

# TOWNSHIP OF BOARDMAN ZONING & ORDINANCES



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Kalkaska County, Michigan  
Township of Boardman  
4855 Pine Street  
South Boardman, MI 49680

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## **SECTION 0.01 TITLE:**

Township of Boardman Zoning and Ordinances

## **SECTION 0.02 LEGAL AUTHORITY:**

An Ordinance enacted pursuant to the authority contained in Michigan Zoning Enabling Act of the Public Acts of Michigan for 2006. (125.3101 - 125-3702) This Act replaced the County Zoning Act of 1943, the Township Zoning Act of 1943, and the City and Village Act of 1921. The Michigan Zoning Enabling Act provides for the establishment of zoning districts in the unincorporated portions of Boardman Township, County of Kalkaska, Michigan, to provide for regulations to govern the use of land for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, and additional uses of land may be encouraged, regulated or prohibited; to establish a Planning Commission and Zoning Board of Appeals, to grant authority to said Commission and Board in addition to that expressly provided is said Michigan Zoning Enabling Act, Act 110 of 2006; to provide for the enforcement of the provisions of said Ordinance and penalties and other relief for violation of said Ordinance; to provide for the amendment thereof and the repeal of all Ordinances or parts of Ordinances in conflict therewith.

The original Boardman Township Zoning Ordinance was created and approved in 1983. Subsequently, other Ordinances were added.

The entire zoning and ordinance text was updated and approved **DATE/DATE/DATE**.

## **SECTION 0.03 BOARDMAN TOWNSHIP MISSION STATEMENT:**

The Township of Boardman is committed to improving the quality of life of its citizens through open communication and is responsive to the resident needs while maintaining a safe, environmentally rich, sound community.

## **SECTION 0.04 BOARDMAN TOWNSHIP ZONING AND ORDINANCES BOOK:**

The Township of Boardman has detailed in the following pages both the Zoning and Ordinances for this township. The first section outlines the zoning, while the second section details the Ordinances. Please refer to the table of contents to find or reference a specific section hereafter.

# -TOWNSHIP OF BOARDMAN ZONING-

## **ARTICLE Z-ONE: PURPOSE AND GENERAL LIMITATION**

### **SECTION Z-1.0 TITLE**

This Ordinance shall be known as the Boardman Township Zoning Ordinance.

### **SECTION Z-1.02 PURPOSES**

The fundamental purposes of this Ordinance are:

**Z-1.02 (A)** To promote the public health, safety, morals, peace, and general welfare of the inhabitants of Boardman Township; and

**Z-1.02 (B)** To provide for the protection and preservation of the high-water quality of our lakes, rivers, streams, and wells to the end that the waters thereof shall continue to afford a safe and adequate water supply and optimum recreational enjoyment; and

**Z-1.02 (C)** To protect the lands, water, air, and other resources of the Township during the time required for the formulation and adoption of a comprehensive plan for the development of the Township; and

**Z-1.02 (D)** Avoid the overcrowding of populations.

### **SECTION Z-1.03 GENERAL LIMITATIONS OF ORDINANCE**

#### **Z-1.03 (A) EXISTING USES OF LANDS, BUILDINGS, AND STRUCTURES:**

At the discretion of the property owner, the lawful use of any building or structure, any land or premises as existing and lawful on the date of adoption of this Ordinance, or on the date of a subsequent amendment thereto, may be continued even though such use may not be in conformity with the provisions of this Ordinance. This provision does not apply and extend an exemption when a landowner expands or otherwise changes the non-conforming building, structure, or land use.

#### **Z-1.03 (B) EXEMPTION OF CUSTOMARY ACCESSORY FARM BUILDINGS AND STRUCTURES:**

The provisions of this Ordinance shall not apply to the erection, repair, or use of customary accessory farm buildings and structures, such as barns, sheds, pens, fences and the like, provided that no building or structure other than open fences through which there shall be clear vision shall hereafter be erected or moved less than twenty (20) feet from any highway right-of-way line abutting the premises.

### **Z-1.03 (C) CONFLICTING LAWS, REGULATIONS AND RESTRICTIONS:**

The provisions of this Ordinance shall be held to the minimum requirements for promoting the public health, morals, safety, or general welfare. Whenever the requirements or other lawfully adopted rules, regulations, or restrictions, or with existing easements, covenants, or other agreements between parties' conflict, the requirements imposing the higher standard shall govern.

## **SECTION Z-1.04 DEFINITIONS**

**Z-1.04 (A) LOT:** A legally created parcel of property, unbroken by a public right-of-way, meeting the minimum dimensions and requirements of the zoning district in which it is located.

**Z-1.04 (B) LOT AREA:** The size of any lot, which shall exclude any easements or rights of way, public or private, to which the lot is subject to or burdened by.

**Z-1.04 (C) LOT LINE:** A line which marks the boundary of a lot and which divides at least two parcels of property.

**Z-1.04 (D) LOT LINE – FRONT:** In the case of an interior lot, the lot line separating the lot from the road or highway; in the case of a corner lot or double-frontage lot, the lot line separating the lot from that road or highway which is designated as the front road or highway in the request for a Zoning Permit.

**Z-1.04 (E) LOT LINE – REAR:** The lot line opposite the most distant from the front lot line; in the case of irregularly shaped lot, such lot line shall be an imaginary line parallel to the front lot line but not less than ten (10) feet long and measured wholly within the lot.

**Z-1.04 (F) LOT LINE – SIDE:** Any lot line which is not a front lot line or a rear lot line; a lot line separating a lot from a side road or highway is an exterior side lot line while a lot line separating a lot from another lot, or lots, is an interior side lot line.

**Z-1.04 (G) Lot Line – Waterfront:** A line which is adjacent to a body of water and divides a parcel of property from a body of water.

**Z-1.04 (H) LOT LINE – NON- CONFORMING:** An existing lot which was a legal record prior to the effective date of the original Ordinance or any amendment thereto and which does not conform to the lot size of the district in which it is located.

**Z-1.04 (I) LOT OF RECORD:** Any parcel of land recorded in the Register of Deeds Office.

**Z-1.04 (I) a.** The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.

**Z-1.04 (I) b.** The proposed use will not enhance or promote a deleterious effect to adjacent areas through causing or encouraging blight, a chilling effect upon other business and occupants and a disruption to neighborhood development.

**Z-1.04 (I) c.** The establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation or interfere with any program of urban renewal; and, where all other applicable regulations within the Ordinance or other pertinent township ordinances will be observed.

**Z-1.04 (J) DWELLING:** a dwelling is a place where a person or persons live. Dwellings include a house, apartment, condo, mobile home and does not include a tent, a recreational vehicle, a boat, a car, a truck, or a trailer. A dwelling has provisions for living, sleeping, eating, cooking, and sanitation.

# **ARTICLE Z-TWO – TOWNSHIP BOARD, TOWNSHIP PLANNING COMMISSION, AND ZONING BOARD OF APPEALS**

## **SECTION Z-2.01 TOWNSHIP PLANNING COMMISSION – MEMBERSHIP**

The Planning Commission shall consist of no less than four (4) and no more than eleven (11) members who shall be appointed in accordance with MCLA 125.3301 (3),(4), Michigan Zoning Enabling Act 110 of 2006.

## **SECTION Z-2.02 TOWNSHIP PLANNING COMMISSION – QUALIFICATIONS, TERMS VACANCIES, and REMOVAL**

The members of the Township Planning Commission shall be selected upon the basis of their respective qualifications and fitness to serve as members of a Planning Commission and without consideration for their political activities. Of the members first appointed two (2) shall be appointed for terms of two (2) years each. The other two (2) members shall be appointed for terms of four (4) years each; or in case of a Planning Commission of more than four (4) members, three (3) shall be first appointed for two (2) years each. The other two (2) and the others first appointed for four (4) years each. A member of the Planning Commission shall serve until a successor is appointed and has qualified. Upon the expiration of the terms of the members first appointed, successor shall be appointed, in like manner, for terms of four (4) years each. A vacancy shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term. An elected officer of the Township or an employee of the Township Board shall not serve simultaneously as a member or an employee of the Planning Commission except for one member other than the Supervisor shall be appointed by the Board of Trustees. Members of the Planning Commission shall be removable for misfeasance, or nonfeasance in office by the Township Board upon written charges and after public hearing.

## **SECTION Z-2.03 TOWNSHIP PLANNING COMMISSION - DUTIES**

The Township Planning Commission shall perform those duties and exercise those powers provided by the law, together with such addition powers as specified in this Ordinance.

## **SECTION Z-2.04 ZONING BOARD OF APPEALS – MEMBERSHIP**

The Township Zoning Board of Appeals shall consist of members who shall be appointed in accordance with the Michigan Zoning Enabling Act of 2006.

## **SECTION Z-2.05 ZONING BOARD OF APPEALS – QUALIFICATIONS, TERMS, VACANCY, and REMOVAL**

The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission. The remaining members of the Board of Appeals shall be selected from the electors of the Township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as chairperson of the Board of Appeals. An employee or contractor of the Township Board may not serve as a member or an employee of the Township Board of Appeals. The total amount allowed the Board of Appeals in any one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board. Members of the Board of Appeals shall be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office. Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission, or Township Board, whose terms shall be limited to the time they are members of the Township Board respectively, and the period stated in the resolution appoint them. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. A Township Board of Appeals shall not conduct business unless a majority of the members of the Board are present.

## **SECTION Z-2.06 DUTIES**

The Zoning Board of Appeals shall perform those duties and exercise those powers provided by law, together with such additional powers as specified in this Ordinance.

# **ARTICLE Z-THREE – ZONING DISTRICTS**

## **SECTION Z-3.01 CLASSIFICATION OF ZONING DISTRICTS:**

For the purposes set forth in the Preamble, all of the unincorporated area of Boardman Township is hereby divided into the following Zoning Districts. The location of each Zoning District is shown on a map entitled “Zoning Districts Map of Boardman Township, Michigan”, which map is hereby made a part of this Ordinance. All proper notations on the map shall be as much a part of this Ordinance as though specifically described herein.

## **SECTION Z-3.02 INTERPRETATION OF DISTRICT BOUNDARIES:**

Unless otherwise indicated, the boundary lines of Zoning Districts shall be interpreted as following along section lines, or customary division lines of sections, such as quarter or eighth lines; or the center line of highways and natural water courses, or the boundary lines of incorporated areas, recorded plats or subdivisions; or property lines of legal record at the office of the Kalkaska Register of Deeds on the date of enactment of this Ordinance; or the straight-line projection of any said lines.

- (A) Residential Districts, R.**
- (B) Resort and Residential Districts, R-R.**
- (C) Agricultural-Residential Districts, A-R.**
- (D) Forest-Recreational Districts, F-R.**
- (E) Commercial Districts, C.**
- (F) Industrial Districts, I.**
- (G) Natural River Overlay Districts, N-R.**



# ARTICLE Z-FOUR – RESIDENTIAL DISTRICTS, R

The following provisions shall apply to all Residential Districts, R.

## SECTION Z-4.01 PURPOSE

The purpose of providing Residential Districts, R, is to establish areas in the unincorporated areas of the Township, and the Suburban and rural sections of the Township primarily dedicated to residential uses in which each dwelling hereafter erected is located on an individual lot or premises adequate in size, and shape, and to provide safe water and sewage disposal facilities, minimize spread of fire, and set back from the public thoroughfare to facilitate safe exit and entrance to the premises.

The requirements are intended to protect and stabilize the basic qualities of each such District as well as provide suitable and safe conditions for family living. Since certain other uses of land, buildings and structures are generally accepted as compatible with residential uses, if properly integrated, the inclusion of various such uses is provided by Special Approval.

## SECTION Z-4.02 PROPERTY USES

Except as provided by Section Z-1.03, the use of all lands and premises, and the erection and use of all buildings and structures shall hereafter be limited to the following:

### **Z-4.02 (A) PRIMARY USES (NOT SUBJECT TO SPECIAL APPROVAL):**

1. One-family and two-family dwellings.
2. House trailer or mobile home, as provided under Section Z-13.08

### **Z-4.02 (B) USES SUBJECT TO SPECIAL APPROVAL, SEE SECTION Z-13.05:**

1. All uses not specified in Section Z-4.02 (A) (1) and (2)

### **Z-4.02 (C) ACCESSORY USES, BUILDINGS, AND STRUCTURES:**

1. Accessory uses, and minor buildings customarily incidental to any Primary or Approved Use, which do not alter the character of the District.

### **Z-4.02 (D) UNPERMITTED:**

1. Houses that are considered tiny houses or crate houses are not allowed unless they satisfy the Michigan code for house construction standards which is the current residential Building Code.

**Z-4.02 (E) EVERY PLATTED OR UN-PLATTED LOT IN THIS ZONE SHALL MEET THE FOLLOWING REQUIREMENTS:**

1. No building or structure shall exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet, whichever is less, unless as otherwise provided by this Ordinance.
2. Every dwelling shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet, so long as it meets all dwelling definitions, township setbacks, county building codes, and state building codes. The basic structure shall not be made up of additions of a dissimilar type or quality of construction or materials.
3. Lot Area – All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line, and shall have a minimum lot area of one-half (1/2) acre. Side yards shall have not less than ten feet (30) on each side.
  - a. ½ acre = 21,780 square feet    1 acre = 43,560 square feet
4. Churches and related buildings and structures customarily incidental thereto, but not including tents or other temporary structures. Any building or lot not conforming to the above provisions which was in existence, may be “grandfathered”.

# ARTICLE Z-FIVE – RESORT-RESIDENTIAL DISTRICTS, R-R

The following shall apply to all Resort-Residential Districts, R-R.

## SECTION Z-5.01 PURPOSES

These Districts are intended to promote the proper use, enjoyment, and conservation of the water, land, and associated resources of the Township deemed particularly adapted to relatively “intense” recreational and residential property uses. As in Residential Districts, R, certain uses recognized desirable and compatible with the primary uses of the District are provided by Special Approval. As in Residential Districts, R, lot size and other regulation must meet minimum requirements.

## SECTION Z-5.02 PROPERTY USES

Except as provided by Section Z-1.03, the uses of all lands and premises, and erection of and use of all building and structures shall hereafter be limited to the following:

### **Z-5.02 (A) PRIMARY USES (NOT SUBJECT TO SPECIAL APPROVAL):**

1. One-family and two-family dwellings, and summer cottages.
2. House trailers, or mobile homes, as provided under Section Z-13.08 (B)

### **Z-5.02 (B) USES SUBJECT TO SPECIAL APPROVAL, SEE BY SECTION Z-13.05:**

1. All uses not specified in Section Z-5.02 (A) (1) and (2).

### **Z-5.02 (C) ACCESSORY USES, BUILDING AND STRUCTURES:**

1. Accessory Uses, and minor buildings and structures customarily incidental to any Primary or Approved Use, which do not alter the character of the District.

### **Z-5.02 (D) EVERY PLATTED OR UN-PLATTED LOT IN THIS ZONE SHALL MEET THE FOLLOWING REQUIREMENTS:**

1. No building or structure shall exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet whichever is the lesser, unless otherwise provided by this Ordinance.
2. Every dwelling shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet. The basic structure shall not be made up of additions of a dissimilar type or quality of construction or materials.
3. Lot Area – All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line and shall have a minimum lot area of one-half (1/2) acre.

# ARTICLE Z-SIX – AGRICULTURAL-RESIDENTIAL DISTRICTS, A-R

The following provisions shall apply to all Agricultural-Residential Districts, A-R.

## SECTION Z-6.01 PURPOSE

The predominant land uses in this District are rural, and it is the purpose of the provisions of the Ordinance to conserve this character in a general way. As roads and highways are improved, and expressways extend into the District, further residential developments including a limited number of commercial and other enterprises may be anticipated. While this Ordinance seeks to conserve the general rural character of the District, it also recognizes the importance of providing safe desirable standards for the newer in-coming developments.

## SECTION Z-6.02 PROPERTY USES

Except as provided by Section Z-2.03, the use of all lands and premises, and the erection and use of all building and structures shall hereafter be limited to the following:

### **Z-6.02 (A) PRIMARY USES (NOT SUBJECT TO SPECIAL APPROVAL):**

1. Crop and livestock farming, including truck gardens, tree farms, and other specialty crops.
2. Processing of products produced on the farm premises, including a roadside stand
3. For the sale thereof items produced and noted above.
4. One-Family Dwellings + Two Family Dwellings.
5. Mobile homes or house trailers as provided under Section Z-13.08 (B)

### **Z-6.02 (B) USES SUBJECT TO SPECIAL APPROVAL:**

1. All uses not specified in Section Z-6.02 (A) (1), (2), (3), and (4).

### **Z-6.02 (C) ACCESSORY USES, BUILDINGS, AND STRUCTURES:**

1. Accessory uses and minor buildings and structures customarily incidental to and Primary or Approval Uses, which do not alter the character of the District.

### **Z-6.02 (D) HEIGHT, AREA, AND YARD RESTRICTIONS:**

Every platted or un-platted lot in this Zone shall meet the following requirements:

1. Each dwelling together with its accessory buildings hereafter erected shall be located on a lot or parcel of land not less than one (1) acre in size, but this shall not prevent the use of a lot or parcel of land of lesser size, provided the same was a legal record on the date of the passage of this Ordinance. All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line.

2. The height of all structures shall not exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet unless it is used solely for the storage of farm equipment, products or feed (i.e., silage, corn, hay, etc.) in which case the maximum height shall not exceed seventy (70) feet in height.
3. Every dwelling shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet, so long as it meets all dwelling definitions, township setbacks, county building codes, and state building codes. The basic structure shall not be made up of additions of a dissimilar type or quality of construction or materials.

# ARTICLE Z-SEVEN – FOREST-RECREATION DISTRICT, F-R

## SECTION Z-7.01 PURPOSE

These Districts are intended to promote the proper use, enjoyment and conservation of the forest, water, topographic, geologic, historic, and other resources of the Township peculiarly adopted to forestry, forest industries, and recreational uses in general. As in District A-R, various uses are provided for by Special Approval.

## SECTION Z-7.02 PROPERTY USES

Except as provided by Section Z-1.03, the use of all lands and premises, and the erection and use of all building and structures shall hereafter be limited to the following:

### **Z-7.02 (A) PRIMARY USES (NOT SUBJECT TO SPECIAL APPROVAL):**

1. Archery and shooting ranges.
2. Forestry; production of forest crops.
3. Harvesting of any native or wild crop permitted by law.
4. Hunting and fishing or dwellings; outdoor and sportsman clubs.
5. One-Family Dwellings + Two Family Dwellings.
6. Tree farms.
7. House Trailers or mobile homes as provided under Section Z-13.08 (B).

### **Z-7.02 (B) USES SUBJECT TO SPECIAL APPROVAL:**

1. Campgrounds

### **Z-7.02 (C) ACCESSORY USES:**

1. Buildings and Structures Uses, and Minor Buildings and Structures customarily incidental to any Primary Approved Uses, which do not alter the character of the district.

