a medical marijuana home occupation shall comply at all times with the provisions of the Michigan Department of Community Health and the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

### End of Article XXIII

*(Art. XXIII amended 6-14-10 / Ord. 24-3 to address supplemental provisions, its previous subject matter, amendment procedures, relocated to Art. XX)*

*(Art. XXIII amended 3-14-11 / Ord. 24-4 to insert Sec. 23.11 Standards for Single Family Dwellings, Sec. 23.12 Standards for Home Occupations, and Sec. 23.13 Outdoor Furnaces)*

*(Art. XXIII amended 5-14-12 / Ord. 24-6 to insert Sec. 23.14 Farm-Based Biofuel Production Facilities and Sec. 23.15 Medical Marijuana)*

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## Article XXIV DEFINITIONS

### Section 24.01 - Construction of Language

- A. For the purpose 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 a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
  3. The word "building" includes the word "structure" and both include any part thereof.
  4. The word "lot" includes the word "plot", "tract", or "parcel".
  5. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
  6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
  7. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
  8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
    - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
    - b. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
    - c. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
  9. The "Township" is the Township of Clarence in the County of Calhoun, State of Michigan. The "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
  10. Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
  11. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

### Section 24.02 - DEFINITIONS

**Accessory Building or Structure:** A building or structure, or portion thereof, customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

**Accessory Use:** A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the building or lot, or portion thereof, and located on the same lot as the same.

**Adult Entertainment Businesses:** See Sec. 7.03.

**Adult Foster Care Facility:** An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

- a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an occupant of the residence.
- b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.

**Agricultural Service Establishments:** Establishments which engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; veterinary services; slaughter houses, and facilities used in the research

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and testing of farm products and techniques.

**Agriculture:** The commercial production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. "Agriculture" includes buildings and machinery used in such commercial production. "Agriculture" does not include kennels.

**Assisted Living Facilities:** Any facility licensed by the State of Michigan that provides residential services to adults in addition to any other services essential for sustaining the activities of daily living, and not otherwise constituting an adult foster care facility as defined in this Ordinance. Such additional services may include, but need not be limited to, the provision of meals including congregate meals, transportation services, entertainment, occasional or regular nursing care, and day trips. The phrase "assisted living facility" shall include a facility that houses disabled persons who receive a wide range of health and support services and which may also be referred to as a nursing home or convalescent home, but shall not include a hospital or medical clinic as defined in this Ordinance.

**Basement:** That portion of a building below the first story floor joists, at least half of whose clear ceiling height along the perimeter of such building portion is below the level of the adjacent ground. A basement shall not be considered as a story.

**Bed and Breakfast:** A structure that was constructed for single family residential purposes and in which the structure's owner resides, but which is used for the purpose of renting bedrooms on a nightly basis to tourists, including the provision of bathing and lavatory facilities and a breakfast meal only for such tourists only.

**Building:** Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to greenhouses, tents, sheds, and dwellings including mobile homes.

**Building Height:** The vertical distance from the average of the highest and lowest finished elevation along the perimeter wall of the building to the highest point of the roof surface.

**Building Inspector:** An individual hired by the Township or Calhoun County to administer the Michigan Construction Code.

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

**Certificate of Occupancy:** A document signed by the Building Inspector as a condition precedent to the commencement of a use or the occupation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of this Ordinance and the Michigan Construction Code.

**Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

**Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public, and does not provide merchandise, vending, or commercial activities except incidentally for the membership and purpose of such club.

**Commercial Campground:** A facility where sites are offered for the establishment of temporary living quarters, for a fee, and which is not owned by an agency or department of a city, village, township, county or state government. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters. A "commercial campground" shall not be construed to include any facility or portion of a facility where such temporary housing sites are purchased by users or otherwise not owned by the facility owner, including but not necessarily limited to condominium ownership.

