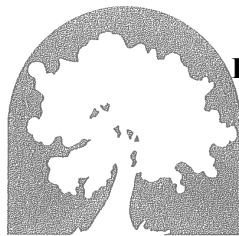


# **Charter Township of Elmwood Zoning Ordinance**

**As Amended Through  
April 29, 2022**



**Final Public Hearing August 14, 2017  
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## ARTICLE 1

### SECTION 1.1 TITLE

This Ordinance shall be known as the “Charter Township of Elmwood Zoning Ordinance,” hereinafter referred to as the “Zoning Ordinance.”

### SECTION 1.2 SCOPE

- A. **Defined Area.** The provisions of this Ordinance shall apply to all lands within the boundaries of the Charter Township of Elmwood.
- B. **Application.** No parcel, building, structure, use or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this Ordinance.
- C. **Continued Conformance with Regulations.** The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which the building or use is located.
- D. **Minimum Requirements.** The provisions of this Ordinance shall be held to be the minimum requirements necessary for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare.
- E. **Relationship to Other Documents.** This Ordinance is not intended to repeal, abrogate, annul or, in any way, impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules; ownership association rules; or ordinances, laws, or regulations of any federal, state or county agency. However, when this Ordinance has more restrictive regulations, limitations or requirements, then this Ordinance shall control.

### SECTION 1.3 PURPOSE

This Ordinance has been established for the purposes explicitly permitted by the Michigan Zoning Enabling Act, PA 110 of 2006 as amended, to provide for the regulation of land development and the establishment of districts in the portions of the township outside the limits of cities and villages.

### SECTION 1.4 INTERPRETATION OF PROVISIONS

The provisions of this Zoning Ordinance are the minimum requirements for the promotion of public health, safety, and welfare. To determine the intent of the provisions in this Ordinance, the provision or provisions should be read as a whole and by applying applicable law regarding statutory or ordinance interpretation.

### SECTION 1.5 CHANGES IN LEGISLATION/AGENCY

Where the provisions of this Ordinance refer to specific legislation or agency, the provisions shall be deemed to also refer to any legislation or agency that is a successor thereto or amended.

**SECTION 1.6 CAPTIONS**

The captions used in this Ordinance shall not be deemed to be part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.



**Article 2**  
**Definitions**

**SECTION 2.1 USE OF TERM**

For the purposes of this Ordinance:

- A. The particular shall control the general;
- B. Words used in the present tense shall be deemed to include the future tense;
- C. Words in the singular number shall be deemed to include the plural and words in the plural shall be deemed to include the singular;
- D. Words of gender shall include all genders;
- E. The word “person” shall include a firm, partnership, association, trust, company or corporation, as well as an individual;
- F. The words “use” or “used” shall be deemed to include the words “intended, arranged or designed for use” or “intended, arranged or designed to be used” or “intend and arrange or design for use”;
- G. The word “used or occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”;
- H. The word “required” shall mean required by the provisions of this Ordinance;
- I. The word “shall” is mandatory and not discretionary;
- J. The word “may” is permissive;
- K. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” or “either/or,” the conjunction shall be interpreted as follows:
  - 1. “and” indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. “or” or “either/or” indicates that all the connected items, conditions, provisions, or events may apply singly or in any combination.
- L. Any word or term not defined herein shall be interpreted within its common use.

**SECTION 2.2 DEFINITIONS**

**Accessory Use.** A use incidental and subordinate to the principal use of the lot or principal building such as a home occupation or a barn, garage, or tool shed. **(Amendment ZO 2017-04-02, Ordinance #2018-01, Effective June 28, 2018)**

**Accessory Building or Structure.** A building or structure, the use of which is incidental and subordinate to the principal use of the lot or principal building such as a garage or storage building when storage is not the primary use of the property.

**Agriculture Related Products.** Agricultural and horticultural-based products that are raised or produced by a farm operation and offered for sale to the general public. **(Amendment ZO 2017-04-05, Ordinance #2019-02, Effective September 4, 2019)**

**Agricultural Commercial Enterprises.** Uses dependent upon on site farm operation and agriculture related products, such as: community-supported agriculture, “u-pick” or pick-your-own operation, farm market, agri-tourism, and similar uses. **(Amendment ZO 2017-04-05, Ordinance #2019-02, Effective September 4, 2019)**

**Agricultural Use.** The production and keeping of plants and animals useful to humans, including forage and sod crops; grain and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; trees and forest products; fruits of all kinds; or other similar uses.

**Alley.** Any dedicated public way that provides a secondary means of access to abutting property and is not intended for general traffic circulation.

**Alterations.** Any modification, addition or change in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing the height; or moving from one location to another.

**Ancillary Solar Equipment** shall mean any accessory part or device of a solar energy system that does not require direct access to sunlight, such as but not limited to batteries, electric meters, converters, or water heater tanks. **(Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Apartment.** A room or suite of rooms, including bath and kitchen facilities, in a two-family or multiple-family dwelling intended or designed for use as a residence by a single family.

**Applicant.** Includes not only the person, firm, or entity applying for or requesting action, but also the owner of the property where the activity is to occur.