### **Z-7.02 (D) HEIGHT, AREA, AND YARD RESTRICTIONS:**

Every lot in this District shall have:

1. A minimum area of at least one (1) acre and a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line.
2. The height of all structures shall not exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet, whichever is lesser, unless as otherwise provided by this Ordinance.
3. Every dwelling shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet, so long as it meets all dwelling definitions, township setbacks, county building codes, and state building codes. The basic structure shall not be made up of additions of a dissimilar type or quality of construction or materials.

# ARTICLE Z-EIGHT – COMMERCIAL DISTRICTS, C

The following provisions shall apply to all Commercial Districts, C. 1.

Any property bordering US-131, within 660ft of the centerline of US-131, in each direction, will be zoned Commercial; with exception of those in map Section 16, Section 20, and Section 21. As a note, property can span across multiple zoning districts.

## SECTION Z-8.01 PURPOSE

The purpose of establishing Commercial Districts “C” is to provide areas primarily dedicated to a variety of establishments, including personal, professional, and other services commonly associated with commercial and business centers.

## SECTION Z-8.02 GENERAL PROVISIONS

**Z-8.02 (A)** Any property bordering US-131, within 660ft of the centerline of US-131, in each direction, will be zoned Commercial; with exception of those in map Section 16, Section 20, and Section 21. As a note, property can span across multiple zoning districts.

**Z-8.02 (B)** Changing zoning of parcel 016-036-10 changes from Forest-Residential to entirely Commercial.

**Z-8.02 (C)** Changing zoning of parcel 021-015-10 changes from Forest-Residential to entirely Commercial.

**Z-8.02 (D)** Changing zoning of parcel 021-015-00 changes from Forest-Residential to entirely Commercial.

## SECTION Z-8.03 REVIEW PROCEDURES

Before a zoning permit for a use within this District shall be issued, the owners or lessees shall submit the following material to the Township Planning Commission for review and approval.

1. A site plan of the property showing the location of all present and proposed buildings, drives, parking areas, waste disposal fields, screening fences or walls, and other construction features which may be proposed.
2. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or the emission of any potential harmful or obnoxious matter or radiation.

## **SECTION Z-8.04 PROPERTY USES**

Except as otherwise provided by Section Z-1.03, the use of all lands and premises, and the erection and use of all buildings and structures shall hereafter be limited to one or more of the following:

### **Z-8.04 (A) PRIMARY USES NOT SUBJECT TO SPECIAL APPROVAL:**

1. Retail stores and shops when conducted within enclosed buildings and offering chiefly new merchandise.
2. Art galleries and antique shops.
3. Auditoriums.
4. Automobile sales, rental, and repairs.
5. Bakeries
6. Banks and business and professional offices.
7. Boat sales, repairs, and rentals.
8. Carpentry, plumbing, upholstering, sign painting, interior decorating, baking, jewelry and curio making, photography, and similar establishments when conducted within a completely enclosed building without outside storage and operated as a retail business.
9. Civic, social and fraternal building not operated for profit.
10. Florist shops, nurseries, garden suppliers, and greenhouses.
11. Fruit and vegetable stands.
12. Laundromats, laundries, and clothier-cleaning establishments without use of explosives or inflammable cleaning fluids.
13. Libraries.
14. Lodging, boarding, and tourist homes.
15. Mortuaries and funeral homes.
16. Motels.
17. Publicly-owned parks and playgrounds.
18. Personal service shops, such as beauty parlors, barber shops, dress making, tailoring and shoe repair.
19. Printing, publishing, lithographing, blueprinting, and Photostatting.
20. Publicly-owned grounds and buildings.
21. Radio-TV shops and studios.
22. Real estate offices.
23. Commercial recreational enterprises, including bowling alleys.
24. Restaurants, but not including drive-ins.
25. Sales and service of farm machinery, fertilizers, feeds and other farm supplies.
26. Sales of Christmas trees for not more than forty-five (45) days during the Christmas season.
27. One-family dwellings + Two Family Dwellings.

### **Z-8.04 (B) USES SUBJECT TO SPECIAL APPROVAL.**

1. Photographic studios, music, and dance studios.
2. Building material, sales, and storage.
3. Clinics and hospitals, including health services such as baths, massage, and other therapies.
4. Commercial antennas.



5. Commercial swimming pools.
6. Dance halls.
7. Drive-in food and drink services.
8. Public garages. Gasoline service stations and machine shops.
9. Miniature golf.
10. Mobile-home courts, trailer parks, mobile-home sales.
11. Museums.
12. Churches and related religious buildings and facilities customarily incidental thereto, but not including tents and other temporary structures.
13. Night clubs.
14. Commercial parking lots.
15. Public utility buildings, including storage and service yards.
16. Storage warehouses.
17. Commercial swimming pools, on lots not less than one (1) acre.
18. Taverns.
19. Trade schools and business colleges.
20. Used-car lots.
21. Veterinary hospitals, but not including outside kennels.

**Z-8.04 (D) HEIGHT, AREA, AND YARD RESTRICTIONS.**

1. No building shall exceed a maximum of two and one-half (2 ½) stories or thirty-five (35) feet in height, whichever is lesser.
2. All lots in this District shall have a minimum lot area of one (1) acre and a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line.
3. Every building shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet, so long as it meets all dwelling definitions, township setbacks, county building codes, and state building codes. The basic structure shall not be made up of additions of a dissimilar type or quality of construction or materials.
4. Where the rear lot in a Commercial Zone abuts upon a lot in a Residential, Resort-Residential, or Agricultural-Residential Zone, there shall be a rear yard setback of not less than thirty-five (35) feet, including a ten (10) foot greenbelt or privacy fence. The greenbelt or privacy fence shall be of sufficient height to shield commercial operations and the storage of items on the commercial property from the view of the Residential, Resort-Residential, or Agricultural-Residential property. The greenbelt shall consist of natural materials such as trees, shrubs, rocks, bushes, grass, or berms.

# ARTICLE Z-NINE – INDUSTRIAL DISTRICTS

The following provisions shall apply to all Industrial Districts, I:

## SECTION Z-9.01 REVIEW PROCEDURE

Before a zoning permit for a use within the District shall be issued, the owners or lessees shall submit the following material to the Township Planning Commission for review and approval.

1. A site plan of the property showing the location of all present and proposed buildings, drives, parking areas, waste disposal fields, screening fences or walls, and other construction features which may be proposed.
2. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.

## SECTION Z-9.02 PROPERTY USES

Except as otherwise provided by this Ordinance, the use of all lands, and the erection, use and alteration of all buildings and structures shall hereafter be limited to the following:

1. The production, processing, assembly, manufacturing or packaging of any goods, or materials including testing, repair, storage, distribution, and sale of such product at wholesale.
2. Airports.
3. Commercial antennas.
4. Auto repair garages, charging stations.
5. Building materials and hardware supplies.
6. Clothes cleaning establishments.
7. Dwellings or house trailers under temporary permit granted by the Planning Commission for a period not exceeding twelve (12) months for the use of a resident watchman or caretaker when required.
8. Commercial earth removal.
9. Gasoline service stations.
10. Gravel extraction and processing.
11. Junkyards, salvage yards, and sanitary landfills, (as provided by the Kalkaska County Junk Yard and Vehicle Ordinance).
12. Lumber and fuel.
13. Machine shops.
14. Office buildings.
15. Public utility buildings.
16. Publicly owned buildings and grounds.
17. Ready-mix concrete and asphalt plants.
18. Reduction, conversion, and disposal of waste materials, but not as dumps.
19. Sale and service of farm machinery, fertilizers, feeds and other farm supplies.

20. Slaughterhouses.
21. Stockyards.
22. Storage and warehousing, but not including commercial explosives or commercial bulk storage of flammable liquids or gas.
23. Truck terminals for maintenance and repair.
24. Veterinary hospitals and kennels.
25. Wholesale houses.
26. Wholesale contractor's yards and buildings, but without retail activities.
27. Any industrial use which meets the intent and standards of the District.

## **SECTION Z-9.03 USES SUBJECT TO SPECIAL APPROVAL**

### **Z-9.03 (A) BRINE DISPOSAL WELLS ARE SUBJECT TO THE FOLLOWING:**

1. Applicant shall obtain all appropriate permits from other governmental agencies including the Michigan Department of Natural Resources before engaging in the conduct requested.
2. Applicant shall provide an environmental impact statement and shall demonstrate to the Board's satisfaction that there will be no conduct which is likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust therein; that there is no feasible and prudent alternative to the conduct and that the conduct is consistent with the promotion of the health, safety, and welfare in light of the paramount concern for protection of natural resources.
3. Applicant shall plan for, by sealed engineering plans and provide an impervious paved area capable of containing and collecting any potential spillage on the ground surface, including spillage from vehicles, storage tanks and equipment, to prevent surface water from percolating to ground water.
4. Applicant shall submit competent plans and diagrams showing the conduct proposed and shall not deviate from nor enlarge upon such conduct as shown in such plans or as contained in any special land use permit issued hereunder.
5. The Planning Commission may impose reasonable condition on the conduct proposed as may be allowed by law.
6. No disposal brine well shall be allowed closer than two thousand (2,000) feet from any existing dwelling, water well, or wetland draining into a stream, river, or body of water, wetland being defined in the Wetland Protection Act of 1979, Public Act 203 as a bog, swamp, or marsh contiguous to a lake, pond, river, or stream and being more than five (5) acres in size. No more than one (1) brine well shall be allowed per section (640) acres of land and they shall be a minimum distance of two thousand (2,000) feet apart. No brine well shall be allowed closer than one thousand (1,000) feet from a State Highway.

7. Applicant shall obtain adequate liability insurance to the Board of Trustees' satisfaction to cover any damages nearby Township residents might suffer from such a conduct.

### **Z-9.03 (B) TOXIC, CHEMICAL, OR NUCLEAR WASTE DISPOSAL:**

None of the above items (toxic, chemical, and/or nuclear waste) shall be disposed of within the boundaries of Boardman Township.

### **SECTION Z-9.04 HEIGHT, AREA, AND YARD RESTRICTIONS**

Every platted or un-platted lot in this Zone shall meet the following requirements:

1. Each building together with its accessory building hereafter erected shall be located on a lot or parcel of land not less than one (1) acre in size but this shall not prevent the use of a lot or parcel of land of lesser size, provided the same was of legal record on the date of the passage of this Ordinance. All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line, the building line, and the waterfront lot line.
2. Each building shall consist of a basic structure excluding garages, porches, decks, walkways, work sheds, and storage sheds. The basic structure shall have a minimum useable floor area of three hundred (300) square feet, so long as it meets all dwelling definitions, township setbacks, county building codes, and state building codes. The basic structure shall not be made up of additions of a dissimilar type or quality of construction materials.
3. Where the rear of a lot and Industrial Zone abuts upon a lot in a Residential, Forest-Residential, or Agricultural-Residential Zone, there shall be a rear yard setback of no less than thirty-five (35) feet, including a ten (10) foot greenbelt or privacy fence. The greenbelt or privacy fence shall be of sufficient height to shield industrial operations and the storage of items on the industrial property from view of the Residential, Forest-Residential, or Agricultural-Residential property. The greenbelt shall consist of natural materials such as trees, shrubs, rocks, bushes, grass or berms.
4. The front of the lot shall include a similar green belt from the road it faces.

# ARTICLE Z-TEN – NATURAL RIVER OVERLAY DISTRICTS, N-R

The following shall apply to all Natural River Overlay Districts, N-R

## SECTION Z-10.01 PURPOSES

The purpose of providing Natural River Overlay Districts, N-R is to protect and enhance the values of those portions of the Boardman River and its tributaries which have been designated as a “natural river” pursuant to the Natural River Act, Public Act 231 of 1970.

These Districts are intended to:

1. Promote the public health, safety, and general welfare, prevent economic and ecological damage due to unwise development patterns within the Districts, and preserve the values of the Districts for the benefit of present and future generations;
2. Protect the free-flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Boardman River and its tributaries and adjoining land.
3. Prevent flood damage due to interference with natural floodplain characteristics.
4. Provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system; and
5. Protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.

## SECTION Z-10.02 RELATION TO UNDERLYING DISTRICTS

The regulations of Natural River Overlay Districts, N-R, are in addition to any regulation of the underlying zoning Districts. In the event that regulations of these Districts conflict with the regulation the underlying Districts, the more restrictive regulations shall control. This applies to the Boardman River and its tributaries.

## SECTION Z-10.03 GENERAL PROVISIONS

The following general provisions apply to the use of any land within these Districts.

**Z-10.03(A)** A lot that exists on the effective date of this Article shall not be subdivided or reduced in dimension or area below the minimum requirements of this Ordinance. Lots that are created after the effective date of this Article shall meet the minimum requirements of this Ordinance. All lots in this zone shall have a minimum width of one hundred (100) feet at the front lot line and the waterfront lot line.

**Z-10.03 (B)** A fifty (50) foot minimum restrictive cutting belt shall be maintained on each side of the stream. Trees and shrubs may be pruned for a filtered view of the stream upon approval of the Zoning Administrator, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions.

1. Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed;
2. Selective removal or trimming of trees for timber harvest, access, permitted upon approval of the Zoning Administrator or area forester.

**Z-10.03(C)** The provisions of this Article do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within these Districts, except that if this Article imposes greater restrictions than those found on such easements, covenants, or deeds, the provisions of this Article shall prevail.

**Z-10.03(D)** The provisions of this Article do not permit actions prohibited by other statutes or Ordinances which are applicable to these Districts.

## **SECTION Z-10.04 PROPERTY USES**

Except as provided by Sections Z-1.03(A) and Z-1.03(C), the use of all lands and premises, and the erection and use of all buildings and structures shall hereafter be limited to the following:

### **Z-10.04 (A) PRIMARY USES (NOT SUBJECT TO SPECIAL APPROVAL):**

1. Private camping and other recreational activities, which do not require the installation of permanent structures, and which are outside the natural vegetation strip required by Section Z-10.03(B).
2. The operation of watercraft, subject to the limitations of Ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended.
3. Fishing and hunting in compliance with existing laws and rules.
4. Reforestation and other accepted forest management practices, subject to the limitations of Section Z-10.03(B).
5. Normal agricultural activities, if the activities meet the requirements of this Ordinance and if such activities do not contribute stream degradation
6. The operation of licensed motor vehicles on dedicated public roads or access roads to private single-family dwellings.
7. Off-road operation of emergency and public utility maintenance vehicles.

8. Fishing and hunting in compliance with existing laws and rules.
9. Private footpaths that are constructed of natural materials to facilitate permitted uses
10. Private footpaths that are constructed of natural materials to facilitate permitted uses.

**Z-10.04 (B) USES SUBJECT TO SPECIAL APPROVAL, SEE SECTION Z-13.05.**

1. One single-family dwelling and appurtenances on a lot not less than two hundred (200) front-feet wide and two hundred (200) feet deep, subject to the following limitations:
  2. New building and appurtenances shall be required to set back not less than one hundred (100) feet from the stream's edge;
  3. New structures shall be set back not less than fifty (50) feet from the top of the bluff on the cutting edges of the stream, or twenty-five (25) feet from the top of the bluff on the noncutting edge of the stream; and
  4. Set back shall not be less than fifteen (15) feet from the side lot lines and not less than twenty-five (25) feet from the right-of-way of a public road; and
  5. New structures shall not be located on land that is subject to flooding.
    - a. Plats, if minimum setbacks and lot width requirements specified in Section Z-10.04(B)(1) are met.
    - b. Private boat docks are not more than ten (10) feet in length, with none of the dock extending over the water, if they are designed, constructed and maintained with indigenous natural materials, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, as amended.
    - c. Mining and extracting industries which are located more than three hundred (300) feet from the ordinary high-water mark, if they are constructed and operated pursuant to applicable Ordinances and state laws and rules.
6. Utility lines to service private single-family dwellings.
7. Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971.
8. Disposal fields and septic tanks which are located not less than one hundred (100) feet from the ordinary high-water marker or on lands that are not subject to flooding, whichever distance is greater, and which are in conformance with County health codes and this Ordinance. In addition, a septic tank or absorption field shall not be closer than fifty (50) feet to any surface or subsurface drainage system emptying into the stream.
9. Land alteration, such as grading, dredging, and filling of the land surface, unless the high-groundwater table is within six (6) feet of the land surface, if the activities meet all provisions of state law, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the Michigan Department of Natural Resources.

10. Signs and outdoor advertising devices shall meet all the following requirements:
  - a. They shall be related to permitted uses.
  - b. They shall not be more than one (1) square foot in area for residential uses and not more than four (4) square feet in area for any other uses.
  - c. They shall not be illuminated by a neon light or flashing device; and
  - d. They shall not be attached to a tree or shrub.
  
11. Other uses for which an applicant is granted a permit by the Planning Commission pursuant to Sections Z-10.05 and Z-10.06.

## **SECTION Z-10.05 SPECIAL EXCEPTIONS:**

Special exception permits may be granted to allow a use in the District which is not specifically permitted by Section Z-10.04, if implementation of that use does not contravene the purposes of this Ordinance as specified in Sections Z-1.02 and Z-10.01, and if the following requirements are met:

**Z-10.05 (A)** Application for a special exception permit shall be made on a form provided by the Zoning Administrator.

**Z-10.05 (B)** Upon reviewing an application for a special exception permit, the Planning Commission shall require the applicant to furnish all of the following information which the Planning Commission Board deems necessary for determining the suitability of the particular site for the proposed use:

1. The information specified at Section Z-12.05 (B).
2. A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:
3. Elevations of contours of the ground, including existing earth fills;
4. Generalized vegetative cover;
5. Size, location, and spatial arrangement of all proposed and existing structures on the site; and
6. Location and elevation of streets, access roads, and water supply and sanitary facilities.
7. Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.
8. Valley cross sections that show the natural stream channel; streambanks; high-water markers; flood marks, if known; and locations of proposed developments.
9. All other information which is deemed relevant by the Planning Commission and which is necessary to carry out the intent and provision of this Ordinance.



**Z-10.05 (C)** Before considering applications, the Planning Commission shall give notice to all of the following:

1. Property owners whose property is within five hundred (500) feet of the proposed use as shown on the current tax assessment rolls.
2. The appropriate local officials and Michigan Department of Natural Resources personnel, including all of the following:
3. the Township Supervisor;
4. the County Building Inspector;
5. the County Health officer;
6. the local soil erosion and sedimentation control enforcement agency;
7. County planning and Zoning officials;
8. the Soil Conservation service;
9. the regional office and natural rivers section of the Michigan Department of Natural Resources; and
10. the Boardman River advisory council.
11. Any other interested parties who request that they be notified of such applications in these Districts.