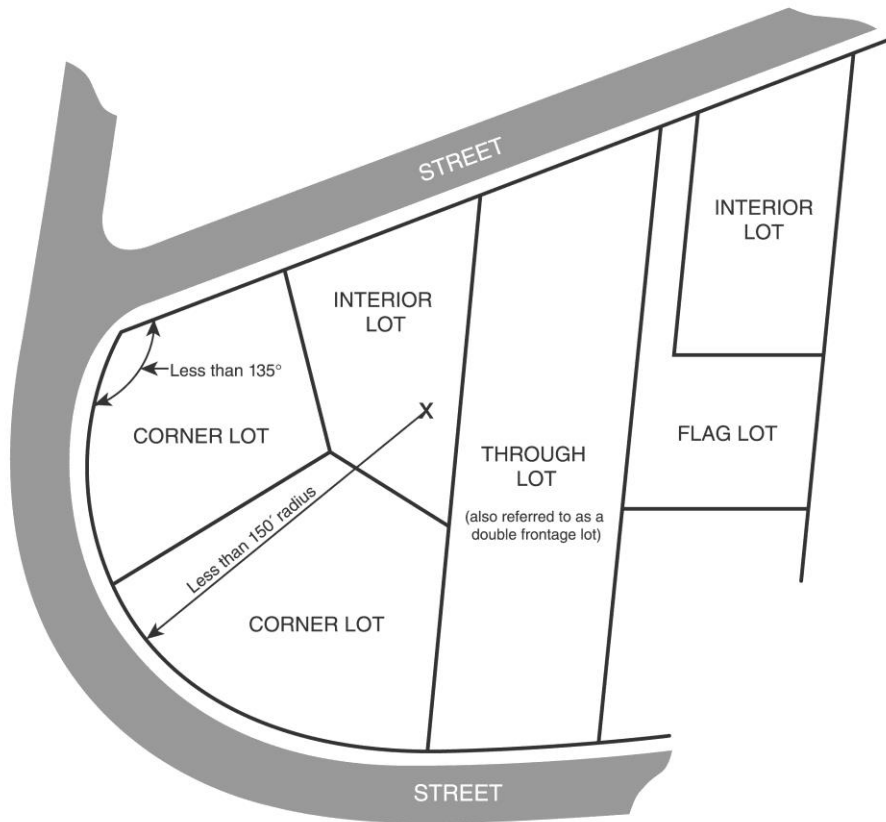
**Communication Tower:** A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities that are subject to state or federal law or regulations that preempt municipal regulatory authority.