**Artist.** A person who works in, or is skilled in, any of the fine arts such as painting, drawing, sculpture, music, etc.

**Assisted Living Facility.** Is a dependent care facility that provides a special combination of housing, supportive services, personalized assistance and health care designed to respond to the individual needs of those who need help with activities of daily living and instrumental activities of daily living which meets or exceeds the State of Michigan licensing rules for assisted living facilities. Supportive services are available 24 hours-a-day to meet scheduled and unscheduled needs in a way that promotes maximum dignity and independence for each resident and involves the resident’s family, neighbors and friends. *(ref: Michigan Assisted Living Association)*

**Athletic Field.** A field, ball field, diamond, or other similar outdoor physical recreation area or facility intended for use by teams of participants.

**Attached Wireless Communications Facilities.** Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly constructed shall not be included within this definition.

**Auditorium.** An amphitheater, assembly hall, theater, and other similar facilities where patrons are primarily spectators to activities.

**Bank.** Financial institutions including banks, credit unions, savings and loan associations and similar uses.

**Banquet Facility.** See Conference Center/Banquet Facility.

**Base Flood.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Basement.** A story having part, but not less than one-half (1/2) of its height below finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet.

**Bed and Breakfast.** A single family residential structure that has no more than four (4) sleeping rooms, including sleeping rooms occupied by the owner, one (1) or more of which are available for rent to transient tenants, and where one (1) or more meals may be provided daily to its transient tenants.

**Bed and Breakfast Inn.** A single family residential structure that has five (5) or more sleeping rooms, including sleeping rooms occupied by the innkeeper, one (1) or more of which are available for rent to transient tenants, and where one (1) or more meals may be provided daily to its transient tenants.

**Billboard.** An outdoor sign, display, painting, drawing, message, placard, poster, or other device used to advertise, promote, direct, or provide information or identification for a service, business, entertainment, industrial use, or product located on another site.

**Buffer.** An area of land including plantings and/or structures that may be required in order to lessen the visual, noise, or other impacts between neighboring properties.

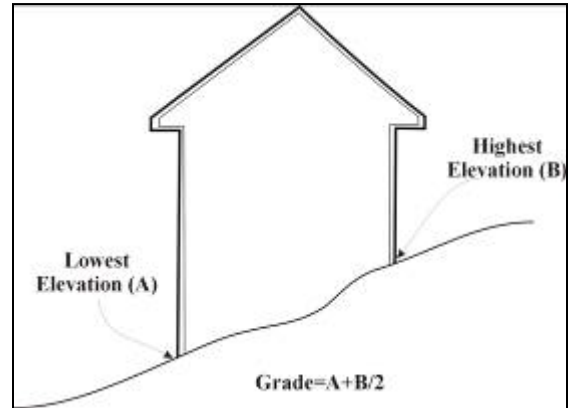
**Building.** Any structure designed or built for the support, enclosure, shelter or protection of persons, animals or personal property of any kind.

**Building Area.** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, steps, decks, patios, and paved areas.

**Building, Existing.** A building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

**Building, Principal.** A building in which is conducted the main or principal use of the lot on which it is located.

**Building Height.** The vertical distance measured from the ground/grade at the center of the front of the building to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs. For substantially uneven ground (see Grade definition), building height shall be determined based on the average elevation of the ground/grade adjacent to each wall of the building.



**Business Center.** Any three (3) or more businesses, which meet at least one (1) of the following:

- A. Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings.
- B. Are located on a single parcel of property.
- C. Share a common parking area.
- D. Otherwise present the appearance of a single, contiguous business area.

**Campground** - Any parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters as defined by Michigan's Public Health Code, 1978 PA 368, as amended and its administrative rules.

**Cemetery.** An area of land for containing graves, tombs, or funeral urns.

**Child Care Center.** A state licensed facility other than a private residence, which receives 1 or more children under 13 years of age for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children which meets or exceeds the State of Michigan licensing rules for child care centers. (*Ref: Licensing Rules for Child Care Centers; State of Michigan Department of Human Services*)

**Clinic.** A professional office where human patients are admitted for examination and treatment by one (1) or more physicians, dentists, psychiatrists or other licensed health practitioners, but excluding overnight treatment such as that commonly found in a hospital.

**Clinic/Hospital, Veterinary.** An establishment in which animals are examined and treated for medical problems by one (1) or more veterinarians, which may include the keeping of animals overnight for medical purposes.

**Club.** An organization catering exclusively to members and their guests, or premises and buildings for recreation, artistic, political, or social purposes, which are not conducted primarily for gain and which do not provide merchandising, vending, or commercial activities except as required incidentally for the membership and purposes of such club.

**Cluster Residential Development.** A development project whereby dwellings are confined to portions of the development parcel, and open space tracts are preserved with the intent to lessen impacts on the visual and natural environment and more efficiently use land.

**Colocation.** The location by two (2) or more providers of wireless communication facilities on a common structure, tower, or building, for the purpose of reducing the overall number of structures required to support wireless communication antennas within the community.

**Commercial Use.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services, or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period.

**Community Cultural Center.** Private or public community cultural center, museum, and similar uses, primarily indoors but may include outdoor cultural activities within the overall facility.