**Z-10.05 (D)** In reviewing an application, the Planning Commission shall consider all of the following:

1. All relevant factors specified in light of the spirit and intent of the purposes specified in Sections Z-1.02 and Z-10.01.
2. The economic effect of the subject property weighed in light of the applicant's entire continuous holdings and not merely the portion within these Districts. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.
3. Increases in flood levels and flood damage that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of this Ordinance.
4. The cumulative effect upon these Districts from the potential development of holdings in a legal position similar to the applicant's if the applicant's request is approved by the Planning Commission.

## **SECTION Z-10.06 REASONABLE ALTERNATIVES THAT ARE AVAILABLE TO APPLICANT**

**Z-10.06 (A)** In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail unless private injury is proven by a preponderance of the evidence, to be so great as to override the public interest.

- Z-10.06 (B)** A requested use shall not be granted if the Planning Commission determines that the requested use poses a substantial hazard to life or to public or private property rights.
- Z-10.06 (C)** The Planning Commission Board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of this Ordinance.
- Z-10.06 (D)** A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the Planning Commission Board.

## **SECTION Z-10.07 SUBSTANDARD LOTS OF RECORD**

- Z-10.07 (A)** The Township Planning Commission, in compliance with the terms of this Section, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record, or a lot described in a deed or land contract executed and delivered before the effective date of this Article:
1. The lot is of insufficient width, depth, or area.
  2. Physical limitations exist on an existing lot or parcel.
- Z-10.07 (B)** The Planning Commission shall ensure that all structures are located to best meet the objectives and purposes of this Ordinance, the adopted Boardman River Natural River plan, and Act No. 231 of the Public Acts of 1970.
- Z-10.07 (C)** The Planning Commission shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of this Article cannot conform to the standards listed in Section Z-10.04 (B)(1) and is therefore, ineligible for consideration for use under Section Z-10.04.
- Z-10.07 (D)** A written application for a zoning permit on a lot of record shall be filed with the Zoning Administrator with the same information in Section Z-13.05 (B) shall be submitted with an application
- Z-10.07 (E)** The Planning Commission shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all the following:
1. Granting the permit is not contrary to public interest.
  2. The permit does not allow the establishment of a use not otherwise permitted by this Ordinance.

3. The permit applies only to the property under the control of the applicant.
4. The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.
5. Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.
6. Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.
7. The lot shall be developed pursuant to Michigan Department of Natural Resources requirements under Act No. 245 of the Public Acts of 1929, as amended.
8. Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat, or increase the risk of erosion.

The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within these Districts. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the Planning Commission may so require.

The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate County or District Health Department and the Soil Erosion and Sedimentation Control Enforcement Agency shall be secured.

The permit provides conditions necessary to insure proper development of the substandard lot pursuant to this Ordinance.

**Z-10.06 (F)** A special exception permit is required if a dimensional reduction of more than fifty (50%) percent of any of the standard listed in Section Z-10.04(B)(1) is necessary to achieve reasonable use of the land. The Planning Commission shall base its decision upon the standards set forth in Section Z-10.05 (D).

**Z-10.06 (G)** The Planning Commission may confer with, and seek the advice of, personnel of the Michigan Department of Natural Resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.

## **SECTION Z-10.07 NOTICE TO THE DNR:**

A copy of each application for amendment, variance, special use permit, special exception permit, or a request regarding a non-conforming use shall be forwarded to the Natural Rivers

Unit of the Michigan Department of Natural Resources for review at least ten (10) days before a hearing by either the Township Planning Commission or the Township Zoning Board of Appeals.

## **SECTION Z-10.08 DEFINITIONS:**

Definitions as used in this Article:

**Z-10.08 (A) Bluff:** means a steep bank which rises sharply from the stream's edge.

**Z-10.08 (B) Cutting edge of the river:** means the edge of the river or stream where the water velocity is such that it may cause soil or streambank erosion.

**Z-10.08 (C) Filtered view of the river:** means the maintenance or establishment of wood vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.

**Z-10.08 (D) Front:** means that side of a lot abutting the river's edge of the mainstream or tributary.

**Z-10.08 (E) Ordinary high-water mark:** means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation.

**Z-10.08 (F) Reforestation:** means the renewal of vegetative cover by seeding, planting or transplanting.

**Z-10.08 (G) River's edge:** means the ordinary high-water mark as used in Act No. 346 of the Public Acts of 1972, and as defined above.

**Z-10.08 (H) Setback:** means that the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

**Z-10.08 (I) Soil erosion and sedimentation control enforcement agency:** means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of ACT No. 347 of the Public Acts of 1972, as amended.

**Z-10.08 (J) Structure:** means anything that is constructed, erected, or moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes. Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than thirty (30) days per year and located landward of the natural vegetation strip.

**Z-10.08 (K) Bottomland:** means the land area of an inland lake or stream which lies below the ordinary high-water mark, and which may or may not be covered by water.

**Z-10.08 (L) Upland:** means the land area which lies above the ordinary high-water mark.

# ARTICLE Z-ELEVEN – SUPPLEMENTARY LOT PROVISIONS

## SECTION Z-11.01 WATERFRONT LOTS

**Z-11.01 (A)** Docks or boat houses shall be permissible on lakes, reservoirs or ponds provided same are installed to conform to specifications of the Michigan Department of Natural Resources applicable thereto.

**Z-11.01 (B)** Docks or boat houses shall be permissible on rivers or streams providing same are installed parallel to the shoreline do not exceed twenty (20) feet in length, do not project beyond the shoreline, and otherwise conform to specifications of the Michigan Department of Natural Resources applicable thereto.

## SECTION Z-11.02 SUBSTANDARD LOTS

Any lot of record having less area and/or less width on the effective date of this Ordinance or the date of subsequent amendments thereto, than required for the zoning District wherein located may be occupied by any use permitted in the District on approval of the Planning Commission who shall determine the minimum yard and setback requirements for such use. Any plat having had preliminary approval by a government agency prior to the adoption of this Ordinance shall be treated as a Plat of Record, with the exception of property zoned N-R.

# **ARTICLE Z-TWELVE – LAND ALTERATIONS**

## **SECTION Z-12.01**

No premises shall be so filled or graded as to discharge surface runoff on abutting premises in such manner as to cause ponding or surface accumulation of such runoff thereon.

## **SECTION Z-12.02**

On waterfront lots a strip of land extending a minimum of twenty-five (25) horizontal feet from the water's edge will be maintained and forested with trees and shrubs, or in no less, than its natural and undeveloped state. No further land alteration, including the removal of stumps below ground level, shall be permissible unless required in connection with a plan designed for erosion control, reforestation, or stream bank stabilization submitted to and approved by the Township Planning Commission with the intent of maintaining a twenty-five (25) foot root and vegetative barrier to keep nutrients from entering the waters and to maintain water temperatures near the natural levels.

# ARTICLE Z-THIRTEEN – GENERAL PROVISIONS

## SECTION Z-13.01 UNLISTED PROPERTY USES

The Township Planning Commission shall have the power on written request of any property owner to classify a use not listed with a comparable permitted Primary or Approved Use and issue a Special Permit for such use, giving due consideration to the purpose of the incomparable.

## SECTION Z-13.02 NONCONFORMING USES

A nonconforming use shall not be changed to other than a conforming use, nor shall any use be reverted to a former nonconforming use after use has been changed to a conforming use.

## SECTION Z-13.03 NONCONFORMING BUILDINGS AND STRUCTURES

To avoid undue hardships, nothing in this Ordinance shall be construed to require a change in the plans, construction, or designed use of any buildings on which actual construction was lawfully begun prior to the effective date of this Ordinance or the date of any amendment hereto, and upon which construction has been diligently carried on. Actual construction shall be constructed as permanent fixation of construction material in place.

## SECTION Z-13.04 SET BACK RESTRICTIONS

### Z-13.04 (A) HIGHWAY SETBACKS SHALL BE:

The setback restrictions from the right of way line of any highway appearing elsewhere in the Ordinance have been written with the assumption that the right of way is sixty-six (66) feet in width. If the right of way is wider than sixty-six (66) feet, any forty (40) foot set back restriction may be reduced as follows.

Highway right of way	Set Back Distance
66 feet	40 feet
100 feet	25 feet
150 feet	15 feet
200 feet	15 feet

### Z-13.04 (B) WATER SETBACKS SHALL BE:

High-water	Set Back Distance
2-7 feet	60 feet
7-10 feet	50 feet
10-15 feet	35 feet
Over 15 feet	30 feet

### Z-13.04 (C) SIDE LOT SETBACKS SHALL BE:

10 feet



## **SECTION Z-13.05 USES SUBJECT TO SPECIAL APPROVAL**

### **Z-13.05 (A) GENERAL REQUIREMENTS**

Uses subject to Approval where required shall be subject to applicable provisions to the Zoning District wherein located in addition to the provisions of the section to prevent conflict with or impairment of the primary use of the District. Each such use shall be considered an individual case.

### **Z-13.05 (B) SPECIFIC REQUIREMENTS**

1. Application for a Special Use Permit shall be submitted through the office of the Zoning Administrator to the Township Planning Commission on a special form provided for that purpose and include the following information. Each application shall be accompanied by the fee prescribed in the Schedule of Fees adopted by the Township Board. Said fee shall bear a reasonable relationship to the cost and expense of administering this permit requirement.
  - a. Name of the applicant and owner of the premises, including legally recorded description of the premises.
  - b. Description of proposed use, including parking facilities, if required, and any exceptional health or traffic situation the use may occasion.
  - c. Sketch to approximate scale showing development of the entire property, including location of all existing and proposed structures, types of buildings, and their use.
  - d. Sewage and Waste disposal facilities, and water supply, existent or proposed for installation.
  - e. Use of premises on all adjacent properties.
  - f. A written statement of property owner appraising the effect of the proposed use on the general development of the neighborhood.
2. The Zoning Administrator shall file his/her recommendation concerning whether a special use permit should be issued with the Planning Commission which shall make the determination. In reaching its determination on whether a Special Use Permit should be granted, the Planning Commission shall consider the following:
  - a. Whether the sewage disposal and water supply will be safe and adequate;
  - b. Whether the use will create congestion, or a major traffic hazard or problem or overburden available public services and utilities;
  - c. Whether the use will disrupt the orderly and proper development of the nearby property more than the operation of any Primary Use involving similar odors, fire hazards, glare, flashing lights, or disposal of waste or sewage;
  - d. Whether the use will discourage or hinder the appropriate development and use of adjacent buildings or premises, or neighborhood, or defeat the purpose and intent of this Ordinance.

### **Z-13.05 (C) VOIDING OF SPECIAL USE PERMITS**

Any improper or incorrect information contained in the application for Special Use Permit submitted in connection therewith shall render the Special Use Permit void *ab initio*. Any violation of any condition or standard imposed by the Township Planning Commission in the issuance of a Special Use Permit or by this Ordinance shall immediately void the Special Use Permit is also void if the use is not commenced or construction is not begun with one (1) year from the date of issuance of the Special Use Permit.

## **Z-13.06 WATER SUPPLY AND WASTE DISPOSAL**

### **Z-13.06 (A) HEATH DEPARTMENT STANDARDS FOR WATER SUPPLY AND WASTE DISPOSAL.**

### **Z-13.06 (B) WATER SUPPLY CONSERVATION**

1. To facilitate the preservation of natural water sheds of the Township, and to promote a continuing and stable supply of clean, potable water free from sewage disposal and protected from accelerated soil erosion and pollution by discharges of soil nutrients and other wastes into swamps, lakes, rivers, streams, or other natural water bodies, no terrain shall hereafter be altered or vegetative cover be removed from any land abutting such water bodies for a distance of twenty-five (25) feet from the edge of the of the highest known water level without a special permit from the Township Planning Commission, except as proved for in Section Z-11.01 (B). Application for such permit shall be made through the Township Zoning Administrator.
2. In making its determination, the Township Planning Commission shall seek the counsel of the District Health Department and the Soil Conservation District, taking into special account soil type, type of vegetation cover, slope of the land, and use of the land for which the permit is petitioned.
  - a. No alteration shall be made on the native protective strip along the waterfront except as provided for by this Ordinance.
  - b. No siltation or runoff to the waters may occur.
3. All areas where the natural vegetation has been removed or destroyed in the permissible use of the land, or in the process of locating, erecting, constructing, reconstructing, altering by using any nature of building or structure shall be restored for erosion control and bank stabilization by suitable seeding or reforestation or landscaping within a reasonable time.
4. No junk yards, salvage yards, or refuse dumps shall be located less than two hundred (200) feet from any swamp, lake, river, stream, reservoir or pond.

## **SECTION Z-13.08 TRAILER COACH PARKS, HOUSE TRAILERS, AND MOBILE HOMES:**

### **Z-13.08 (A) TRAILER COACH PARKS AND TRAVEL TRAILER PARKS.**

Approved locations shall be determined by Township Planning Commission.

Application for approval for the location and operation of any such park shall be made to the Township Planning Commission through the office of the Township Zoning Administrator. The Township Planning Commission have a public hearing on the application giving notice of the same not less than thirty (30) days in advance. When granting approval, the Township Planning Commission shall have the power to impose such conditions as it deems in the public interest.

### **Z-13.08 (B) USE OF MOBILE HOMES FOR DWELLING PURPOSES.**

The use of a house trailer or mobile home as a dwelling is permitted in all Zoning Districts under the following conditions:

1. Lot size, setback height, area, and yards shall be in conformity with all requirements for conventional dwelling in the District.
2. The house trailer or mobile home must be enclosed with acceptable skirting.
3. All requirements of the individual District shall be met.
4. Any property to add mobile home / modular home, the structure must not be older than 20 years, unless approved by the Boardman Township Planning Commission Board.
5. As defined in 1.04 (J) DWELLING, a dwelling is not recreational vehicle/trailer.

### **Z-13.08 (C) RECREATIONAL TRAILERS (MOBILE)**

If a recreational trailer is allowed to deteriorate to the extent that it is detrimental to the health, safety and general welfare of the inhabitants of Boardman Township, the Zoning Administrator may order its removal.

## **SECTION Z-13.09 ADVERTISING SIGNS AND BILLBOARDS**

### **Z-13.09 (A) STATEMENT OF INTENT**

The economic health and well-being of Boardman Township, Kankaska County depends upon the area's natural scenic beauty and environmental quality. The region's highway corridors are subject to the highest visual exposure of any area with the township and region therefore it is deemed necessary within these corridors to protect the area's natural landscapes and community character from visual pollution. It is also imperative to maintain traffic safety and prevent traffic hazards. Such protection is deemed essential to the community health, safety, and welfare. To assure such protection the following standards are established.

## Z-13.09 (B) DEFINITIONS

**Z-13.09 (B)(1) BILLBOARD:** An outdoor sign advertising services or products, activities, persons, or events which were not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

**Z-13.09 (B)(2) SIGN:** A structure or device, other than a billboard, designed or intended to convey information to the public in written or pictorial form.

## Z-13.09 (C) REQUIRED STANDARDS

1. Not more than two billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the subject street or highway. The linear mile measurement shall not be limited to the boundaries of the Township of Boardman where the particular street or highway extends beyond such boundaries. Double-faced billboard structures, i.e., structures having back-to-back faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces facing the same direction and side-by-side to one another, or stacked billboard facts, i.e., two parallel billboard faces facing the same direction with one face being directly above the other) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection (2) below.
2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway.
3. No billboard shall be located within 200 feet of a residential zone and/or existing residence. If the billboard is illuminated, this required distance shall instead be 300 feet.
4. No billboard shall be located closer than 75 feet from a property line adjoining a public right-of-way or 10 feet from any interior boundary lines of the premises on which the billboard is located.
5. The surface display area of any side of a billboard may not exceed 300 square feet. In the case of billboard structures with tandem or stacked billboard faces, the combined surface display area of both faces may not exceed 300 square feet. If a billboard abuts a portion of a street or highway with a posted speed limit of 45 mph or less, the surface display area limits set forth above shall be 75 square feet instead of 300 square feet.
6. The height of a billboard shall not exceed 20 feet above (1) the grade of the ground on which the billboard sits or (2) the grade of the abutting roadway, whichever is higher.
7. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.

8. No billboard shall be constructed of or situated on any portion of a tractor-trailer, truck, boxcar, or vehicle previously used for transportation.
9. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and so located as to avoid glare or reflection onto any portion of any adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
10. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
11. A billboard established within a business, commercial, or industrial area, as defined in the "Highway Advertising Act of 1972" (1972 PA 106, as amended) bordering interstate highways, freeways or primary highways as defined in said Act shall in addition to complying with the above conditions, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended.
12. No billboard shall be located along a navigable lake, pond, river, stream or tributary.
13. All signs, except those pertaining to home occupations and covered elsewhere in the Ordinance, shall not exceed thirty-two (32) square feet in area, and shall be a minimum of fifteen (15) feet from a public right-of-way. They shall pertain to an enterprise located within the Township and they shall be placed at least one hundred (100) feet from any residence. Illuminated signs shall be placed at least two hundred (200) feet from the residences. Illumination shall be non-flashing and produce no glare into residential areas or public roads.
14. Only those signs necessary for identification, directions, resource information and regulation of use, shall be placed along areas of lakes, ponds, rivers, streams and tributaries. Signs for the sale of products or services are prohibited within four hundred (400) feet of lakes, ponds, rivers, streams and tributaries, except a business may advertise on lands on which that business is established or operates. Such signs must be related to permitted uses not more than two (2) square feet in area, not illuminated by any neon or flashing device, and not attached to any tree or shrub.
15. No billboard or sign shall impede traffic or obstruct any view of the same from any sidewalk, driveway or roadway.
16. No billboard or sign shall remain if obsolete or otherwise no longer pertinent.
17. No billboard or sign shall remain if not maintained in good repair and kept freshly painted and maintained.

18. Any illuminated billboard or sign shall be placed or positioned so as not to affect adversely any neighboring residence.
19. All electrical billboards or signs shall be erected and maintained according to all applicable codes.
20. All billboards or signs shall be no higher than reasonably necessary to provide appropriate visibility.
21. Billboards or signs featuring flashing, strobe or other varied lighting effects are strictly prohibited.
22. No billboards or signs shall contain moving parts.

### **Z-13.09 (B) NON-CONFORMING BILLBOARDS AND SIGNS**

Billboards and signs existing before the amendment of the zoning Ordinance by this section and not complying with the standards herein shall be deemed non-conforming. Upon substantial physical change or improvement to the non-conforming sign or billboard, or substantial change to the style, copy, message or purpose of the billboard or sign, the billboard or sign shall be required to conform with the requirements of this section.

### **Z-13.09 (C) PERMIT PROCEDURE**

No person, firm or corporation shall erect a billboard within Boardman Township without first obtaining a permit therefore from the Boardman Township Zoning Administrator, which permit shall be granted upon a showing of compliance with provisions of the Ordinance, payment of a fee therefore, and the contractual agreement allowing for the installation of said billboard. Permits shall be issued for a period of one (1) year, but shall be renewable annually on inspection of the billboard by the Boardman Township Zoning Administrator confirming continued compliance with this Ordinance and payment of the billboard permit fee. The amount of the billboard permit fee required hereunder shall be established by resolution of the Boardman Township Board and shall bear a reasonable relationship to the cost and expense of administering this permit requirement. The Township Board shall further have the right to amend the aforementioned resolution from time to time within the foregoing limits of reasonableness.