**Condominium:** A project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).

**Condominium Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

**Condominium, Site:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.

**Figure 24-1  
LOT TYPES**



**Figure 24-2  
LOT DEPTH**

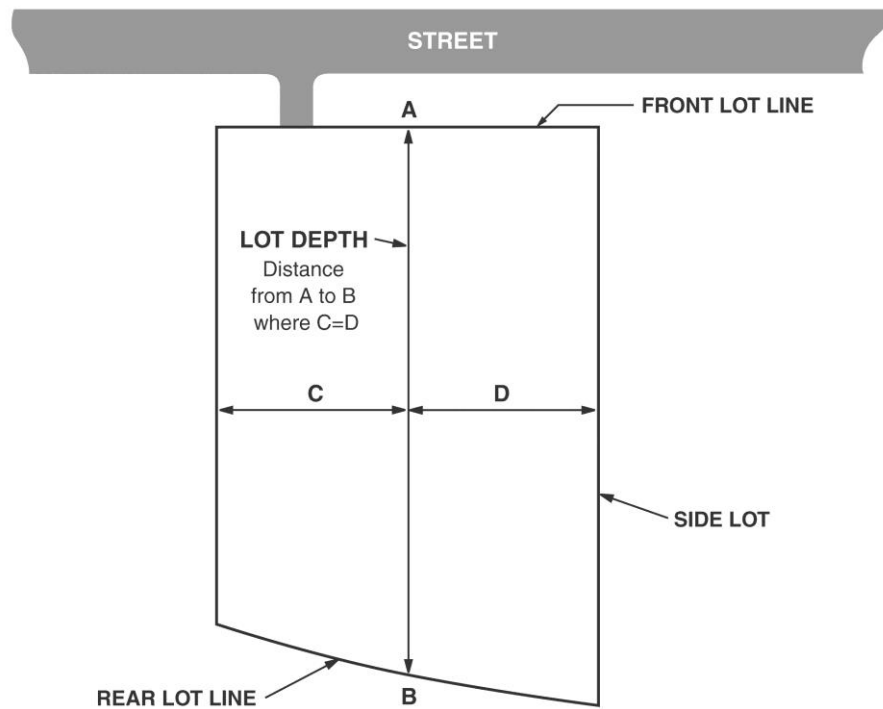
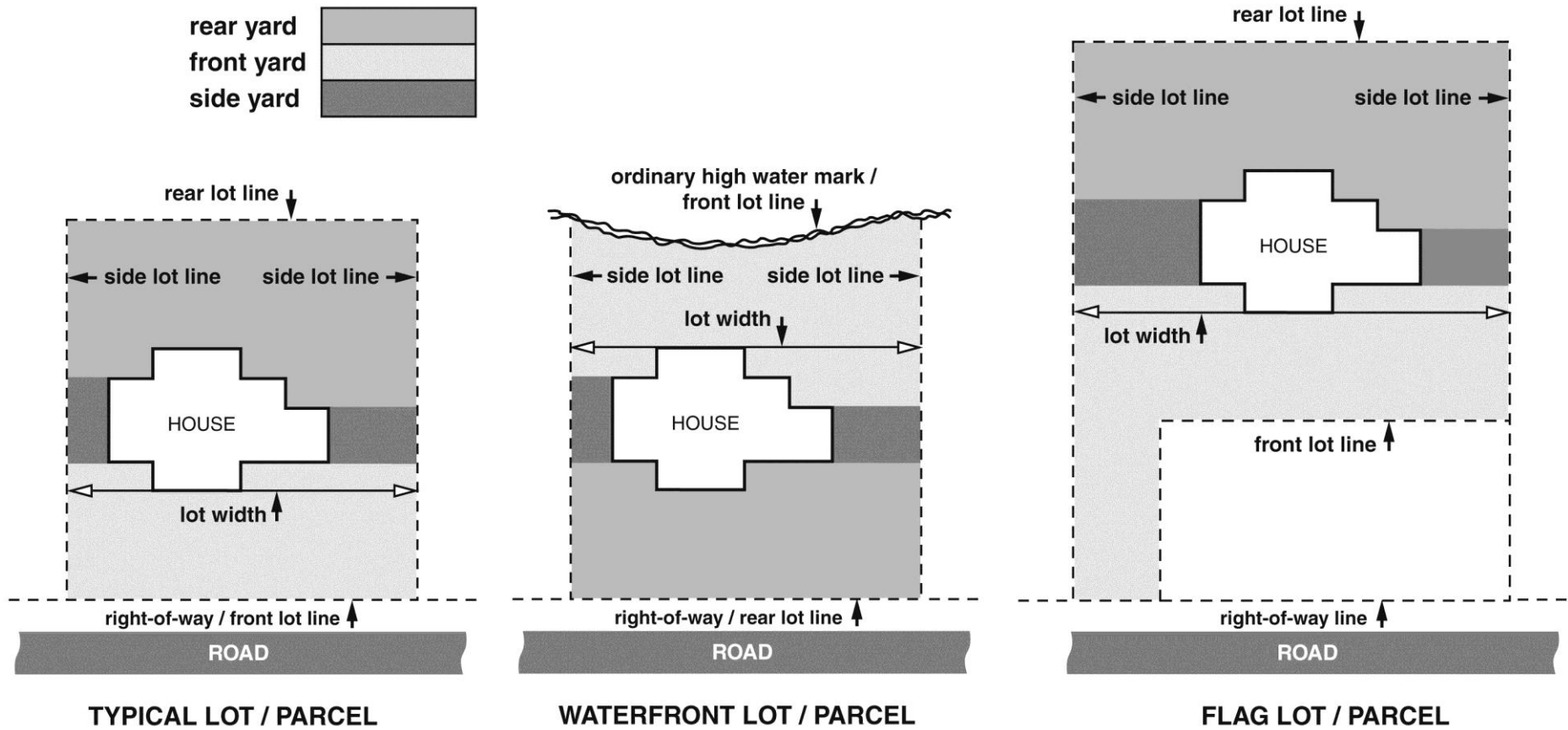


Figure 24-3  
**LOT LINES and YARDS**



End of Article XXIV

(Art. XXIV Amended 6-14-10 / Ord. 24-3, relocated from Art. II to Art. XXIV)

(Art. XXIV Amended 3-14-11 / Ord. 24-4 to address comprehensive revisions)

**Article XXV**  
**Reserved for Future Use**

**End of Article XXV**

*(Art XXV adopted 5-11-09 / Ord. 24-1, to address Open Space Preservation Communities)*

*(Art. XXV amended 3-14-11 / Ord. 24-4 to reserve for future use, its previous subject matter, open space preservation communities, relocated to Art. VII)*



**Article XXVI**  
**Reserved for Future Use**

**End of Article XXVI**

*(Art XXVI adopted 5-11-09 / Ord. 24-1 to address environmental protection)*

*(Art. XXVI amended 3-14-11 / Ord. 24-4 to reserve for future use, its previous subject matter, environmental protection, relocated to Art. XIII)*