**Community Park.** Large multi-purpose parks that serve the entire community.

**Community Recreation Center.** Private or public skating rink/park, fitness/health center, and similar uses where multiple physically involved activities can take place concurrently, primarily indoors but may include outdoor activities within the overall facility.

**Community Supported Agriculture.** A small scale farm or garden that sells their products to buyers who have purchased a share of the farm's production.

**Conditional Land Use.** See Special Land Use

**Condominium.** A condominium project defined and regulated by Public Act 59 of 1978, as amended.

**Condominium Documents.** The master deed, recorded pursuant to this act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium. (*ref: MCL 559103, Section 3*)

**Condominium Lot(s).** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. (*ref: MCL 559.104, Section 4*)

**Condominium Master Deed.** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project. The master deed shall include all of the following:

- A. An accurate legal description of the land involved in the project.
- B. A statement designating the condominium units served by the limited common elements and clearly defining the rights in the limited common elements.
- C. A statement showing the total percentage of value for the condominium project and the separate percentages of values assigned to each individual condominium unit identifying the condominium units by the numbers assigned in the condominium subdivision plan.

- D. Identification of the local unit of government with which the detailed architectural plans and specifications for the project have been filed.
- E. Any other matter which is appropriate for the project. (*ref: MCL 559.108, Section 8*)

**Condominium Manufactured Home Project.** A condominium or site condominium project in which manufactured homes are intended to be located upon separate sites which constitute individual condominium units.

**Condominium Unit.** That portion of the condominium or site condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, business, industrial, recreational, use as a time-share unit, or any other type of use.

**Conference Center/Banquet Facility.** A multi-purpose facility whose primary purpose is to accommodate meetings, seminars, special event, social and civic events, and conferences.

**Conservation Uses.** Includes conservancies, nature preserves, educational campgrounds for nonprofit organizations, trailways, and similar uses.

**County.** Leelanau County, Michigan.

**Craftsman.** A person who practices or is highly skilled in a craft; artisan.

**Deck.** A platform-like structure, typically made of lumber and unroofed, which may be either attached or unattached to a dwelling.

**Dependent Care Facility.** Facilities designed for persons who need a wide range of health and support services, including nursing care. This may include a nursing home, convalescent home, congregate care facility, dependent housing facility, assisted living, etc.

**Development.** Any activity requiring a land use permit.

**Distillery.** An establishment licensed by the State of Michigan as a Small Distiller.  
**(Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018)**

**Distillery Tasting Room.** A Michigan licensed room used in conjunction, as an accessory use, with a distillery where a spirit is produced on-site, may be consumed or purchased.  
**(Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018)**

**Drive-In Business.** A business establishment that by design, physical facilities, service or by packaging procedure encourages or allows customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles on the site of the establishment.

**Drive-Through Business.** A business establishment that by design, physical facilities, service or by packaging procedures, encourages or allows customers to receive services or obtain goods for use off the site of the establishment, while remaining in their motor vehicles

**Driveway.** The access route from a public or private street or alley to a garage or other designated parking area.

**Dwelling.** Any structure or portion thereof which is designed for, or used exclusively for, residential purposes containing one (1) or more dwelling units.

**Dwelling, Attached.** A building or portion thereof containing two (2) or more dwelling units and designed for, or occupied as, the home of two (2) or more families living independently of each other.

**Dwelling, Single Family.** A detached building, either site built or manufactured, containing one (1) dwelling unit for the purposes of housing one (1) family.

**Dwelling Unit.** A group of rooms located within a building and forming a single habitable unit having facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

**Dwelling Unit, Accessory.** A room or rooms constructed within a single family dwelling which has living facilities for one (1) individual or family separate from the primary single family dwelling and including at least, but not limited to, a kitchen, bathroom and sleeping quarters.

**Erected.** The building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premise or lot.

**Essential Service Facility.** A building or structure located on the ground and which is reasonably necessary for the furnishing of essential services.

**Essential Services.** The erection, construction, alteration, or maintenance by public utilities or any governmental department or commission of underground, surface or overhead gas, electrical, or water transmission or distribution system, collection, communication, supply or disposal system including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals and hydrants and other similar equipment and accessories in connection therewith, but not including buildings. Wireless communication facilities, wind energy conservation systems and solar energy shall not be considered essential services.

**Family.** Consists of a householder and one or more other people living in the same household who are related to the householder by birth, marriage, or adoption. All people in a household who are related to the householder are regarded as members of his or her family. (*ref: U.S. Census Bureau; 2010 Census Summary File 1*)

**Family Child Care Home.** A state licensed facility in dwelling in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family Child Care home also includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

**Farm.** Land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

**Farm Market.** A place or area where transactions between a farm market operator and a customer take place and as further defined in the Michigan Department of Agriculture and Rural Development's Generally Accepted Agricultural and Management Practices (GAAMP) for Farm Markets.

**Farm operation.** A condition or activity which occurs on a farm, meeting the requirements of Public Act 93 of 1981, in connection with the commercial production of farm products.