All required permits for billboards are to be obtained from the Zoning Administrator with the completion of a Billboard Permit Application that shall contain at least the following information:

1. The name, address, and telephone number of the Applicant(s).
2. A site plan showing the proposed location of the billboard on the property drawn to scale.

3. A scale drawing of the proposed billboard.
4. The name, address and telephone number of the party erecting the billboard.
5. Detailed information regarding the type, intensity, and hours of lighting.
6. And such other information as may be required by the Zoning Administrator to enable him/her to determine that the health, safety, morals and general welfare of the Township will be served.

## **SECTION Z-13.10 PRIVATE SWIMMING POOLS**

Private swimming pools shall be permitted in all Districts, subject to the following restrictions:

1. There shall be a minimum distance of not less than ten (10) feet between the adjoining property line and the outside of the pool wall.
2. There shall be a distance of not less than ten (10) feet between the outside pool wall and any building located on the same lot.
3. For the protection of the general public, swimming pools with a depth equal to or greater than 42 inches, MUST have a fence to fully enclose the pool. A pool with a maximum depth less than 42 inches isn't required to have a fence.
4. An enclosing fence must stand from ground level to a height of not less than four (4) feet. The fence shall consist of materials and be constructed in a manner that allows for ingress and egress to the pool area only through a gate or gates. The fence shall contain a gate or gates of a self-closing or latching type. Gates shall be capable of being securely locked when the pool is not in use.

# ARTICLE Z-FOURTEEN – ADULT ENTERTAINMENT BUSINESSES

## SECTION Z-14.01 STATEMENT OF INTENT

Because some uses are recognized as having a deleterious effect upon adjacent areas, causing blight, a chilling effect upon other businesses and occupants, and a disruption in neighborhood development, especially when concentrated in a confined area, it is considered necessary and in the best interest of the orderly and better development, of the community to prohibit the overcrowding such uses into a particular location and require, instead, their disbursal throughout the Commercial and Industrial Districts of the Township to thereby minimize their adverse impact on any specific neighborhood. In order to prevent undesirable concentration of such uses, the following standards are established.

## SECTION Z-14.02 DEFINITIONS

**Z-14.02 (A) ADULT BOOKSTORE:** an establishment having as a substantial or significant portion of its stock, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities or specified anatomical areas” as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.

**Z-14.02 (B) ADULT MOTION PICTURE THEATER:** an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter sexual activities depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas as hereinafter defined for “specified anatomical areas”, or “specified anatomical areas”, as hereinafter defined for observation by patrons therein.

**Z-14.02 (C) ADULT SMOKING OR SEXUAL PARAPHERNALIA STORE:** an establishment having, as a substantial or significant portion 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 substance.

**Z-14.02 (D) MASSAGE PARLOR:** An establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient.

**Z-14.02 (E) POOL OR BILLIARD HALL:** an establishment having a substantial or significant portion of its space devoted to the game pool, ping pong, darts, dice, cards, or similar activities.



**Z-14.02 (F) OPEN DANCE HALL:** an establishment where open public dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.

**Z-14.02 (G) HOST OR HOSTESS ESTABLISHMENT:** establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.

**Z-14.02 (H) SAUNA, HOT TUB OR OTHER SIMILAR HEALTH OR BODY IMPROVEMENT ENTERPRISES:** establishments where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and female customers with or without supervision or participation by employees or independent contractors of the business.

**Z-14.02 (I) PINBALL OR VIDEO GAME ARCADE OR ESTABLISHMENT:** establishments where the principal business consists of customer-operated games or entertainment experience of mechanical, electronic, physical, or emotional nature for an admission fee or a fee for the use of the particular device or devices engaged by a customer.

**Z-14.02 (J) SPECIFIED SEXUAL ACTIVITIES:**

1. acts of human masturbation, sexual intercourse, or sodomy;
2. fondling or other erotic touching of human genitals, pubic regions, buttocks or female or female breasts;
3. human genitals in a state of sexual stimulation or arousal.

**Z-14.02 (K) SPECIFIED ANATOMICAL AREAS:**

1. less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the areola;
2. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

## **SECTION Z-14.03 REQUIRED STANDARDS**

The following uses and activities shall be permitted, any other provisions of this Ordinance notwithstanding, and located only in Commercial and Industries Districts and shall be subject to Special Approval:

1. Adult Book store.
2. Adult Motion picture theater.
3. Adult smoking or sexual paraphernalia store.
4. Host or hostess establishment offering socialization with host or hostess establishments with a host or hostess for a consideration.
5. Pool or billiard hall.
6. Open dance hall.
7. Tavern or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises "Projected entertainment" shall not include standard television reception.
8. Pinball or video game arcade or establishment.
9. Sauna, hot tub, or other similar health or body improvement or enjoyment enterprises.
10. Any combination of the foregoing.

## **SECTION Z-14.04 SPACING REQUIREMENTS**

Any such use or activity shall not be located within 300 feet of any Residential, Agricultural-Residential, or Forest-Recreation District. As measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed specified use or activity and between such use or activity and the adjoining Residential, Resort-Residential, Agricultural-Residential, or Forest-Recreation District.

## **SECTION Z-14.05 EXCEPTIONS TO ORDINANCE**

The Township Planning Commission may waive the foregoing spacing requirements if it finds that all of the following conditions exist:

1. the proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.
2. the proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other businesses and occupants and a disruption in neighborhood developments.
3. the establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal; and
4. where all other applicable regulations within this Ordinance or other pertinent Township ordinances will be observed.

# ARTICLE Z-FIFTEEN – TOXIC WASTE ORDINANCE

APPROVED May 14, 1997 | REVIEWED February, 2021

Article is to protect the public health, safety, and general welfare by establishing regulations related to the handling and/or disposal of toxic waste and/or hazardous substances

## SECTION Z-15.01 PURPOSE

An Article to protect the health, welfare and safety of residents and property owners of Boardman Township.

## SECTION Z-15.02 UNLAWFUL ACTS

It shall be unlawful to engage in or carry on any business or activity which involves the hauling (except over public highways) or disposing of any toxic or hazardous substance within the Township of Boardman unless such activity, business or disposal facility has been approved and authorized pursuant to a permit issued under this ordinance.

## SECTION Z-15.03 DEFINITIONS

**Z-15.03 (A) DISPOSAL FACILITY:** Any waste disposal facility, incinerator, sanitary landfill, pit, excavation, or any other facility used for disposal of toxic waste or hazardous substances except facilities for disposal of human wastes approved by the County Health Department.

**Z-15.03 (B) DISPOSAL AREA:** Any area of land upon which a disposal facility is located or proposed for location within the Township

**Z-15.03 (C) APPLICANT:** Means any individual, firm, corporation, or political subdivision of the state, including any governmental authority created by Statute or other person that proposes to develop a disposal facility within the Township

**Z-15.03 (D) TOXIC OR HAZARDOUS WASTE:** Any material, liquid, solid or other matter such as P.B.B. which is harmful or dangerous to human health, birds, fish, wildlife, trees, or other plants. Any chemical, substance or material listed in the Michigan Critical Material Register published by the Michigan Department of Natural Resources, or determined to be toxic, harmful, or hazardous by Environmental Protection Agency, pursuant to Public Law 94-469.

**Z-15.03 (E) PERSON:** An individual, co-partnership, association, corporation or other legal entity, political subdivision of the State including any state or local governmental agency.

## **SECTION Z-15.04 APPLICATION FOR PERMIT:**

Applications for a permit shall be made in writing to the Township Clerk and shall contain the following:

1. Names, addresses, telephone numbers of applicant, engineer, attorney, scientist, contractor, and other person engaged in the preparation of the application.
2. Legal description of the premises for which the permit is sought.
3. A description including, if applicable, the chemical analysis of the toxic or hazardous substances involved in the application, whether it is liquified, solid or mixed, whether it has been treated and if so how and where. Also describe any treatment or processing to be done on permit premises.
4. The estimated volume of toxic or hazardous substance to be hauled, utilized, or disposed of.
5. Statement of the measures to be taken to control noise, vibration, dust, odor, erosion, leaching or other forms of pollution.
6. A description of any public facilities or services required, if such services exist and if not, how applicant proposes these services be provided and financed.
7. A description of the measures which applicant proposes to take to assure the public safety, the exclusion of children from the premises and the bilateral support of surrounding lands and structures.
8. Applicant shall provide a diagram or map of the premises and surrounding area which shall include the following information:
  - A. A topographic map of the area
  - B. Description of natural and improved drainage surface and features.
  - C. Description of all wells within one mile of the application site.
  - D. Location of all dwellings within one mile of the application site.
  - E. Soil characteristics of the application site.
  - F. Proposed access to the application site.
  - G. Proposed buffers or features to control drainage from the area where toxic or hazardous substances are to be disposed of.
  - H. Proposed ground water monitoring points.
  - I. Proposed delivery, storage, and transfer location if within the application site.
9. Application shall provide an environmental impact statement describing the environmental consequences of the proposed activity both during the operating and after and setting forth any limitation or restrictions on the proposed operations that are necessary to protect the environment.

10. When requested, applicant will provide a description of the surface and subsurface geological characteristic of the premises, including identification of bedrock and rock outcrops, detailed soil analysis and ground water table, the location of existing or desired test wells.

### **SECTION Z-15.05 PROCESS OF APPLICATIONS:**

All applications shall be filed with the Township Clerk of Boardman Township. The Township Board shall determine the necessity of employing independent professional advisors to analyze the application and environmental impact study. If necessary, they shall also determine the cost of services or such advisors, and the total of said costs shall report to the applicant, who shall pay said amount to the Township before the application shall receive any consideration. If during the course of processing the application, it appears that additional expenditures shall be required, the same shall be reported to the applicant and same shall be paid to the Township.

Boardman Township Planning Commission or any other Township agency deemed necessary shall contact the County Planning Commission and any applicable Zoning Commission for advice with respect to the impact of the grant of a permit upon existing planning for land use and/or zoning and future development of the area under consideration.

### **SECTION Z-15.06 PUBLIC HEARING**

Prior to the granting of any permit, the Boardmen Township Board, shall conduct a public hearing. A notice of the date, time and place and purpose shall be published in a newspaper of general circulation in the Township at least fourteen (14) days prior to said hearing.

### **SECTION Z-15.07 STANDARDS FOR DECISION**

In determining whether or not to grant the license applied for, the Township Board shall consider the application, the reports of its professional advisors, the report of the Township Planning Commission or other agency and the evidence presented at the public hearing. It shall also consider the determination of the people of the State of Michigan in the Constitution of 1963, Article IV, Section 52, that the conservation and development of the natural resources of the State and of paramount public concern in the interest of the healthy, safety and general welfare of the people. It shall grant a license only if it first determines that the proposed activities will not pollute, impair or destroy significant natural resources, create hazards to the public health or safety or result in public or private nuisance that is reasonably predictable.

### **SECTION Z-15.08 SPECIAL CONDITIONS, BONDS, AND INSURANCE**

Boardman Township Board may attach any special conditions, restrictions, requirements, or limitations to any license which it regards as reasonably necessary to protect the public health, safety, general welfare, prevent pollution, impairment or destruction of natural resources and avoid the creation of public or private nuisances. The Boardman Township Board may also set

such terms and conditions for bond or liability insurance protection as may seem reasonably necessary and appropriate.

## **SECTION Z-15.09 REGULATION OF LICENSED OPERATIONS**

Boardman Township Planning Commission shall obtain the services of qualified technicians and professionals to monitor the operations of the licensee at such intervals as they may consider necessary and to report to the Boardman Township Board whether the operations are being conducted in accordance with the terms of the license and provisions of this ordinance and whether or not the operations are resulting in any nuisance or hazard to the public health, safety or general welfare or site causing pollution, impairment or destruction of natural resources.

## **SECTION Z-15.10 PAYMENT OR COST OF REGULATION - EFFECT OF FAILURE TO PAY**

Upon receiving bills for services and expenses of the persons designated to monitor the operations of any licensee, the Boardman Township Board shall forward them to the licensee by first class mail. The licensee shall pay them within ten (10) days of the mailing by the Boardman Township Board. Whenever any such bill has not been paid within the time specified above, the license shall automatically be suspended until payment is made.

## **SECTION Z-15.11 SUSPENSION OF LICENSE**

Boardman Township Board may suspend any license upon finding that the licensee has violated any provisions of this Ordinance or any term or condition of the licensee. Boardman Township Board may suspend any license without notice upon determining that such suspension is necessary to prevent immediate danger to health, life, or property. A license shall be suspended only after the following proceedings. The licensee shall be served with a written notice of the intention of the Boardman Township Board to suspend the license, which notice shall specify the alleged facts and reasons which form the basis for the proposed suspension, and shall specify the date, time and place when the Boardman Township Board shall meet to consider the proposed suspension. Such notice shall be served by mailing first class mail addressed to the licensee at their address as shown on the application or at such other address as licensee may from time to time furnished to the Boardman Township Board in writing. At the time, place and date specified, which shall be at least ten (10) days after services of the notice, the Boardman Township Board shall hear and consider evidence regarding the matter mentioned in the notice and shall afford the licensee opportunity to be heard and present evidence. The licensee shall not be suspended unless the Boardman Township Board determines the existence of grounds for suspensions set forth above. Any suspended license shall be reinstated by the Boardman Township Board upon finding the reasons and grounds for suspension no longer exist.

## **SECTION Z-15.12 EXCEPTIONS**

Except as hereinafter expressly set forth, nothing contained herein shall be deemed to require a permit for the construction of any disposal site or facility prior to the effective date of this ordinance. Operators of any disposal site or facility shall apply for and obtain a permit to continue operation under this ordinance within ninety (90) days of the effective date of such ordinance.

## **SECTION Z-15.13 FEES**

The fees obtaining any permit in addition to expenses previously set forth shall be established by the Boardman Township Board and approved by the Boardman Township Board.

## **SECTION Z-15.14 VIOLATION AND PENALTIES**

Violation of this ordinance shall be punished by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than One Hundred Dollars (\$100,00) or both such fine and imprisonment. Each and every day on which a violation continues shall constitute a distinct and separately punishable violation. Any violation of any State or Federal law or regulation arising out or in the course of any business or activity regulated by this ordinance shall also constitute a violation of this ordinance.

## **SECTION Z-15.15 SEVERABILITY**

If any action, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

# **ARTICLE Z-SIXTEEN – PUBLIC UTILITY STRUCTURES**

## **SECTION Z-16.01 PUBLIC UTILITY STRUCTURES**

The erection, construction, alteration or maintenance by public utilities or municipal departments or commission, of overhead or underground gas, electrical, steam, water distribution of transmission systems, collection, communication. supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety, or general welfare, but not including buildings, shall be permitted as authorized or regulated by law in any Zoning District except that all such service installations on waterfront lots will be restricted to the lot area in back of the established set back line of such lots, it being the intention hereof to except such erection, construction, alteration, and maintenance from the application of this Ordinance on all property except waterfront lots.

## **SECTION Z-16.02 OTHER PROVISIONS**

Municipal departments, commissions, utilities companies, or co-operatives shall provide mapping of all systems, including underground systems to the Zoning Administrator within a reasonable time period of those systems becoming operative.



# ARTICLE Z-SEVENTEEN – WIRELESS COMMUNICATION FACILITY SITING AMENDMENT

ADOPTED December 14, 1988 | REVIEWED February 2021

## SECTION Z-17.01 STATEMENT OF INTENT

The Federal Government, through the Federal Communications Commission (FCC), has issued wireless communication licenses for wireless technologies to meet the demand by citizens of new wireless services which has produced an increased need for installations of wireless antennas and Wireless Communication Facilities (WCFs) to serve the public, and the Township of Boardman. These WCFs are in the interest of the public health, safety and welfare providing useful portable communication services for personal convenience, business, and emergency purposes. The Federal Telecommunications Act of 1996 (FTA) preserves local zoning authority to reasonably regulated to minimize potential aesthetic impacts to the surrounding area and there is a need for new provisions in the zoning code to address the siting of WCFs. To assure such protection the following standards shall govern the siting of Wireless Communication Facilities in the Township of Boardman:

## SECTION Z-17.02 DEFINITIONS

**Z-17.02 (A) Antenna Array:** An Antenna Array is one or more rods, panels, discs or similar devices Used for the transmission or reception of radio frequency signals, which may include, omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure defined below.

**Z-17.02 (B) Attached Wireless Communication Facility (Attached WCF):** An attached WCF is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

**Z-17.02 (C) Collocation/Site Sharing:** Collocation/Site Sharing shall mean use of a common WCF or Common site by two or more wireless license holders or by one wireless license holder or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

**Z-17.02 (D) Equipment Facility:** An Equipment Facility is a structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals, and other similar structures.

**Z-17.02 (E) Height:** When referring to a WCF, Height shall mean the distance measured from ground level to the highest point on the WCF, including the Antenna Array.

# ARTICLE Z-EIGHTEEN – PLANNED UNIT DEVELOPMENTS

## SECTION Z-18.01 INTENT

It is the purpose of this Article to encourage more imaginative and livable housing environments within Residential (R), Resort-Residential (R-R), Agricultural- Residential (A-R) and Forest-Recreation (F-R) Districts through a planned reduction, or averaging, of the individual lot area requirements for each zoning district providing the overall density requirements for each district remain the same. Such averaging or reduction of lot area requirements, whether for conventional, cooperative or condominium ownership, shall only be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one (1) complex land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a special use permit may be issued for the construction and occupancy of a planned unit development so long as there is compliance with the standards, procedures, and requirements set forth in this Article.

## SECTION Z-18.02 OBJECTIVES

The following objectives shall be considered in reviewing any application for a special use permit for planned unit development:

**Z-18.02 (A)** To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

**Z-18.02 (B)** To permit flexibility in the regulation of land development.

**Z-18.02 (C)** To encourage innovation in land use and variety in design, layout, and type of structure constructed.

**Z-18.02 (D)** To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.

**Z-18.02 (E)** To encourage useful open space

**Z-18.02 (F)** To provide better housing, employment, and shopping opportunities particularly suited to the needs of residents of the Township.

## SECTION Z-18.03 QUALIFYING CONDITIONS

Any application for special use permit shall meet the following conditions to qualify for consideration as planned unit development.

**Z-18.03 (A)** The planned unit development site shall be not less than twenty (20) acres in area, shall be under the control of one (1) owner or group of owners, and shall be capable of being planned and developed as one (1) integral unit. PROVIDED that the size requirement may be reduced by the Township Board of Trustees to a minimum of fifteen (15) acres if the Board determines that meaningful amounts of open space will be preserved either for residents of the development or residents of the Township in general.

**Z-18.03 (B)** The planned unit development site shall be located within the R, R-R,A-R or F-R Districts.

**Z-18.03 (D)** Where the Kankaska County Health Department will approve community type water and sewer facilities, such facilities shall be provided as part of the site development. Package or other treatment systems shall be of sufficient capacity to process the total sewage load of the project.

**Z-18.03 (E)** The proposed population density of the planned unit development shall be no greater than if the tract were developed with the lot area requirements of the particular zoning district in which it is located subject to provisions of Section Z-13.05(B)(2).

**Z-18.03 (F)** For each square foot of land gained through the reduction or average of lot size, equal amounts of land shall be dedicated to Boardman Township or shall be set aside for common use of the home or lot owner within the planned unit development under legal procedure which shall also give Boardman Township a covenant or interest therein, so that there are assurances that the required open space shall remain open subject to the provision of Section 13B.6

## **SECTION Z-18.04 PERMITTED USES**

The following uses of land and structures may be permitted within planned unit developments:

1. All uses permitted by right or by special use permit in the zoning district, subject to all the restrictions specified therefor.
2. Two-family dwellings.
3. Group housing, row houses, garden apartments, or other similar housing types which can be defined as a single-family dwelling with no side yards between adjacent dwelling units, PROVIDED that there shall be no more than eight (8) dwelling units in any contiguous group.
4. Recreation and open space, PROVIDED that only the following land uses may be set aside as common land for open space or recreation uses under the provisions of this Article:

- a. Private recreation facilities, exclusive of golf courses, such as swimming pools or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development.
  - b. Historic building site or historical sites, parks, cemeteries and parkway areas, ornamental parks, extensive areas with tree cover, lowlands along streams, or areas of rough terrain when such areas have natural features worthy of scenic preservation.
  - c. Commonly owned agricultural lands.
  - d. or privately owned golf courses subject to provisions of Section 13B.6
5. Customary accessory uses as permitted in the District in which the development is located.
  6. Commercial uses of a character and type that are designed and intended to serve the convenience of residents of the planned unit development and immediate area, provided that the total is devoted to commercial uses, including golf course club houses, shall not exceed the area equivalent to ten percent (10%) of the total floor area of all dwelling units.
  7. Garages and accessory buildings and used exclusively for the use of residents of the planned unit development and for the proper maintenance thereof.

## **SECTION Z-18.05 LOT SIZE VARIATION PROCEDURE:**

The lot area planned unit developments within R, R-R, A-R, or F-R Districts may be averaged or reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:

**Z-18.05 (A) Site Acreage Computation:** The gross acreage proposed for a planned unit develop shall be computed to determine the total land area available for development into lots under the minimum lot size requirements of the applicable zoning district in which the proposed development is located.

In arriving at a gross acreage figure, the following lands shall not be considered as a part of the gross acreage in computing the maximum number of lots and/or dwelling units that may be created under this procedure:

1. Land utilized by public utilities as easements for major facilities, such as electric transmission lines, sewer lines, water mains, or other similar lands which are not available to the owner because of such easements.
2. Lands used for commercial purposes exclusive of open lands utilized for golf course purposes.

**Z-18.05 (B) Maximum Number of Lots and Dwelling Units:** After the total gross acreage available for development has been determined by the above procedure, the maximum number of lots and/or dwelling units that may be approved within a planned unit development shall be computed by subtracting from the total gross area available fifteen percent (15%) of said total for street right-of-way purposes (regardless of the amount of land actually required

for street right-of-way), and dividing the remaining net area available by the minimum lot area requirements of the zoning district in which the planned unit development is located.

Under this procedure, individual lots may be reduced in area below the minimum lot size required by the zoning district in which the planned unit development is located, PROVIDED that the total number of dwelling units and/or lots created within the development is not more than the maximum number that would be allowed if the tract were developed under the minimum lot area requirements of the applicable zoning district in which it is located and PROVIDED FURTHER, if the Township Board of Trustees is reviewing the site plan determines that additional density can be justified and will not be inimical to public health, safety and welfare, it may increase the net acreage available for computation by a maximum of the fixed percentage required for street right-of-way purposes.

**Z-18.05 (C) Permissive Minimum Lot Area:** Notwithstanding other procedures set forth in this Article, per unit lot areas within planned unit developments shall not be varied or reduced below the following minimum standards:

**Z-18.05 (D) One Family Detached Dwelling Units:** 13,000 square feet without community sewers and Water systems, 10,000 square feet with community sewers and water system.

**Z-18.05 (D) Semi-Detached or Attached Dwelling:** 12,000 square feet without community sewers and water system; 9,000 square feet with community sewers and water system.

**Z-18.05 (E) Townhouse, Row House, or other similar dwelling types:** 6,000 square feet without community sewers and water system, 4,000 square feet with community sewers and water system.

**Z-18.05 (F) Permissive Minimum Yard Requirements:** Under the lot averaging or reduction procedure, each lot shall have at least the following minimum yards:

1. **Front Yard:** Thirty (30) feet for all dwellings PROVIDED that front yard requirements may be varied by the Township Board after consideration of common greens or other common open space if such space provides an average of thirty (30) feet of front yard area per dwelling unit.
2. **Side Yard:** Ten (10) feet on each side for all one and two-family dwellings, twenty (20) feet for townhouses, row houses or other attached dwellings PROVIDED that there shall be a minimum of twenty (20) feet between ends of contiguous groups of dwelling units.
3. **Rear Yard:** Twenty-five (25) feet for all dwellings PROVIDED that rear yard requirements may be varied by the Township Board after consideration of common open space lands or park areas which abut the rear yard area.
4. **Lots or Areas:** designated or used for commercial purposes shall observe the setbacks specified above for residential uses including required parking spaces.

**Z-18.05 (G)** Maximum lot coverage for principal and accessory buildings and parking shall not exceed forty percent (40%) of the total lot area.

## **SECTION Z-18.06 OPEN SPACE REQUIREMENTS:**

For each square foot of land gained through the averaging or reduction of lot sizes under the provisions of this Article, equal amounts of land shall be provided in open space. All open space, tree cover, recreational area, scenic vista, or other authorized open land areas shall be either set aside as common land for the sole benefit, use, and enjoyment of present and future lot or homeowners within the development, or used as golf course or courses operated either privately or publicly, PROVIDED under all circumstances the use of the course or courses is available to all existing or future residents of the development on an equal basis with all other users, or shall be dedicated to Boardman Township as park land for the use of the general public.

**Z-18.06 (A) MINIMUM OPEN SPACE REQUIREMENTS:** Each planned unit development must devote a minimum of twenty-five percent (25%) of the planned unit development site to permanent open space. "Open Space" does not include parking lots, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five percent (25%) of the required open space.

**Z-18.06 (B) MAINTENANCE OF OPEN SPACE:** The Township Board shall utilize one (1) of the following options most appropriate as part of its approval of a special use permit for a planned unit development:

1. That open space land shall be conveyed by proper legal procedures from the tract owner or owners to a homeowner's association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, PROVIDED that an open space easement for said land be conveyed to Boardman Township to assure that open space land shall remain open. Land to be utilized for golf courses may be leased for development PROVIDED in the event the golf course is abandoned at any future time, lands utilized for gold course purposes shall revert as common open land.
2. That open space land shall be dedicated to the general public for park or recreational purposes by the tract owner or owners, PROVIDED that the access to and the characteristic of said land is such that it will readily available to and desirable for public use, development and maintenance.
3. The Township Board shall require that in the event a golf course or open space is abandoned to any future time, lands utilized for golf course purposes and/or open space shall revert as open common land by a homeowners' association unless the Township shall elect to have the said lands dedicated to the Township for use as public park.

It is the intent of this Section that in cases where option (2) above is determined to be in the best interest of the community, the owners or developers of the planned unit development shall not be compelled or required to improve the natural condition of said open space lands.

## **SECTION Z-18.07 STREETS AND ROADS**

All sections of the “Design and Construction Standard Specifications” of the Kalkaska County Road Commission shall apply to the development of roads and streets within planned unit developments. If the roads and/or streets within the planned unit development are to be a part of the county road system, prior to acceptance by the Board, the developer shall convey the road right-of-way, by warranty deed or dedication agreement, to the Board of County Road Commissioners of Kalkaska County.

If the road and/or streets within the planned unit development are not to be a part of the county road system, but intersect with, or connect to, an existing public road or street, a permit, including applicable fee, is required from the Kalkaska County Road Commission.

## **SECTION Z-18.08 PLAN APPLICATION – DATA AND INFORMATION REQUIRED:**

The developer shall submit a written application to the Boardman Township Zoning Administrator for approval of the planned unit development and also the fee established by the Boardman Township Board for review of such plans.

**PLANNED UNIT DEVELOPMENT PLAN:** At least thirty (30) days Before the first meeting of the Boardman Township Zoning Board at which the proposal is to be considered, the developer shall submit to the Boardman Township Zoning Administrator eleven (11) copies of a preliminary plan for the planned unit development. If the planned unit development is to be developed in phases, the plan shall show all phases. The plan shall include the following:

1. The applicant’s name, address, and telephone number.
2. A legal description of the land included in the proposed development.
3. A survey plan of the planned unit development site.
4. A floodplain plan, if the site lies within or abuts a floodplain area.
5. A site plan showing the location, size, area and width of all lots and buildings.
6. A utility plan as required.
7. A street construction and maintenance plan for all private streets within the pro-posed planned unit development site.
8. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities.
9. A soil erosion and sedimentation control plan.
10. A narrative describing: (a) the overall objectives of development; (b) the total number of acres included in the site; (c) the number of acres to be occupied by or devoted to each type of use; (d) departures from the minimum underlying zoning district regulations which are requested; and (e) the number of acres to be pre-served as open space or recreational space.



## **SECTION Z-18.09 REVIEW PROCEDURES:**

### **ZONING BOARD REVIEW:**

1. The Boardman Zoning Board shall hold a public hearing on the proposed planned unit Development Plan after at least one (1) publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time, and purpose of the hearing.
2. If following the review and the public hearing prescribed above, the Boardman Township Planning Commission determines that the proposed plan meets all requirements of this Ordinance, the Boardman Township Planning Commission shall send notice of action taken with comments to the Boardman Township Board.
3. If the planned unit development plan does not meet all requirements, the Boardman Township Planning Commission shall recommend disapproval of the plan by the Boardman Township Board of Trustees. The Boardman Township Planning Commission shall state its reason on its official minutes and forward same to the Boardman Township Board of Trustees and recommend that the Boardman Township Board of Trustees disapprove the plan until the objections causing disapproval have been changed to meet with the approval of the Boardman Township Planning Commission.

## **SECTION Z-18.10 BOARDMAN TOWNSHIP BOARD OF TRUSTEES REVIEW:**

1. The Boardman Township Board shall not review, approve or reject a planned unit development plan until it has received from the Boardman Township Planning Commission its report and recommendations.
2. The Boardman Township Board may consider the planned unit development plan at its next meeting after receipt of the recommendations from the Boardman Township Planning Commission.
3. The Boardman Township Board of Trustees shall either approve the planned unit development plan, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Boardman Township Board of Trustees.

## **SECTION Z-18.11 CONDITIONS AND DURATION OF APPROVAL:**

### **PLANNED UNIT DEVELOPMENT APPROVAL CONTRACT:**

1. If the Boardman Township Board of Trustees approves the planned unit development plan, it shall instruct Boardman Township's attorney to prepare a contract setting forth the conditions upon which such approval is based; such contract, after approval by the Boardman Township Board, shall be entered into between Boardman Township and the petitioner prior to issuance of a Land Use Permit for any construction in accordance with the approved planned unit development plan. All reasonable costs, as established by the Boardman Township Board of Trustees, related to the preparation of said contract shall be paid by the petitioner to the Boardman Township Treasurer prior to issuance of any Land Use Permits.
2. As a condition of the approval of the planned unit development plan by the Boardman Township Board of Trustees, the Boardman Township Board of Trustees may require the

petitioner to furnish a cash bond or irrevocable bank letter of credit from a bank chartered in the State of Michigan in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example (and not limitation) streets, roads, parking lots, and water and sewer systems to construct even though located outside the planned unit development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Township Board which are located within the planned unit development. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the planned unit development, or if the planned unit development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall insure completion of the planned unit development public and site improvements in accordance with the plans approved by the Township Board

# ARTICLE Z-NINETEEN – CONDOMINIUM SUBDIVISIONS

## SECTION Z-19.01 INTENT

Michigan statutes provide for developments consisting of one-family detached residential dwelling units and sites through procedures other than those authorized by the Land Division Act. The intent of the Article Thirteen A is to provide procedures and regulations for residential subdivisions implemented under the provision of the Condominium Act (Act 59 of 1978, as amended) and to ensure that such developments are consistent and compatible with conventional one-family platted subdivisions and promote the orderly development of the adjacent areas. It is not intended that commercial or industrial condominium projects will be reviewed or approved under this section of the Boardman Township Zoning Ordinance.

## SECTION Z-19.02 GENERAL PROVISION

For the purpose of this section, a Condominium Subdivision shall include any residential development in a Residential, Resort-Residential, Agricultural-Residential, or Forest-Recreation district proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended) consisting of two (2) or more single family detached residential structures on a single parcel.

## SECTION Z-19.03 REQUIRED PLANS AND CONDITIONS

**Z-19.03 (A) CONDOMINIUM LOTS** The Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear and side condominium lot lines allocated to each condominium dwelling unit. For the purpose of this section and to assure compliance with the provisions herein, these parcels shall be referred to as condominium lots. The description, size, location and arrangement of the condominium lots shall conform to the requirements of a conventional platted subdivision. All condominium subdivision lots shall be deeded as limited common elements for the exclusive use of the owners of the condominium subdivision units.

**Z-19.03 (B) AREA AND BULK REQUIREMENTS** Each condominium dwelling unit shall be located within a condominium lot.

1. All site condominium subdivisions and structures therein shall comply with all of the use, size, sign, height, frontage, and area (setback) regulations of the underlying zoning district in which the subdivision is located.
2. The condominium lot size and the required setbacks shall be measured from the designated front, rear and side condominium lot lines.
3. Side condominium lot lines shall be essentially at right angles to straight roads and radial to curved roads.
4. Narrow deep condominium lots shall be avoided. The depth of a condominium lot shall not exceed four (4) times the width as measured by the building line.
5. Corner condominium lots shall have extra width to permit appropriate building setbacks from both roads and or orientation to both roads.
6. Condominium lots extending through a block and having frontage on two local roads shall be prohibited.

7. Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all condominium lots shall front on secondary roads. Condominium lots along US 131 and other Kalkaska County Primary Roads shall not front but shall buck up to such roads.
8. All condominium lots shall front upon a public road or private road. Variations to this requirement may be made in the case of an approved clustered development.

**Z-19.03 (C) STREETS** If a condominium subdivision is proposed to have private Streets, they shall be designed to at least the minimum design, construction, inspection, approval and maintenance requirements of the Kalkaska County Road Commission for acceptance as a public road. All public streets within a condominium subdivision shall be constructed as required by the Kalkaska County Road Commission.

**Z-19.03 (D) WATER SUPPLY AND SEWAGE SYSTEMS** Water Supply and Sewage Disposal Systems shall comply with all requirements of Boardman Township and Kalkaska County.

**Z-19.03 (E) WETLAND AND FLOODPLAIN RESTRICTIONS** There shall be no development or modification of any kind within a wetland or floodplain area without first having been issued a wetland permit by the Department of Natural Resources and/or Earth Change Permit as appropriate. Lands subject to high organic content soils, high water table, flooding or otherwise deemed by the Boardman Township Zoning Board to be uninhabitable shall not be used for residential purposes, or for uses that may in the judgment of the Boardman Township Planning Commission increase the danger to health, life or property or increase the flood hazard. Such land within a condominium subdivision shall be set aside for other uses, such as parks or other open space.

## **SECTION Z-19.04 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION**

In the event that any developer shall intent to make changes in the contour of any land proposed to be developed, or changes in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the same shall only be accomplished after the owner of said land or his agent has submitted to the Boardman Township Planning Commission Board for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Boardman Township Planning Commission Board that such plans are not necessary. Such plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained herein and the Standards and Specifications of the Kalkaska County Soil Conservation District, if any. The Boardman Township Planning Commission Board shall review these plans as submitted and shall take necessary steps to ensure compliance by the developer with these plans a finally approved. In circumstances where soil erosion control comes under the jurisdiction of Act 347 of P.A. 1972 (1 acre or more), the developer shall submit a set of plans approved by the Soil Erosion Control Officer. The following control measures should be used for an effective erosion and a sediment control plan:

1. The smallest practical area of land should be exposed at any one-time during development.

2. When land is exposed during development, the exposure should be kept to the shortest period of time.
3. Where necessary, temporary vegetation and/or mulching should be installed and maintained to remove sediment from run-off waters from land undergoing development.
4. Sediment basins (debris basins, silting basins, or silt traps) should be installed and maintained to remove sediment from run-off waters from land undergoing development.
5. Provisions should be made to effectively retain on the property any increased run-off caused by changed soil and surface conditions during and after development.
6. The permanent final vegetation and structures should be installed as soon as practical in the development.
7. The development plan should be fitted to the topography and soils so as to create the least erosion potential.

### **SECTION Z-19.05 PLAN APPLICATION – DATE AND INFORMATION REQUIRED**

The condominium subdivision developer shall submit a written application to the Boardman Township Zoning Administrator for approval of the condominium subdivision plan and also the fee established by the Boardman Township Board for review of such plans.

### **SECTION Z-19.06 CONDOMINIUM PLAN, PROTECTIVE COVENANTS AND DEED RESTRICTIONS**

At least thirty (30) days before the first meeting of the Boardman Township Planning Commission Board at which the proposal is to be considered, the condominium subdivision developer shall submit to the Boardman Township Zoning Administrator eleven (11) copies of the condominium subdivision plan. The condominium subdivision plan shall include all information required by the Condominium Act, as now enacted, or hereinafter amended, and the administrative rules which supplement the Condominium Act, including but not limited to the following:

1. Project description which describes the nature and intent of the proposed development.
2. A survey plan of the site condominium subdivision.
3. A floodplain plan, if the site lies within or abuts a floodplain area.
4. A site plan showing the location, size, area, and width of all condominium units.
5. A utility plan as required.
6. A street construction, paving, and maintenance plan for all private streets within the proposed site condominium subdivision.
7. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities.
8. A soil erosion and sedimentation control plan.
9. A description of the common elements of project as will be contained in the Master Deed.
10. The use and occupancy restrictions as will be contained in the Master Deed.
11. "Consent to Submission of Real Property to Condominium Project," stating all parties whom have ownership interest in the proposed site condominium subdivision; or

evidence of authority or right that the developer has a legal option to purchase the subject property from the owner(s) of record.