**Farm product.** Means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture. *(ref: Act 93 of 1981)*

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is the policyholder's property) from:

- A. The complete overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.
- C. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above. *(ref: FEMA)*

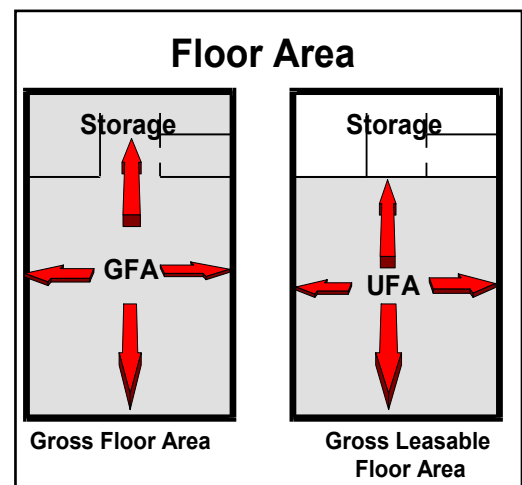
**Flood Hazard Area.** Land which on the basis of available floodplain information is subject to a one (1) percent or greater chance of flooding in any given year.

**Flood Hazard Boundary Map (FHBM).** Official map of a community issued by FEMA, where the boundaries of the flood, mudflow, and related erosion areas having special hazards have been designated. *(ref: FEMA)*

**Flood Insurance Rate Map (FIRM).** Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community. *(ref: FEMA)*

**Floodplain.** Any land area susceptible to being inundated by flood waters from any source. *(ref: FEMA)*

**Floor Area, Gross (GFA).** The total horizontal area of all the floors within the perimeter of the outside walls, including hallways, stairs, closets and interior walls. Floor area means gross floor area.





**Floor Area, Gross Useable (Leasable).** The total floor area exclusive of service, storage and utility areas, and common use areas.

**Garage.** A building designed and used primarily for the parking and storage of passenger vehicles that are for the primary use of the residents of the dwelling in which they live. The building may be attached to or detached from the dwelling.

**Gasoline Service Station.** A property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity and may also include a freestanding automatic car wash.

**Generally Accepted Agricultural and Management Practices (GAAMPs).** Those practices as defined by the Michigan Department of Agriculture and Rural Development. The commission shall give due consideration to available Michigan Department of Agriculture and Rural Development information and written recommendations from the Michigan State University College of Agriculture and Natural Resources Extension and the agricultural experiment station in cooperation with the United States Department of Agriculture natural resources conservation service and the consolidated farm service agency, the Michigan Department of Natural Resources, and other professional and industry organizations. (*ref: Act 93 of 1981*)

**Golf Course.** An area of land laid out for the game of golf, including tees, greens, fairways, practice/driving ranges, and clubhouse and other related uses such as pro shops and restaurants.

**Grade.** The grade shall be, in the case of level ground conditions, the level of the ground adjacent to the walls of the building. For substantially uneven ground conditions, the grade shall be the average elevation of the ground adjacent to each wall of the building.

**Greenbelt.** A naturalized landscaped area with shrubs and/or other plantings along a stream, ravine or shoreline.

**Group Child Care Home.** A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods less than 24 hours a day unattended by parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group child care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. (*ref: Public Act 116 of 1973; Section 1*)

**Group Housing.** A residential development involving construction of a group of dwelling units, including a combination of one-family, two-family, or multiple-family dwellings on a lot, parcel, or tract of land, and containing common services or facilities.

**Guest House.** A room or group of rooms occupied, arranged or designed for occupancy by one (1) or more guests without charge by the residents of the primary dwelling unit.

**Home Business.** A lawful economic enterprise conducted by the occupants of a single-family residence which is subordinate and incidental to the residential use and which is observable or noticeable from neighboring or adjoining land or structures because of activities on the site of the Home Business. Traffic, signage, noise, patrons, outdoor storage, modifications to structures or grounds and similar conditions that are incidental to the operation of a business.

**Home Occupation.** A lawful economic enterprise conducted by the occupants of a single-family dwelling and operated as a subordinate and incidental use of the residence.

**Horizontal Plane, Lighting.** Light rays directly extending from a light source at a horizontal plane of ninety (90) degrees.

**Hospital.** An institution in which sick or injured persons are given medical treatment.

**Housing, Seasonal Help.** Temporary living quarters for use by seasonal and itinerant farm employees and migratory workers during normal growing and harvesting seasons only. Seasonal help housing may include tents, mobile homes, manufactured homes, or other buildings and structures.

**IGLD.** Elevation as expressed in International Great Lakes Datum.

**Impervious Surface Area.** Artificial structures—such as pavements (roads, sidewalks, driveways and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone—and rooftops.

**Junk Yard.** An establishment or parcel where worn out or discarded material is bought, kept, sold and/or stored for a period of thirty (30) days or more.

**kennel.** Any premises used for the sale, boarding, breeding, or training of dogs or cats for remuneration.

**Keyhole Development** (also referred to as “lot pyramiding” or “funneling”). The use of a single waterfront lot by multiple parties. Through this type of development, direct lake access is made possible to non-adjacent lake users.

**Lake.** A water body, including a pond, impoundment, etc. as defined by Michigan’s Part 301: Inland Lakes and Streams Act, Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

**Launching Ramp, Private.** A space or structure from which a boat may be launched for use and benefit of the patrons of the waterfront marina or boat.

**Light Fabrication.** A business that processes, assembles, fabricates, or packages small products, made from previously prepared products or materials. Typical products include apparel, fabrics, and precision equipment.

**Light Industrial.** Manufacturing activity in which the processes carried on or the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenities of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, or grit.

**Light Shield.** An opaque box or other device which eliminates or greatly diminishes glare.

**Light Source.** A source of illumination (direct, reflected, or refracted) which produces glare.

**Lot.** A parcel of land having frontage along a road or right-of-way approved by the Township on which one (1) principal use and its accessory uses are located, or intended to be located, together with any open spaces required by this Ordinance. A site condominium lot shall also be considered a lot for purposes of compliance with the regulations of this Ordinance.

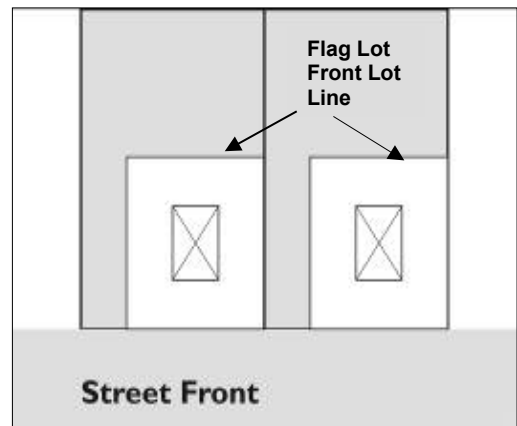
**Lot Area.** The total horizontal area within the boundary lines of a parcel not including right-of-way easements.

**Lot, Corner.** A parcel which has at least two (2) contiguous sides abutting upon a road for their full length. A corner lot shall have two (2) side yards, two (2) front yards, and no rear yard.

**Lot Coverage.** That percentage of the lot area covered by all buildings and structures located on the lot.

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

**Lot, Flag.** A parcel characterized as having limited road frontage, usually a narrow strip of land leading to a larger land area distant from the roadway or generally any L-shaped lot and where the strip of land along the roadway does not comply with the minimum frontage requirements of this Ordinance. The creation of flag lots are not allowed pursuant to this Ordinance.

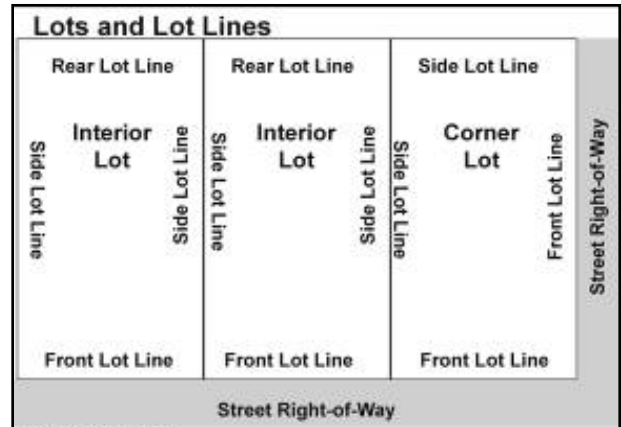


**Lot, Interior.** A parcel other than a corner lot or a through-lot.

**Lot Lines.** The lines bounding a parcel herein described.

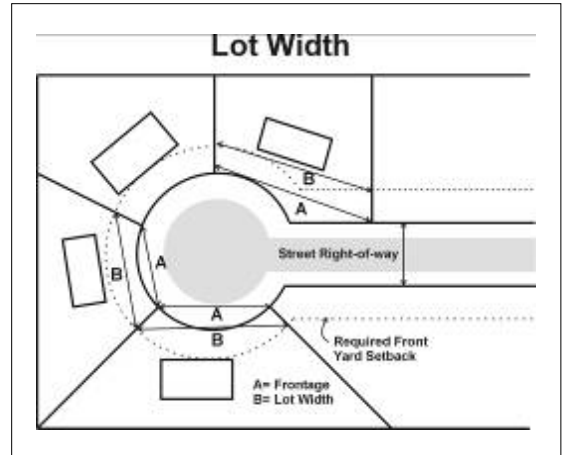
A. Lot Line, Front.

1. The lot line which is or contains the road line of the principal road or right-of-way providing access to a parcel.
2. In the case of a corner lot or a through lot, both front lot lines shall be considered the front.
3. For flag lots, the front lot line shall be the line parallel and closest to the adjacent right-of-way, not including the pole portion of the flag lot.
4. A cul-de-sac front lot line shall be measured as a straight line between the side lot lines.



B. Lot Line, Rear.

1. The lot line opposite the front lot line.
2. Where there are five (5) lot lines on a single parcel, the two (2) lot lines generally opposite and most distant from the front lot line.
3. In the case of a flag lot, the rear lot line shall be defined only as that line furthest from and generally parallel to the front lot line.
4. Where the parcel is irregularly shaped, the rear lot lines include any line not defined as the front or side lot lines.
5. In the case of a parcel pointed at the rear, the rear lot line shall be an imaginary straight line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the parcel.