## **SECTION Z-19.07 REVIEW PROCEDURES**

**Z-19.07 (A) DISTRIBUTION TO AUTHORITIES:** The Boardman Township Zoning Administrator shall deliver the proposed condominium subdivision plan to the Boardman Township Planning Commission Board and the Boardman Township Board of Trustees for review. The Boardman Township Zoning Administrator shall retain one copy.

## **SECTION Z-19.08 PLANNING COMMISSION BOARD REVIEW**

1. The Boardman Township Planning Commission Board shall review the condominium subdivision plan and the reports of the Kankaska County Road Commission, the Kankaska County Drain Commissioner/Soil Erosion Officer, the Kankaska County Health Department, and the Boardman Township Planner/Zoning Administrator.
2. The Boardman Township Planning Commission shall hold a public hearing on the proposed condominium plan after at least one (1) publication in the newspaper of general circulation in the Township at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time, and purpose of the hearing.
3. If following the review and the public hearing prescribed above, the Boardman Township Planning Commission Board determines that the proposed plan meets all requirements of this Ordinance, the Township Planning Commission Board shall send notice of action taken with comments to the Boardman Township Board.
4. If the condominium subdivision plan does not meet all requirements, the Boardman Township Planning Commission Board shall recommend disapproval of the plan by the Boardman Board of Trustees. The Boardman Township Planning Commission shall state its reason in its official minutes and forward same to the Boardman Township Board of Trustees and recommend that the Boardman Township Board of Trustees disapprove the condominium subdivision plan until the objections causing disapproval to have been changed to meet the approval of the Boardman Township Planning Commission Board.

## **SECTION Z-19.09 BOARDMAN TOWNSHIP BOARD OF TRUSTEES REVIEW**

1. The Boardman Township Board shall not review, approve or reject a condominium subdivision plan until it has received from the Boardman Township Planning Commission Board its report and recommendations.
2. The Boardman Township Board may consider the condominium subdivision plan at its next meeting after receipt of the recommendations from the Boardman Township Planning Commission Board.
3. The Boardman Township Board of Trustees shall either approve the condominium subdivision plan, reject the plan and give its reasons, or table the proceeding pending changes to the plan to make it acceptable to the Boardman Township Board of Trustees.

## **SECTION Z-19.10 CONDITIONS AND DURATION OF APPROVAL**

**Z-19.10 (A) CONDITIONS** The approval of the Boardman Township Board of Trustees will indicate that the proposed condominium subdivision plan meets the provisions of section 141 of the Condominium Act relating to the ordinances and regulations of Boardman Township but does not cover additional permits that may be required after the Master Deed has been recorded.

**Z-19.10 (B) DURATION** Approval of the condominium subdivision by the Boardman Township Board of Trustees shall be for a period of one year from the date of its approval by the Boardman Township Board of Trustees. If no Master Deed is recorded with the Kalkaska County Register of Deeds Office within one year of approval, such approval shall be considered null and void. The Boardman Board of Trustees may extend the one-year period if applied for and granted in writing.

### **SECTION Z-19.11 CONDOMINIUM SUBDIVISION PLAN APPROVAL CONTRACT**

If the Boardman Township Board of Trustees approves the condominium subdivision plan, it shall instruct Boardman Township's attorney to prepare a contract setting forth the conditions upon which such approval is based; such contract, after approval by the Boardman Township Board, shall be entered into between Boardman Township and the petitioner prior to the issuance of a Land Use Permit for any construction in accordance with the approved condominium subdivision plan. All reasonable costs, as established by the Boardman Township Board of Trustees, related to the preparation of said contract shall be paid by the petitioner to the Boardman Township Treasurer prior to issuance of any Land Use Permits.

As a condition of the approval of the condominium subdivision plan by the Boardman Township Board of Trustees, the Boardman Township Board of Trustees may require the petitioner to furnish a cash bond or irrevocable bank letter of credit from a bank chartered in the State of Michigan in the amount of the cost plus an additional 10% of the cost of the proposed improvements to common land, as approved by the Boardman Township Zoning Administrator, guaranteeing the completion of such improvement within a time to be set by the Boardman Township Board of Trustees.

### **SECTION Z-19.12 MASTER DEED CONTENTS**

All provisions of the site condominium plans which are approved by the Boardman Township Board of Trustees must be incorporated, as approved, in the Master Deed for the site condominium subdivision. Any proposed changes to the approved site condominium plans must be reviewed and approved by the Township pursuant to the procedure set forth herein for the approval of site condominium plans. A copy of the Master Deed, as filed with the Kalkaska County Register of Deeds for recording must be provided to the Township within ten (10) days after such filing with the County.

# ARTICLE Z-TWENTY – ACCESSORY DWELLING UNITS

## SECTION Z-20.01 ACCESSORY DWELLING UNIT PURPOSES

An accessory dwelling unit (ADU) is a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family or multi-family home. ADUs go by many different names throughout the U.S., including mother-in-law suites, accessory apartments, secondary suites, and granny flats. ADUs can be converted portions of existing homes (i.e., internal ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).

Internal, attached, and detached ADUs all have the potential to increase housing affordability (both for homeowners and tenants), create a wider range of housing options within the community, and enable seniors to stay near family as they age.

## SECTION Z-20.02 ACCESSORY DWELLING REQUIREMENTS

An accessory dwelling unit (ADU) will be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling (ADU) unit means a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. Additionally, ADU's must comply with ALL of the following:

1. The parcel or lot must be zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
2. The total floor area of an accessory dwelling unit shall not exceed either fifty (50) percent of the existing primary dwelling or twelve hundred (1,200) square feet, whichever is smaller.
3. The minimum habitable square footage is three hundred (300) square feet.
4. The property must have sufficient wastewater capacity for the primary dwelling and ADU. Approval by the local health officer where a private sewage disposal system is being used is required.
5. Local building code requirements apply to the accessory dwelling units.
6. The accessory dwelling unit must meet all the required setbacks, and distances from property lines, existing structures, and all other required distances.

## SECTION Z-20.03 ADDITIONAL PROVISIONS

**Z-20.03 (A)** The accessory dwelling unit may be rented separate from the primary residence. However, the ADU may not be sold or otherwise conveyed separate from the primary residence.

**Z-20.03 (B)** No passageway shall be required in conjunction with the construction of an accessory dwelling unit.



# **-TOWNSHIP OF BOARDMAN ORDINANCES -**

## **ARTICLE O-ONE – ENFORCEMENT**

### **SECTION O-1.01**

The provisions of the Ordinance shall be enforced by such Township officials as may from time to time be designated by resolution to the Township Board.

## **ARTICLE O-TWO – REZONING AND APPEALS FEES**

### **SECTION O-2.01**

The Township Board is hereby authorized to establish by resolution fees for applications for amendments to the Zoning Ordinance and for appeals or applications to the Zoning Board of Appeals to be paid to the Township with such application or appeals to help defray the cost to the Township of such proceedings. Such fees may be altered by subsequent resolution to the Township Board in the discretion of said Board.

## **ARTICLE O-THREE – PENALTY**

### **SECTION O-3.01**

Any person, corporation or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the zoning enforcement officer, Board of Appeals, or the Township Board issued in pursuance of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, before any court having jurisdiction, shall be punishable by a fine not to exceed \$100.00 or by imprisonment not to exceed ninety (90) days, or both. Each day during which a violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt an offender from compliance with the provision 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.

## **ARTICLE O-FOUR – VALIDITY**

### **SECTION O-4.01**

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

## **ARTICLE O-FIVE – AMENDMENTS AND SUPPLEMENTS**

### **SECTION O-5.01**

Amendments and supplements to this Ordinance may be adopted as provided by law.

## **ARTICLE O-SIX – EFFECTIVE DATE**

### **SECTION O-6.01**

These Ordinances of Boardman Township as amended, shall be given immediate effect.

Dated: \_\_\_\_\_

\_\_\_\_\_

TONYA HART, CLERK

BOARDMAN TOWNSHIP

KALKASKA COUNTY, MICHIGAN

# ARTICLE O-TWELVE – LAND DIVISION ORDINANCE

APPROVED September 1997 | Reviewed February 2021

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefor; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

## SECTION O-7.01 PURPOSE

The purpose of this Ordinance is to carry out provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

## SECTION O-7.02 DEFINITIONS

**O-7.02 (A) APPLICANT:** A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

**O-7.02 (A) DIVIDED OR DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Section 108 and 109 of the State Land Division Act.

**O-7.02 (B) EXEMPT SPLIT OR EXEMPT DIVISION:** The partitioning or splitting of a parcel or tract of land by proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provide all resulting parcels are accessible for vehicular travel and utilities from exiting public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

**O-7.02 (C) FORTY ACRES OR THE EQUIVALENT:** Either 40 acres, a quarter-quarter section containing not less than 40 acres, or a government lot containing not less than 30 acres.

## **SECTION O-7.03 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS**

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the Township Board, in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from the requirement:

**O-7.03 (A)** A parcel proposed for a subdivision through a recorded plat pursuant to the State Land Division Act.

**O-7.03 (B)** A lot is a recorded plat proposed to be divided in accordance with the State Land Division Act.

**O-7.03 (C)** An exempt split as defined in the Ordinance.

## **SECTION O-7.04 APPLICATION FOR LAND DIVISION APPROVAL**

An applicant shall file all of the following with the Township Clerk or other official designated by the Township Board for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

1. A completed application form, such form as may be provided by the Township.
2. Proof of free ownership of the land proposed to be divided.
3. An accurate legal description of all the proposed divisions.
4. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads. In lieu of such survey map, at the applicant's option, the applicant may waive the 45-day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township, and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for vehicular traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official. Prior to a final application under Section V.

- a. The Township Board or its designated agent delegated such authority by the Township Board, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed division are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.
5. Proof that all standards of the State Land Division Act and this Ordinance have been met.
6. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997 the effective date of the State Land Division Act.
7. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
8. If transfer of division rights are proposed in the land transfer, detailed information about the term and availability of the proposed division rights transfer.
9. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” parcels containing sufficient “buildable” area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, minimum floor area, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer services are not available), a maximum allowed area coverage of buildings and structures on the site.
10. The fee as may from time to time be established by resolution of the Township Board for land division reviews pursuant to this Ordinance to cover the cost of review of the application and administration of this Ordinance and the State Land Division Act.

## **SECTION O-7.05 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL**

**O-7.05 (A)** Upon receipt of a land division application package, the Township Clerk or other official designated by the Township Board shall forthwith submit the same to the Township assessor or other designated official for decision. The Township assessor or other designee shall approve, with reasonable conditions to assure compliance with applicable ordinance the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the complete application package conforming to this Ordinance's requirements and shall promptly notify the applicant of the decision and the

reasons for any denial. If the application package does not conform to the requirements of this Ordinance and the State Land Division Act, the assessor or other designee shall return the same to the applicant for completion and refiling in accordance with this Ordinance and the State Land Division Act.

**O-7.05 (B)** Any person or aggrieved by the decision of the assessor or designee may, within 30 days of said decision appeal the decision to the Township Board or such other board or person designated by the Township Board which shall consider and resolve such appeal by a majority vote of said board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

**O-7.05 (C)** A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Township Clerk or other designated official accomplishing the approved land division or transfer.

**O-7.05 (D)** The Township assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

## **SECTION O-7.06 STANDARDS FOR APPROVAL OF LAND DIVISIONS**

A proposed land division shall be approved if the following criteria are met:

**O-7.06 (A)** All parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the Boardman Township Zoning Ordinance, including but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing building/structures.

**O-7.06 (B)** The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

**O-7.06 (C)** All parcels created and remaining have existing adequate accessibility, or an area available therefore, to public road for public utilities and emergency and other vehicles not less than the requirements of the Township Zoning Ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy or accessibility, any ordinance standard applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four (4) or more parcels.

**O-7.06 (D)** The ratio of depth to width of any parcel created by the division does not exceed a four to one (4/1) ratio exclusive of access roads, easements, or non-buildable parcels created under Section VII of this Ordinance and parcels added to contiguous parcels that result in all involved parcel complying with said ratio.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The permissible minimum width shall be as defined in the Township Zoning Ordinance.

## **SECTION O-7.07 ACCESS STANDARDS DIVIDED LAND PARCELS**

In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

**O-7.07 (A)** Where accessibility is to be provided by a proposed new dedicated public road, proof that the county road commission or Michigan Department of Transportation has approved the proposed layout and construction design of the road and of utility easements and drainage facilities connected therewith.

**O-7.07 (B)** Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easements, such accessibility shall comply with the following:

**O-7.07 (C)** Where such private road or easement extends for more than 660 feet from a dedicated public road, or is serving or intended to serve more than four separate parcels, units or ownerships, it shall be not be longer than 66 feet in the right-of-way width, 24 feet in improved roadbed width with at least three feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six inches of a processed and stabilized gravel base over six inches of granular soil, have a grade of not more than seven percent, and if dead-ended, shall have a cul-de-sac with a radius of not less than 50 feet of improved roadbed for accommodation of emergency, commercial and other vehicles.

**O-7.07 (D)** Where the private road or easement is 660 feet or less in length, and is serving or intended to serve not more than four separate parcels, units or ownership's, it shall not be less than 40 feet in right-a-way width, 20 feet in improved roadbed width with at least two (2) feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil have a grade of not more than seven percent, and a cul-de-sac where dead-ended as specified in subparagraph (2)(a) above. If said private road or easement is serving or intend to serve more than four separate parcels, units or ownerships, the right-of-way and development standards set forth in (2)(a) above shall apply.

**O-7.07 (E)** Any intersection between private and public roads shall contain a clear vision triangular area of less than two feet along each right-of-way line measured from intersecting right-a way lines.

**O-7.07 (F)** No private road or easement shall extend for more than 1,000 feet from a public road.

**O-7.07 (G)** No private road shall serve more than 25 separate parcels.

## **SECTION O-7.08 ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS**

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility, and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances:

**O-7.08 (A)** Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the Township, designating the parcel as “not buildable.” Any such parcel shall be designated as “not buildable” in the Township records and shall not thereafter be the subject of a request to the zoning Board of Appeals for variance relief from the applicable lot and/or area requirements and shall not be developed with any building or above ground structure.

**O-7.08 (B)** Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

**O-7.08 (C)** Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.

## **SECTION O-7.09 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT**

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special-land use approval or site plan approval and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 10 of this Ordinance, and as may otherwise be provided by law.

## **SECTION O-7.10 PENALTIES AND ENFORCEMENT**

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the County Jail for not to exceed 90 days by both such fine and imprisonment.



Any person who violates any of the provisions of the Ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate disjunctive or other relief.

### **SECTION O-7.11 SEVERABILITY**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

### **SECTION O-7.12 REPEAL**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Boardman Township Zoning Ordinance or any applicable Building Code.

### **SECTION O-7.13 EFFECTIVE DATE**

This Ordinance shall take effect 30 days following its publication after adoption.

### **SECTION O-7.14 TIMELINE FOR REVIEW AND APPROVAL OR DISAPPROVAL**

Boardman Township Land Division Ordinance be amended to provide that the Township, or its designated agent delegated such authority by the Township Board, shall have forty-five (45) days with which to approve or disapprove land division applications after receipt of the complete application package conforming to the requirements of the Ordinance. This modification was approved July 8, 1997: adopted August 6, 1997: reviewed February, 2021: and integrated into the most current zoning and ordinances document.

# ARTICLE O-EIGHT – BLIGHT ORDINANCE, JUNK CARS ORDINANCE, DISMANTLED JUNK CARS ORDINANCE

## SECTION O-8.01 PURPOSE

An Article to protect the public health, safety, and general welfare by establishing regulations/rules related to the operations, control and management of BLIGHT including JUNK CARS AND DISMANTLED JUNK CARS in the Township of Boardman, Kalkaska County, Michigan, and to provide penalties for the violation of said Article.

## SECTION O-8.02 DEFINITIONS

**O-8.02 (A) MOTOR VEHICLES:** Any wheeled vehicle which is designed to be self-propelled including motor homes.

**O-8.02 (B) RV/CAMPING TRAILERS:** Any trailer towed by a car or truck that is used for temporary living quarters.

**O-8.02 (C) INOPERABLE MOTOR VEHICLES:** Motor Vehicles, which by reason of dismantling, disrepair, lack of licensing or other cause are either incapable of being propelled under their own power or are prevented by law from being so propelled.

**O-8.02 (D) DISMANTLED, OR PARTIALLY DISMANTLED MOTOR VEHICLE:** Motor Vehicles from which some part or parts ordinarily a component of such motor vehicle has been removed or is missing.

**O-8.02 (E) BUILDING MATERIALS:** Lumber bricks, concrete, cinder blocks, plumbing or heating materials, electrical wiring, or equipment, shingles, mortar, concrete or cement, nails screws or any other materials used in construction of any structure.

**O-8.02 (F) JUNK:** Any manufactured goods, appliances, fixtures, scrap, garbage furniture, paper, cardboard, glass, bedding, and trash bags.

**O-8.02 (G) FARM OPERATION:** An active enterprise primarily involving the commercial production, harvesting, and storage of plant and animal products on a site or sites having a combined area of ten (10) acres or more.

## SECTION O-8.03 REGULATIONS

**O-8.03 (A)** In any area, the storage or accumulation of junk, trash, rubbish, dismantled cars and building material, may not be left in an open area causing unsightly blight conditions.

**O-8.03 (B)** In any area, the existence of any structure or part of any structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable and deemed as unsafe must be removed within a reasonable amount of time.

**O-8.03 (C)** In any area, the existence of any vacant dwelling, garage, or other out-building must be kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance by vandals or other unauthorized persons.

**O-8.03 (D)** In any area, the existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid land use permit issued by the Township and a building permit issued by Kalkaska County, unless such construction is completed within a reasonable time.

**O-8.03 (E)** No person, firm, or corporation shall park, store, or place upon any public right-of-way or public property, or upon any premises that is primarily used or is zoned for any type of residential purpose within the township, any motor vehicle, house trailer, or tractor trailer or new or used parts of junk therefrom unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the township, county, or State of Michigan, except for the following:

4. Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
5. Vehicles or trailers that are temporarily inoperable, because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed fourteen (14) days.
6. Vehicles in fully operating condition, such as stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured.
7. No repairing, modifying or dismantling work or operation shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property for a period in excess of one (1) week extension.

## SECTION O-8.04 ENFORCEMENT

**O-8.04 (A)** This Article shall be enforced by such person (Zoning Administrator) designated by the Township Board.

**O-8.04 (B)** Any person wanting to make a complaint about a blight situation must fill out a

General Complaint form available from the Zoning Administrator or the Township web site. The Complaint must be filled out completely and signed. Complaints other than environmental threats must originate from a landowner who can experience said blight/junk car/dismantled junk car from his property.