C. Lot Line, Side.

1. Any lot line that intersects the front lot line.
2. In the case of a flag lot, the side lot lines are all lines other than the front lot line and the line furthest from and generally parallel to the front lot line.

D. Lot Line, Water. The lot line that separates the lot from a body of water or stream. See also Water's Edge.

**Lot of Record.** A parcel which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Leelanau County; or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Leelanau County, this recording being the effective date of this Ordinance or prior thereto.

**Lot, Through.** A parcel having two (2) opposite lot lines abutting upon a road for their full length.

**Lot Width.** The shortest distance between the side lot lines measured at the front right-of-way line, the front setback, or the front line of the principal building, whichever is less. Where the front lot line is not a straight line, the lot width is the shortest distance between the side lot lines measured tangent to the curve of the front right-of-way line, the front setback line, or the front line of the principal building, whichever is less.

**Manufactured Home.** A structure, transportable in one (1) or more sections, and designed to be used as a dwelling with or without a permanent foundation and capable of being connected to the required utilities. The term manufactured home shall also include mobile home. However, the term "manufactured home" or mobile home shall not include pickup campers, travel trailers, or other transportable structures designed for temporary use.

**Manufactured Home Park.** A parcel or tract of land used as the site for occupied manufactured homes, including any buildings, structures, enclosures, or facilities used by park residents and licensed or regulated under Public Act 243 of 1959 , as amended or Public Act 96 of 1987, as amended.

**Marina.** A boat basin which has facilities for berthing and securing three (3) or more of all types of pleasure craft. A public, private or commercial marina may also include facilities for providing supplies, provisions, services, and fueling of watercraft.

**Marina, Commercial.** A marina that is privately owned and operated where slips or moorings are leased or rented to others.

**Marina, Private.** A marina that is used exclusively for the private use of the owner(s) of the adjacent shoreline property.

**Marina, Public.** A marina operated by a public entity.

**Marine Related Sales/Service.** An establishment used for the retail sales of marine craft and products and/or the servicing, repair, or washing of marine craft.

**Master Plan.** Any plan adopted or amended under Public Act 33 of 2008 by Charter Township of Elmwood.

**Medical Care Facility.** An institution, place, building or agency that furnishes, conducts, and operates health services for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity, or physical condition. The health service offered by a medical care facility can be either medical or surgical. (*ref: USLegal.com*)

**Medical Marihuana.** Marihuana grown, processed, used, or transferred for the treatment of a debilitating condition as authorized by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., as amended.

**Medical Marihuana Collective.** A building (other than the residence of a Qualifying Patient or Primary Caregiver) where medical marihuana is transferred to a qualifying patient pursuant to the Medical Marihuana Act, MCL 333.26421 et seq., as amended.

**Medical Marihuana Cultivation.** The growing and processing of medical marihuana as permitted by the Medical Marihuana Act, MCL 333.26421 et seq., as amended.

**Medical Marihuana Cultivation Facility.** A building where more than seventy-two (72) plants are being cultivated on a parcel. It does not include the use or transfer of medical marihuana to or by a qualifying patient or primary caregiver.

**Mobile Home or Manufactured Home Subdivision or Community.** A subdivision or manufactured home community as defined by and approved under the Michigan Mobile Home Commission Act, Public Act 96 of 1987 as amended and its administrative rules, which by deed restrictions has been designated solely for occupancy by mobile or manufactured homes.

**Motel.** A building or group of buildings on the same lot, whether detached or attached, containing sleeping or dwelling units, which may or may not be independently accessible from the outside, with garage or parking spaces located on the lot and which offers lodging, with or without meals,

for compensation on a transient or periodic basis. The term shall include “hotels” and any building or building groups designated as motor lodges, transient cabins, rooms, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient or periodic basis.

**Natural Area.** Lands that place emphasis on protection of natural amenities and features.

**Neighborhood Park.** Neighborhood-scale parks that are intended to serve residents in the neighborhoods surrounding the park.

**Net Density:** The number of dwelling units relative to the net lot area. Calculated as Dwelling Units divided by Net Lot Area. **(Amendment ZO 2017-04-09, Ordinance #2021-1, Effective January 29, 2021)**

**Net Lot Area:** The lot area excluding unbuildable areas of the lot. Examples for unbuildable areas include existing and proposed ingress and egress easements, wetlands, and bodies of water. **(Amendment ZO 2017-04-09, Ordinance #2021-1, Effective January 29, 2021)**

**Nonconforming Building.** Any building, structure, or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, which does not conform after the passage of this Ordinance or amendment thereto with the dimensional restrictions of the district in which it is situated.

**Nonconforming Parcel.** A parcel lawfully existing at the effective date of this Ordinance or amendments thereto which does not conform after the passage of this Ordinance or amendment thereto with the area, width, or other applicable provisions of the district in which it is situated.

**Nonconforming Use.** Any building or parcel lawfully occupied by a use at the effective date of this Ordinance or amendment thereto which does not conform after the passage of this Ordinance or amendment thereto with the use requirements of the district in which it is situated.