**O-8.04 (A)** The owner, if possible or the occupant of any property upon which a General Complaint has been issued will be contacted in person by the Zoning Administer within one (1) week of receiving the complaint form. The owner or occupant will have ten (10) to clean up the blight situation. The Zoning Administrator will visit the property after ten (10) days. If the blight has been all cleaned up that fact will be noted on the Zoning Administrator's records. If it has not been cleaned, a written warning is issued by certified mail, return receipt requested. Additional time may be granted by the Zoning Administer notifying the owner or occupant that a fine will be issued if the blight is not cleaned up or the date issued by the Zoning Administrator.

## **SECTION O-8.05 NUISANCE**

Any violation of the Blight regulations is hereby declared a public nuisance. Any parking, storage, placement, or operation in violation the provisions of the ordinance are hereby declared to be a public nuisance which may be enjoined, or which may subject the violator to civil damages and the fines and penalties herein provided for.

## **SECTION O-8.05 CONSTRUCTION**

This Article shall not prevent the operation of any licensed junk yard, salvage yard, garage, body or paint shop legally operating within a proper zone as defined in the Boardman Township Zoning Ordinance and shall be in addition to any other laws or Ordinances respecting rubbish, refuse, letter, trash, or junk control and regulations.

## **SECTION O-8.06 PENALTY**

**O-8.06 (A)** Any person, firm, or corporation who violates any provision of the Ordinance shall be subject to a fine up to \$500.00 and/or imprisonment for up to 90 days in jail. Each day that a violation continues to exist shall constitute a separate offense per Civil Infractions Article 21.

**O-8.06 (B)** If necessary, the owner or occupant will be taken to Court. If necessary, the Township will request court and legal costs.

## **SECTION O-8.07 SEVERABILITY CLAUSE**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason by court of competent jurisdiction it shall not affect any portion of the Ordinance other that said part of portion thereof.

# ARTICLE O-NINE – MUNICIPAL (TOWNSHIP) INFRACTION ARTICLE VIOLATIONS BUREAU

## SECTION O-9.01 ESTABLISHMENT, LOCATION, AND PERSONNEL OF MUNICIPAL ORDINANCE VIOLATIONS BUREAU

**O-9.01 (A) ESTABLISHMENT:** The Municipal Infraction Ordinance is statute MCL 600.8701. This statute will be referred to as Township Infraction Article and Violations Bureau.  
**B. Location.** The Bureau shall be located in the Township Hall, or such location as may be designated by the Township Board.

**O-9.01 (B) PERSONNEL:** All personnel of the Bureau shall be Township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be designated by the Township Board.

## SECTION O-9.02 DEFINITIONS

**O-9.02 (A) AUTHORIZED OFFICIAL:** Means a police officer or other personnel of a county, city, village, township, or regional parks and recreation commission legally authorized to issue municipal civil infraction citations.

**O-9.02 (B) CITATION:** Means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of one or more municipal infractions by the person cited.

**O-9.02 (C) CIVIL INFRACTION:** Means a violation of the zoning ordinance. It is not a criminal infraction.

**O-9.02 (D) TOWNSHIP CIVIL INFRACTION DETERMINATION:** Means a determination that a defendant is responsible for a municipal civil infraction” by one of the following:

1. An admission of responsibility for the municipal civil infraction.
2. An admission of responsibility for the municipal civil infraction, “with explanation”
3. A preponderance of the evidence at an informal hearing formal hearing on the question.
4. A default judgment for failing to appear as directed by a citation or other notice, at scheduled appearance, at an informal hearing, or at a formal hearing.

**O-9.02 (E) VIOLATION:** includes any act which is prohibited or made or declared to be unlawful or an offense by this Zoning Ordinance or any other ordinance; and any omission or failure to act where the act is required by this Zoning Ordinance or any other ordinance.

## **SECTION O-9.03 BUREAU AUTHORITY OF TOWNSHIP/TOWNSHIP BOARD**

The Bureau shall only have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which municipal ordinance violations notice (as compared to a citation) has been issued and served and to collect and retain the scheduled civil fines/cost for such violations specified pursuant to any applicable ordinance. The Bureau shall not accept payment fines/costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

## **SECTION O-9.04 CORRECTION AND ENFORCEMENT PROCEDURE**

### **O-9.04 (A) ZONING ADMINISTRATOR**

1. Documents the facts to identify violation.
2. Meets or communicates with landowner to discuss violation.
  - a. Explains violation to landowner orally or in writing.
  - b. Identifies measures to correct violation.
  - c. Issues notice of violation to landowner with one copy to be filed.
  - d. Re-inspects the site to see if violation is corrected.
3. Notice documents include:
  - a. a. The zoning violation. Photo documentation recommended.
  - b. b. The meeting date with landowner and identity of landowner.
  - c. c. Corrective measures to be taken.
  - d. d. Additional fifteen (15) daytime period for correcting the violation.
4. Re-inspects the site after fifteen (15) days.
  - a. If compliance is shown, the Zoning Administrator so signifies on landowner's copy and the file copy Notice.
  - b. If violation still exists after the aforementioned fifteen (15) days, then the violator shall be assessed one hundred dollars (\$100.00) per day until the violation is corrected.
  - c. If after thirty (30) days with the above-mentioned assessments, the violation is still not corrected, the violation is to be turned over to Township Civil Infraction Bureau/Board of Trustees/designated person. The Township Board shall have the authority to take what further legal steps are necessary to obtain compliance with this Article.

## **SECTION O-9.05 PENALTIES AND SANCTIONS**

**O-9.05 (A) VIOLATION SEVARITY:** The violation then may become a civil infraction.

**O-9.05 (B) CIVIL INFRACTION SANCTION:** The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Zoning Ordinance or any ordinance, plus any costs, damages, expenses and other sanction, as authorized applicable laws.

1. Unless otherwise specifically provided for a particular municipal civil infraction violation by this or any ordinance, the civil fine for a violation shall be not less than fifty dollars (\$50.00), plus costs and other sanctions, for each infraction.
2. Increased civil fines may be imposed for repeated violations by a person of any of requirement or provision of this Zoning Ordinance or any ordinance. As used in this section "repeat offense" means a second (or any subsequent) municipal civil infraction violations of the same requirement or provision committed by a person within any six (6) month period (unless some other period is specifically otherwise provided for this Zoning Ordinance or any other ordinance) (ii) for which the person admits responsibility or is determined to be responsible. Unless specifically otherwise provided by this Zoning Ordinance or any other ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows: The fine for any offense which is a first repeat offense shall not be less than two hundred fifty dollars (\$250.00), plus costs.
  - a. The fine for any repeat offense which is a second repeat offense, or any subsequent repeat offense shall be no less than five hundred dollars (\$500.00), plus costs.
3. Each day on which any violation of this Zoning Ordinance or any other ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

## **SECTION O-9.06 ORDINANCE VIOLATION NOTICE REQUIREMENTS, ADMISSION/DENIAL OF RESPONSIBILITY**

**O-9.06 (A) Ordinance Violation Notice Requirements.** Municipal civil infraction violation notices shall be issued and served by authorized Township officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:

1. The violation;
2. The time within which the person must contact the Bureau for purpose of admitting or denying responsibility for the violation;
3. The amount of the scheduled fines/costs for the violation;
4. The methods by which the violation may be admitted or denied;
5. The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
6. The address and telephone number of the Bureau/Clerk, or other designated person within the jurisdiction of the Bureau and pay the required civil fines/ costs or contact the Bureau within the required time;
7. The address and telephone number of the Bureau within the jurisdiction of the Bureau and pay the required civil fines/costs within the designated time period. The Bureau clerk or other designated Township employee (s) shall advise the complainant to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter.
8. The citation filed with the court shall consist of a sworn complaint containing at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. A copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last

known address. The citation shall thereafter be processed in the manner required by law.

## **SECTION O-9.07 SCHEDULE OF CIVIL FINES/COSTS**

Unless a different schedule of civil fines is provided by an applicable ordinance, the civil fines payable to the Bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule:

1. 1st violation within 3-year period \$ 50.00
2. 2nd violation within 3-year period \$ 125.00
  - a. 2nd violation within 3- year period \$ 125.00
3. 3rd violation within 3- year period \$ 250.00
4. 4th or subsequent violation within 3 yr. period \$ 400.00
5. (Determined on the basis of the date of violation (s).

In addition to the above-prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the Bureau if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the Bureau.

## **SECTION O-9.08 RECORDS AND ACCOUNTING**

The Bureau Clerk or other designated Township official/employee shall retain a copy of all municipal ordinance violation notices and shall account to the Township Board once a month or at such other intervals as the Township Board may require concerning the number of admissions and denials or responsibility for the ordinance violations within the jurisdiction of the Bureau and the amount of fines/costs collected with respect to such violations.

The civil fines/costs collected shall be delivered to the Township Treasurer at such intervals as the Treasurer shall require and shall be deposited in the general fund of the Township.

## **SECTION O-9.09 AVAILABILITY OR OTHER ENFORCEMENT OPTIONS**

Nothing in this Article shall be deemed to require the Township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction the Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

## **SECTION O-9.10 NUISANCE PER SE**

Any land, dwelling, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed, or converted in violation of the Article or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.



## **SECTION O-9.11 SEVERABILITY**

The provisions of this Article are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the Article which shall continue in full force and effect.

# ARTICLE O-TEN – CEMETERY ORDINANCE

ADOPTED 2001 | REVIEWED February 2021

An Ordinance to protect the public health, safety, and general welfare by establishing regulations related to the operations, control and management of cemetery owned by the Township of Boardman, Kalkaska County, Michigan: to provide penalties for the violation of said Ordinance.

## SECTION O-10.01 TITLE

This Ordinance shall be known and cited as the Boardman Township Cemetery Ordinance

## SECTION O-10.02 DEFINITIONS OF CEMETERY LOTS AND BURIAL SPACES

**O-10.02 (A) Cemetery Lot:** A cemetery lot shall consist of a burial space sufficient to accommodate from one (1) to four (4) burial spaces.

**O-10.02 (B) Adult Burial Space:** An adult burial space shall consist of land area five (5) feet wide and ten (10) feet in length.

## SECTION O-10.03 SALE OF LOTS OR BURIAL SPACE

**O-10.03 (A)** All sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by the Township Clerk.

**O-10.03 (B)** Burial rights may only be transferred to those persons designated by the lot owner and may be affected only by endorsement of an assignment of such burial permit form issued by the Township Clerk, approval by said Clerk, and entered upon the official records of said Clerk. If a permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the space is an authorized and appropriate person before starting any interment.

## SECTION O-10.04 PURCHASE PRICE AND TRANSFER FEE

**O-10.04 (A)** The Township Board by resolution may periodically set and adjust the fee for burial spaces or transfer spaces to accommodate increased costs and needed reserve funds for cemetery maintenance

**O-10.04 (B)** No burial lot owner shall sell their burial lot for profit. It can only be sold for the original purchase price.

**O-10.04 (C)** The Township Board may waive all fees for the burial of cremated remains of indigent persons who have connection with the Township.

## **SECTION O-10.05 GRAVE OPENING AND CLOSING**

**O-10.05 (A)** The Township Board shall hire a contractor for opening and closing of a burial space, including cremains. The fee shall be paid to the Township Clerk.

**O-10.05 (B)** No burial space shall be opened and closed except under the direction of the Township Clerk/ Sexton. However, this provision shall not apply to proceeding for the removal and re-interment of bodies and remains that are under the supervision of the local health department.

## **SECTION O-10.06 MARKERS AND MEMORIALS**

**O-10.06 (A)** All markers, monuments and other memorials must be of granite or other approved equally durable composition.

**O-10.06 (B)** Any monument must be located upon a suitable solid foundation to maintain the same erect position. The cost of the foundation will be the lot owner's responsibility. Only one monument marker or other approved memorial is permitted per burial space except for veterans, which can have two, one being a military marker.

**O-10.06 (C)** There may be one individual marker for each cremains, but it must be flush with the ground.

**O-10.06 (D)** No monument, marker or other memorial shall be installed without the specific approval of the Township Board. Unless the proposed memorial meets the following requirements:

The location is at the head of the burial space, parallel to the head of the burial space line.

**O-10.06 (E)** Monuments, markers and other memorials are not allowed to be installed on burial spaces or lots that have not been fully paid for.

**O-10.06 (F)** No mausoleum shall be erected without the specific approval of the Township Board.

**O-10.06 (G)** Inscriptions on monuments, markers, mausoleums, or other memorials must not be offensive or improper, as judged by the Township Board. The owner of any such memorial will be responsible for all expenses for removal.

**O-10.06 (H)** The Township Board has the authority to deem a marker, monument, mausoleum, or other memorial to be inappropriate and thus prohibit it from being placed in the cemetery.

**O-10.06 (I)** If a marker, monument, memorial, or mausoleum becomes unsightly, dilapidated or a safety hazard in the opinion of the Township Clerk, notice of the condition will be sent to the last known address of the lot owner, and the structure will be removed or repaired at the lot owner's expense.

## **SECTION O-10.07 INTERMENT REGULATIONS**

**O-10.07 (A)** Only one body may be buried in a burial space, except for a parent and infant or two children buried at the same time.

**O-10.07 (B)** Up to six cremains may be buried in one burial space and must be buried at least two feet deep. No lot shall be used for any other purpose than the burial of a human body.

**O-10.07 (C)** The Township Clerk shall receive at least two days' notice of the time of a burial to allow for the opening of the burial space.

**O-10.07 (D)** The appropriate permit for the burial space and appropriate identification of the person to be buried shall be presented to the Township Clerk/ Sexton prior to interment. If a permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the space is the authorized and appropriate one before starting any interment.

**O-10.07 (E)** All burial spaces shall be located in an orderly and neat-appearing manner within the confines of the space involved.

**O-10.07 (F)** All burial shall be within a concrete vault (which meets all applicable laws) installed or constructed in each burial space before interment, Vaults of other suitable material may be allowed at the discretion of the Township Board.

**O-10.07 (G)** No burial shall take place unless the burial space fee, fees for services required to open and close the grave, and all other fees have been paid in full.

**O-10.07 (H)** The Township assumes no responsibility for error in opening graves when such error is caused by others.

**O-10.07 (I)** Scattering cremains over a family lot or anywhere in the cemetery is prohibited.

## **SECTION O-10.08 GROUND MAINTENANCE**

**O-10.08 (A)** No grading, leveling, or excavating of a burial space shall be allowed without the permission of the Township Clerk/Sexton.

**O-10.08 (B)** No shrubs, trees, or vegetation of any type may be planted without the approval of the Township Clerk/Sexton. Any of the foregoing items planted without approval may be removed by the Township.

**O-10.08 (C)** The Township maintenance person by the direction of the Township Clerk/Sexton has the right to remove or trim any trees, plants or shrubs located within the cemetery in the interest of maintaining proper appearance and use of the cemetery.

**O-10.08 (D)** Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.

**O-10.08 (E)** All artificial flowers will be removed during spring cleaning.

**O-10.08 (F)** The grounds keeper shall have the right and authority to remove and dispose of any and all growth emblems, displays or containers that have become unsightly, a source of litter or a maintenance problem.

**O-10.08 (G)** Surface other than earth or sod is prohibited.

**O-10.08 (H)** Dried flowers, wreaths, paper, flower containers, and all other refuse must be removed or deposited in a trash container located within the cemetery.

**O-10.08 (I)** Cemetery care only includes seeding, top dressing, cutting, and trimming grass, trees, shrubs, and the general upkeep of the cemetery.

**O-10.08 (J)** Cemetery care does not include the maintenance of markers, monuments, memorials, and mausoleums.

## **SECTION O-10.09 FORFEITURE OR VACANT CEMETERY BURIAL SPACES OR LOTS**

Cemetery burial spaces or lots sold after the effective date of this ordinance and remaining vacant for 40 years from the date of sale shall automatically revert to the township if the following events occur:

1. Notice is sent by the Township Clerk by first class mail to the last known address of the last owner of record informing him or her of the expiration of the 40-year period and that all rights with respect to the burial spaces or lots will be forfeited if the owner does not indicate in writing to the Township Clerk within 60 days from the date of mailing the notice, the desire to retain the burial rights.

2. A written response indicating the desire to retain the burial spaces or lots in question is not received by the Township Clerk from the last owner of record, the owner's heirs, or the owner's legal representative of the spaces or lots within 60 days from the date of mailing the notice.

Upon written request by the owner, an owner's heirs, or owner's legal representative, the Township will repurchase any cemetery lot or burial space from the owner for the original purchase price paid to the Township.

## **SECTION O-10.10 RECORDS**

**O-10.10 (A)** The Township Clerk shall maintain records concerning all burials, issuance of burial permits, and perpetual care funds separate from any other records of the Township. The records shall be opened to the public during reasonable business hours.

**O-10.10 (B)** All cemetery records will be stored in a fireproof container.

## **SECTION O-10.11 GENERAL REGULATIONS**

**O-10.11 (A)** The cemetery shall be open to the general public from the hours of 8:00 am. until dusk. The cemetery is closed November 1st to May 1st for motor vehicles, but walk-ins are allowed.

**O-10.11 (B)** Animals, except Service dogs, are not permitted in the cemetery.

**O-10.11 (C)** No person shall obstruct any driveway, walkway, or alley.

**O-10.11 (D)** No person shall injure, deface, or destroy any burial space, marker, monument, mausoleum, building, fence, seat, flowers, trees, shrub, or other item in the cemetery.

**O-10.11 (E)** Alcohol is not permitted in the cemetery.

**O-10.11 (F)** No vehicles shall drive faster than 5 miles per hour on cemetery roads.

**O-10.11 (G)** Driving off the established roads is prohibited.

**O-10.11 (H)** The water hydrates are for use while at the cemetery to water plants and grass. No water shall be used for drinking or bottling. The water is not tested for human consumption.

**O-10.11 (I)** All graves must be cleared of flowers and other memorial articles as of October 31.

**O-10.11 (J)** Cemetery is open to the public on May 1.

## **SECTION O-10.12 PENALTIES**

Any person, firm or corporation who violates any provisions of this ordinance shall be subject to a fine up to \$500.00 and/or imprisonment for up to 90 days in jail.

Each day that a violation continues to exist shall constitute a separate offense.

## **SECTION O-10.13 VALIDITY**

If any section, provision or clause of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portion or application of this ordinance, which can be given effect without the invalid portion or application.

# **ARTICLE O-ELEVEN (A) – PARKS ORDINANCE**

ADOPTED 2001 | REVIEWED February 2021

An Ordinance to insure the public peace, health, and safety in the use of Boardman Township parks. Such Ordinance is authorized by MCL 41.183 (Township Ordinance Act 246 of 1945).

## **SECTION O-11 A.01 PARK HOURS**

All parks shall be closed from 10:00 p.m. until 6:00 a.m. the next morning, except with written consent from the Township Supervisor.

## **SECTION O-11 A.02 PICNIC AREA AND USE**

The use of individual grills, together with tables and benches, follow generally the rule “First come, first served.” Groups of more than 20 may reserve a picnic area by obtaining written approval from the Township Supervisor.

## **SECTION O-11 A.03 DUTIES OF THE PARK PATRON**

No person shall leave the picnic area before the cooking grill is completely extinguished, and all trash of the nature of boxes, paper, cans, bottles, garbage, and other refuse is placed in the disposal receptacle where provided. If no such receptacle is available, then refuse and trash shall be carried away from the park area by the park patron to be properly disposed of elsewhere. Littering is included in this article.

## **SECTION O-11 A.04 CAMPING**

Unless permission is granted by the Township Supervisor, no person shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave at the park after closing hours any movable structure, or special vehicle to that could be used or that could be used for such purposes as house trailer, camping trailer, or the like.

## **SECTION O-11 A.05 GAMES**

No person shall take part in the playing of any games involving or otherwise propelled objects such as stones, arrow, javelins, or model airplanes except in areas set apart for such forms of recreation. The playing of games such as football, baseball, soccer, and softball can be played in/on the designated areas or in an area/way that does not disturb or deter other users of the park.

## **SECTION O-11 A.06 VEHICLES**

No wheeled vehicles and/or snowmobiles are permitted in the parks except in designated parking areas. Pedal bikes, baby carriages, and handicapped equipment is allowed. (MCL 41.18a(2))

Cleaning, polishing, washing, greasing, lubricating, or repairing of wheeled vehicles is prohibited.



## **SECTION O-11 A.07 DISORDERLY CONDUCT**

No person shall engage in any disorderly conduct or behavior tending to breach the public peace. This includes fighting, verbal, or obscene communications, and playing loud music. No person shall be under the influence of intoxicating beverages or a controlled substance. No person under the age of 21 shall consume beer, wine, or other alcoholic beverages. (MCL 436.1915 (2)(3))

## **SECTION O-11 A.08 DOMESTIC ANIMALS**

All dogs and other domestic animals shall be restrained at all times by an adequate leash. Owners of such animals shall be responsible to clean up any fecal matter left by their animal. No dogs or other animals are permitted on the beach or in the water.

No person shall molest, trap, hunt, injure, or kill any wild animal within the park. No person shall abandon animals or birds within the park.

## **SECTION O-11 A.09 EXPLOSIVES**

No person shall bring in or have in his/her possession or set off or otherwise cause to explode or discharge or burn any fireworks, rockets or other fireworks and explosive.

## **SECTION O-11 A.10 BUILDING AND OTHER PARK PROPERTY**

No person shall willingly mark, deface, tamper with the buildings, bridges, tables, benches, grills, outhouses, or fail to cooperate in maintaining outhouses in a neat and sanitary condition.

## **SECTION O-11 A.11 POLLUTION OF WATER**

No person shall put any type of waste or toxic materials in any lake or river that could result in polluting that said water.

## **SECTION O-11 A.12 HUNTING AND FIREARMS**

No person shall illegally use, carry or possess a firearm, air rifle, bow and arrow, sling shot, or any form of weapons dangerous to wildlife or human safety.

## **SECTION O-11 A.13 PENALTIES**

**O-11 A.13 (A) INFRACTIONS:** Violating the Parks Ordinance rules is a civil infraction. Any person who shall violate this Ordinance shall be responsible for a civil infraction, subject to the following penalties:

**O-11 A.13 (B) FINES:** The following civil fines shall apply in the event of a determination of responsibility for a civil infraction:

**O-11 A.13 (B)(1) FIRST OFFENSE:** The civil fine for a first offense violation shall be in the amount of \$500.00, plus costs and other sanctions, for each offense.

**O-11 A.13 (B)(2) REPEAT OFFENSE:** The civil fine of any offense which is a repeat offense shall be in an amount of \$1,000.00, plus costs and other sanctions for each offense.

**O-11 A.13 (C) ENFORCEMENT:** In addition to ordering the defendant determined to be responsible for a civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation.

**O-11 A.13 (D) CONTINUING OFFENSE:** Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

**O-11 A.13 (E) DAMAGES:** The judge or magistrate shall be authorized to impose costs, damages and expenses as provided by law.

# ARTICLE O-ELEVEN (B) – PERCH LAKE NO GASOLINE MOTORS PERMITTED ORDINANCE

ORDINANCE ADOPTED 2001 | REVIEWED FEBRUARY 2021

An ordinance for public peace, health, and safety of the resident and property owners of Perch Lake subdivision; to protect the lake water, wildlife, and marine life from oil and gasoline left behind from gasoline motors.

State law referenced: Watercraft and Marine Safety, MCL 324.80101 et seq.; local regulations MCL 324.80110 et seq.

**Perch Lake location:** Boardman Township, Kalkaska County, Michigan, Section 26, T-26-N, R-8-W

**Lat.** 44 degrees 36 min. 46.641 sec

**Long.** -85 degrees 13 min. 51.87 sec.

## SECTION O-11 B.01 NAME

Boardman Township Perch Lake No Gasoline Motor Permitted Ordinance

## SECTION O-11 B.02 PURPOSE

The purpose of the Ordinance is to restrict the use of gasoline motors on Perch Lake.

## SECTION O-11 B.03 B REGULATIONS

Boardman Township ordains that no person, firm or corporation shall operate a gasoline motor including a motorboat or other watercraft vessel on Perch Lake, with the exception of the Kalkaska Sheriff's Department or other law enforcement or emergency agency.

## SECTION O-11 B.04 DEFINITIONS

The following words, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

**O-11 B.04 (A) MOTORBOAT** means any vessel wholly or partly propelled by the use and operation of an internal or external combustion engine or engines, air, fan, blower or jet propulsion engine or engines or motor or motors excepting electric motor or motors.

**O-11 B.04 (B) OPERATE** means to navigate or otherwise use a motorboat in or on the water.

**O-11 B.04 (C) VESSEL** means every description of watercraft, used or capable of being used as a means of transportation on or in water.

## SECTION O-11 B.05 ENFORCEMENT AND PENALTIES

The Ordinance shall be reported by all landowners on Perch Lake and enforced by the Kalkaska Sheriff's Department and the Township Board.

Operating gasoline motor powered watercraft on Perch Lake is unlawful. It shall be unlawful for any person to operate a gasoline powered motorboat upon or in the waters of Perch Lake.

**O-11 B.05 (A) PENALTY:** Any person who shall violate this Ordinance shall be responsible for a civil infraction, subject to the following penalties:

**O-11 B.05 (B) FINES:** The following civil fines shall apply in the event of a determination of responsibility for a civil infraction:

**FIRST OFFENSE:** The civil fine for a first offense violation shall be in the amount of \$500.00, plus costs and other sanctions, for each offense.

**REPEAT OFFENSE:** The civil fine of any offense which is a repeat offense shall be in an amount of \$1,000.00, plus costs and other sanctions for each offense.

**O-11 B.05 (C) Enforcement:** In addition to ordering the defendant determined to be responsible for a civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce, or enjoin violation.

**O-11 B.05 (D) Continuing Offense:** Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

**O-11 B.05 (E) Damages:** The judge or magistrate shall be authorized to impose costs, damages and expenses as provided by law.

# ARTICLE O-ELEVEN (C) – PERCH LAKE WATER PRESERVATION

ADOPTED 2003 | REVIEWED FEBRUARY 2021

An Article to preserve and protect the waters of Perch Lake, Boardman Township, Michigan, and to prohibit the withdrawal of water therefrom to provide for enforcement hereof and to provide penalties for the violation thereof.

## SECTION O-11 C.01 PURPOSE

It is the purpose of the Article to preserve and protect the waters of Perch Lake, located in Section 26, Boardman Township, Kalkaska County, Michigan, by prohibiting the withdrawal of water from Perch Lake except as otherwise expressly permitted herein. This Article is doped for the protection of the public health, welfare, and safety, and the conservation of the natural resources of Boardman Township, and to preserve property values adjoining Perch Lake.

## SECTION O-11 C.02 REGULATION

No person, firm, corporation, or other entity shall remove, or cause to be removed water from Perch Lake, except as follows:

**O-11 C.02 (A)** Owners or occupants of property of property fronting on Perch Lake shall be allowed to withdraw water for uses incidental of the residential occupation of the property, such as lawn irrigation Under no circumstances shall water be withdrawn by owners or occupants of contiguous property for any commercial use or purpose, or for any purpose not directly related to the use or maintenance of the property as a permanent or seasonal residence.

**O-11 C.02 (B)** Township or municipal fire departments may withdraw water for fire-fighting purposes.

## SECTION O-11 C.03 ENFORCEMENT

Enforcement shall be enforced by such persons who shall be so designated by the Township Board.

Violation of this Article shall be a misdemeanor which shall be punishable upon conviction thereof by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment not exceeding ninety (90) days or by both such fine and imprisonment in the discretion of the court.

# ARTICLE O-TWELVE – MARIHUANA ORDINANCE

ADOPTED 2019 | REVIEWED FEBRUARY 2021

## SECTION O-12.01 PURPOSE

Ordinance prohibiting marihuana establishments under initiated law 1 of 2018, the Michigan regulation and taxation of marihuana act.

## SECTION O-12.02 FINDINGS

**O-12.02 (A)** On November 6, 2018, Michigan voters approved Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”). Among other things, the MRTMA makes marihuana legal under state and local law for adults 21 years of age or older, makes industrial hemp legal under state and local law, and controls the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved.

**O-12.02 (B)** Section 6 of the MRTMA authorizes a municipality to completely prohibit or limit the number of marihuana establishments within its boundaries. A “marihuana establishment” under the MRTMA means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs.

**O-12.02 (C)** The Township has considered the potential benefits, challenges, and costs of permitting marihuana establishments within its boundaries and has determined that prohibiting marihuana establishments is in the best interest of the public health, safety, and welfare.

## SECTION O-12.03 PROHIBITION ON MARIHUANA ESTABLISHMENTS.

Pursuant to Section 6 of the MRTMA, the Township prohibits marihuana establishments within its boundaries.

## SECTION O-12.04 SCOPE

Nothing in this Ordinance shall be construed to prohibit activities that are permitted under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.

## SECTION O-12.05 VALIDITY AND SEVERABILITY

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

## SECTION O-12.06 REPEALER CLAUSE

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## SECTION O-12.07 EFFECTIVE DATE

This Ordinance shall take effect immediately upon publication.

## **SECTION O-THIRTEEN – GREAT LAKES ENERGY**

An ordinance to grant to Great Lakes Energy a revocable, nonexclusive public utility franchise to serve the Township.

### **SECTION O-13.01 RENEWAL OF FRANCHISE**

Great Lakes Energy, a Michigan cooperative corporation, is granted the right and privilege of providing electric service within the Township and to conduct a local business incident to the furnishings of such service, this being a renewal of a franchise previously granted.

### **SECTION O-13.02 NONEXCLUSIVE NATURE, TERM**

The public utility franchise hereby granted is subject to the following conditions:

**O-13.02 (A)** Great Lakes Energy shall not injure any street, highway, alley or other public place, nor shall it disturb or interfere with any water, sewer or gas pipes now or hereafter constructed by any authorized person.

**O-13.02 (B)** Before entering any street, highway, alley or other public place for erecting and construction any poles, wire or conduit, Great Lakes Energy shall notify the Board of County Road Commissioners or other proper authority of the proposed construction and shall obtain approval thereof.

**O-13.02 (C)** No Street, highway, alley, or public place shall be allowed to remain encumbered by the construction work for a longer period than be reasonably necessary to perform such work.

**O-13.02 (D)** Great Lakes Energy shall save the Township harmless from any judgment that may be recovered against the Township by reason of the wrongdoing or negligence of Great Lakes Energy in the construction and maintenance of electric distribution poles, wires or in its use of construction machinery.

### **SECTION O-13.03 RESERVATION OF GOVERNMENTAL RIGHTS**

Nothing in this public utility franchise shall be construed in any manner as a surrender by the Township of its legislative power nor shall it in any manner be interpreted as limiting the right of the Township or the County Road Commission to regulate the use of any street, highway, alley or public place within its jurisdiction.

### **SECTION O-13.04 EFFECTIVE DATE**

This ordinance shall become effective on the day following its publication.

# ARTICLE O-FOURTEEN – SOLAR AND WIND ENERGY

## SECTION O-14.01 LEGISLATIVE HISTORY

Michigan law required that electric providers achieve a renewable energy portfolio credit of at least 15% by 2019/2020. Under M460.1028, electric providers must meet these requirements by either generating electricity through renewable energy systems or by purchasing renewable energy credits from other providers. In addition to these statutory requirements, many energy producers are eager to achieve even higher rates of energy production through renewable energy sources.

The Michigan Zoning Enabling Act requires that a zoning ordinance shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land. Unless a location does not exist in the local unit of government where the use may be appropriately located. (MCL 125.3207) While solar and wind energy are clearly lawful land uses, Boardman Township will consult its own attorney regarding proof of a demonstrated need.

The siting for wind energy systems and solar energy systems in Michigan lies with the local level of government.

## SECTION O-14.02 ACCESSORY USES

Boardman Township allows accessory uses of Solar and Wind Energy systems.

A permit is required and if determined by the Zoning Administrator and the Planning Commission, such permit will be granted. If a special permit is required that process will be followed.

## SECTION O-14.03 COMMERCIAL LEVEL UTILITY, SOLAR, OR WIND PROJECTS WILL NEED A SPECIAL USE PERMIT.

**O-14.03 (A)** For Commercial level (utility grid) Solar projects the following will need to be addressed:

1. Screening, setbacks, decommissioning bond, security fencing, allow or not allow use in Agricultural districts, farmland preservation implications, master plan compliance and avoid spot zoning.
2. For Commercial level wind energy projects should consider: noise, how sound is measured, shadow flicker, electromagnetic interference, Federal Aviation Administration lighting requirements, fire/public safety issues, wildlife impact, property value impact (if any), setbacks, economic benefits or costs, allowing use (or not) in agricultural districts.

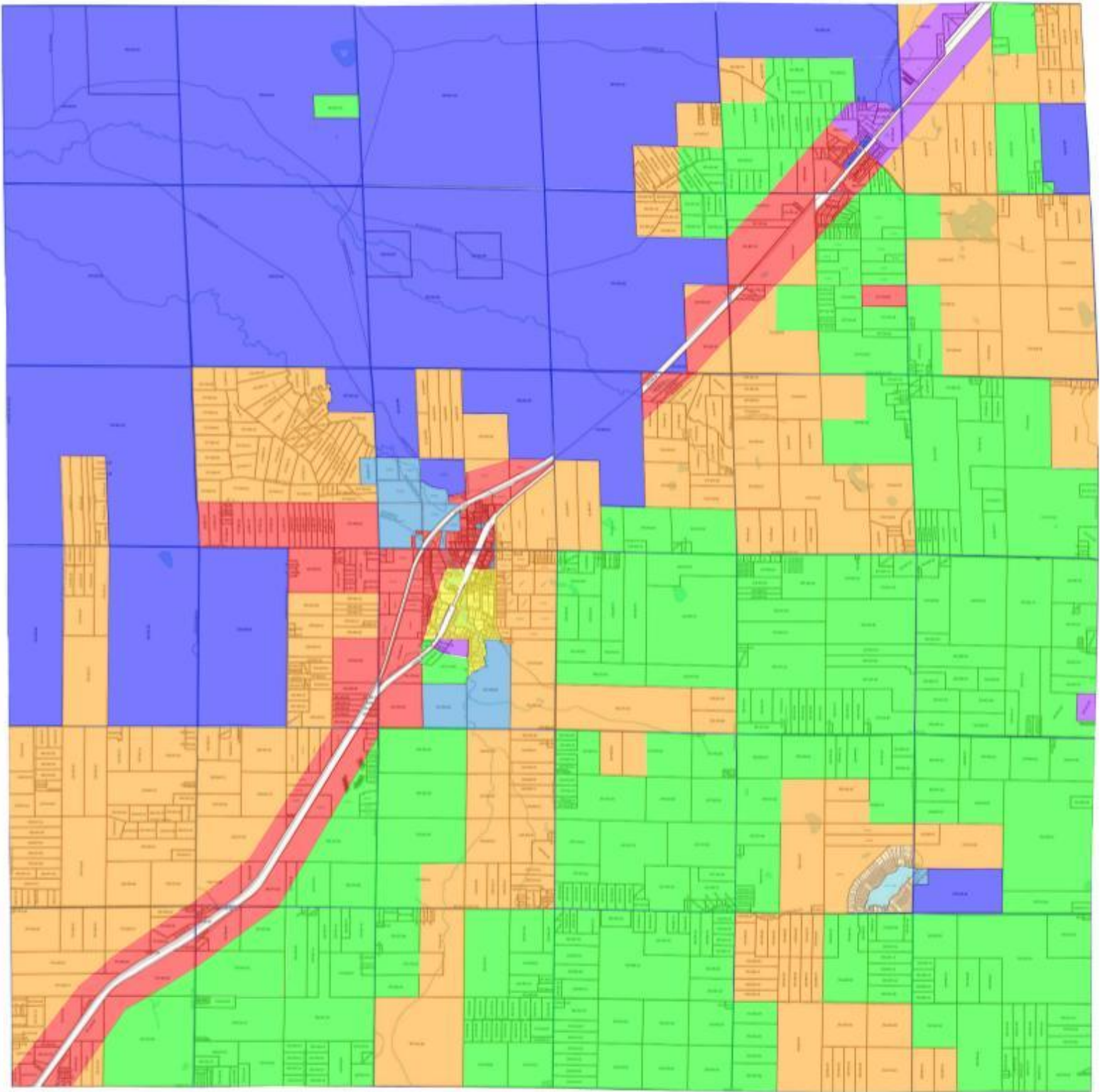
## SECTION O-14.04 ADDITIONAL CONSIDERATIONS

1. Boardman Township will seek assistance of a planning consultant or other professional that has experience in solar and /or wind energy systems.

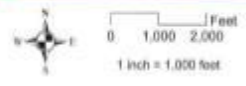


2. The Township Board will adopt an escrow fee policy prior to the acceptance of any special use application to cover the township's costs of processing the special use application and to pay for sound consultants, engineers, attorneys, and planning consultants to assist in review of such project.

# Boardman Township



This map is intended to be a general guide to property and land information, and does not represent a survey or other legally required information. It is not intended to be used for the purpose of a legal proceeding, and should not be used as a substitute for a professional survey or other legal document. The information on this map is provided for informational purposes only and should not be used as a basis for any legal action. The information on this map is provided for informational purposes only and should not be used as a basis for any legal action. The information on this map is provided for informational purposes only and should not be used as a basis for any legal action.



- Legend**
- Rivers
  - Lakes/Open Water
  - Parcel Lines
  - Road Center
  - PL 50 Section Lines

## Zoning Legend

- |                          |                |
|--------------------------|----------------|
| Residential              | Commercial     |
| Resort-Residential       | Industrial     |
| Agricultural-Residential | State & County |
| Forest-Residential       | Township       |