**Nursing Home.** A state licensed, dependent care facility, other than a hospital, where the primary function is to provide organized nursing care and medical treatment, including hospice care, to unrelated individuals suffering or recovering from illness, injury, or infirmity.

**On-site SES** shall mean a system that produces energy that is intended to be used on-site as an accessory use and not for commercial distribution. On-site shall mean producing not more than 110% of the electricity required for the site annually. **(Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Open Space.** Land that is permanently preserved from development through legal conveyance. Open space is not necessarily undeveloped and may include a park, golf course, recreation trails, , community swimming pool, agricultural uses, and similar uses.

**Operator of a Medical Marihuana Collective.** Any person who works in, is employed by, or is otherwise involved in the operation of a medical marihuana collective.

**Ordinary High Water Mark.** For the purposes of this ordinance the ordinary high water mark of Cedar Lake shall be 592.6 feet above mean sea level, Lake Leelanau shall be 589.21 feet above mean sea level, and West Grand Traverse Bay shall be 580.5 feet above mean sea level, IGLD 1985.

**Overlay Zoning District.** A separate zoning district placed over all or a part of an existing zoning district that may allow for uses and regulations in addition to those of the underlying district.

**Parcel.** A tract of land having a single tax identification number on which a principal building or structure and or use, and or accessory structures or uses, may be located.

**Park.** An area of open space provided for recreational use. It can be in its natural or semi-natural state, or planted, and is set aside for human enjoyment or for the protection of wildlife or natural habitats.

**Parking Space.** A surfaced area, enclosed in the principal building or in an accessory building, or unenclosed, having an area of not less than one hundred eighty (180) square feet that is reserved for temporary storage of one vehicle, boat or trailer.

**Parking Lot.** An area of land whose principal use is the temporary storage of motor vehicles and is connected with a street or alley which affords ingress and egress for vehicles. May be intended or conducted as a public (municipal) or private (commercial) use.

**Parking Lot, Commercial.** An area which is used to park motor vehicles and is not accessory to any other use on the same parcel or any other parcel and contains parking space rented to the general public or reserved for individuals.

**Party.** An individual, partnership, firm, corporation, association, organization, trust, company, or other legal entity or local unit of government or other political subdivision of the state, or a state or state agency.

**Patio.** An area adjacent to a building of an at-grade impervious surface and is used exclusively for sitting and relaxing.

**Personal Service Establishment.** An establishment that primarily provides services rather than goods.

**Planned Shopping Center.** An integrated cluster of commercial establishments built on a site which is planned, developed, owned, and managed as an operating unit to provide for sales of commercial goods (food, drugs and sundries) and personal services.

**Planned Development (PD).** A land area within which development occurs which has both individual building sites and limited common property or “elements” and which is designated and developed under one (1) party as a separate neighborhood or commercial entity. Also known as a Planned Unit Development.

**Planning Commission.** Established through PA 33 of 2008; Michigan Planning Enabling Act and referred to as the Charter Township of Elmwood Planning Commission.

**Plant Nursery.** Grounds or premises on or in which nursery stock is propagated, grown, or cultivated for the purpose of selling or distributing nursery stock as a business.

**Pleasure craft.** Any marine or fresh-water vessel used by individuals for noncommercial, nonmilitary and recreational purposes that is less than 65 feet in length.

**Principal Building.** The primary building on a parcel in which the principal use is located.

**Principal Use.** The use of the property which is the main use to which the premise is devoted.

**Professional or Business Office.** Offices of private firms, service organizations, and governmental organizations which are primarily used for professional, management, or administrative services but which do not include retail sales as a primary use.

**Public Utility.** Any person, firm, corporation, municipal department, or board duly authorized to furnish, under government regulation to the public: transportation; water; gas; electricity; telephone; steam; telegraph; sewage disposal; or some other public service.

**Residential Care Facilities.**

A. Child Care. A state licensed facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 116 of 1973 and the associated rules promulgated by the State Department of Social Services and which is included in one of the following categories:

1. **Foster family care** is a private home in which one (1) but not more than four (4) minor children unattended by a parent or legal guardian and are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days in a week, for two (2) or more consecutive weeks.
2. **Foster family group home** is a private home in which more than four (4) but fewer than seven (7) children unattended by a parent or legal guardian are not related to an adult member of the household by blood, marriage or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks.

B. Adult Foster Care. A state licensed, governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care or who are enrolled in a state-licensed hospice program. Adult Foster Care Homes shall not include nursing homes. (ref: Act 218 of the Public Acts of 1979)

Adult Foster Care Home and Facilities (AFC) are a dependent care facility that include the following:

1. AFC Family Home: means a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence. An AFC Family Home is not a dependent care facility.
2. AFC Small Group Home: means an adult foster care facility with the approved capacity to receive twelve (12) or fewer adults to be provided with foster care for five (5) or more days a week.



3. **AFC Large Group Home:** means an adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than (20) adults to be provided with foster care for five (5) or more days a week.
4. **Adult Congregate Care Facility:** means an adult foster care facility with the approved capacity to receive more than (20) adults to be provided with foster care for foster care for five (5) or more days a week.

**Resort.** A full-service lodging facility that provides access to or offers a range of amenities and recreation facilities. Resorts may provide services for meetings, business, and events.

**Restaurant.** Any establishment that is maintained, operated and advertised or held out to the public as a place where food and beverage are served, either for immediate consumption on the premises or for consumption off the premises.

**Retail Sales.** Sale of goods or commodities to ultimate consumers, as opposed to wholesale.

**River or Stream.** A waterway, such as creek, river, stream, etc., as defined by Michigan's Part 301: Inland Lakes and Streams Act, Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

**River or Stream Bank, Normal.** The bank or slope, which confines waters of a stream or river during normal periods of flow.

**Road.** See Street.

**Setback.** The minimum horizontal unoccupied distance required by the zoning districts of this Ordinance between the lot line or the shoreline and the principal or accessory building or structure. The setback shall be measured at a parallel or tangent to the appropriate lot line. Where any lot line extends into an access easement or right-of-way, the setback shall be measured from the right-of-way or easement line.

**Sexually Oriented Business.** An adult bookstore, video store, or novelty store, adult cabaret, adult motion picture theater, or a commercial establishment that regularly features the sale, rental, or exhibition for any form of consideration, of books, films, videos, DVDs, magazines, or other visual representation of live



performances which are characterized by an emphasis on the exposure or display of specified sexual activities or specified anatomical areas.

- A. Adult Bookstore or Adult Video Store. A commercial establishment which has a substantial portion of its stock in trade for sale or rent, or in any form of consideration, such as books, videotapes, computer software, computer services, magazines, CDs, DVDs, and other periodicals or other writings as defined in MCL 15.232 (e), MSA 4.1801 (2) (e) which are distinguished or characterized by their emphasis on matter depicting, describing, or alluding to “specified sexual activities” or “specified anatomical areas.”
  
- B. Adult Cabaret. A nightclub, restaurant, or other similar commercial establishment which regularly features or displays:
  - 1. Persons who appear in a state of nudity; or
  - 2. Live performances predominantly distinguished or characterized by an emphasis on the exposure of any “specified anatomical areas” or “specified sexual activities;” or
  - 3. Films, motion pictures, video cassettes, videotapes, any material in digital format (including, but not limited to compact discs (CDs) or digital video discs (DVDs), slides, other photographic reproductions or visual media which are predominantly distinguished or characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities.”
  
- C. Adult Motion Pictures Theater. A commercial establishment where, for any form of consideration, films, motion pictures or similar photographic reproductions or visual media are regularly featured which are predominantly distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified anatomical areas” or “specified sexual activities.” This definition includes, but is not limited to, commercial establishments that offer individual viewing booths.
  
- D. Massage Establishment. Any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public, for a charge. The term “massage establishment” includes, but is not limited to massage parlors, health clubs, sauna baths and steam baths if massages are performed at those locations. The term “massage establishment” shall not include:
  - 1. Hospitals, nursing homes, medical clinics;
  - 2. The office of a state-licensed physician, surgeon, physical therapist, osteopath or chiropractor;
  - 3. The establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulders;
  - 4. The establishment of a massage therapist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification; or

5. A nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facility for the welfare of the residents of the area.
- E. Public Nudity or State of Nudity. Public nudity or state of nudity means knowingly or intentionally displaying in a public place, or any other place if for payment or promise of payment by any person, including, but not limited to payment or promise of payment of an admission fee, any individual's genitals, pubic area, vulva, anus or anal cleft with less than a fully opaque covering, a female individual's breast with less than fully opaque covering the nipple and areola, or the covered male genitals in a discernibly turgid state. Public nudity does not include any of the following:
1. A woman breast-feeding an infant shall not under any circumstances constitute public nudity irrespective of whether the nipple is covered during or incidental to the feeding.
  2. Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
- F. Specified Anatomical Areas.
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed; and
  2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- G. Specified Sexual Activities.
1. The fondling of any or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
  2. Sex acts, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
  3. Excretory function as part of or in connection with any of the activities set forth in (1) or (2) above.
- H. Regulatory Features. A consistent and substantial course of conduct such that the films or performance exhibited on the premises constitute a substantial or significant portion of the films or performances consistently offered as part of the ongoing business of the adult entertainment business.

**Shoreline Access.** A shared access to any water body as allowed under this Ordinance. See Keyhole Development.

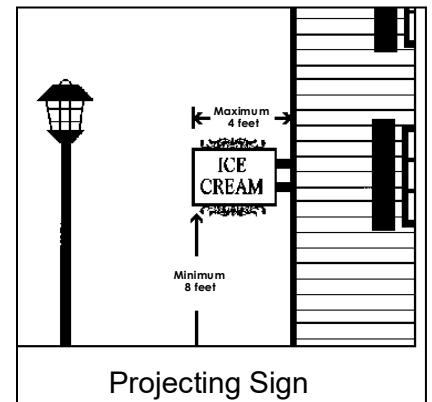
**Shoreline Parcel.** A parcel having frontage on a body of water.

**Short Term Rental:** A single family dwelling unit, or portions thereof, that is available and licensed and used for accommodations or lodging of guests, paying a fee or other compensation, for a period of less than 30 days at a time when the owner of the dwelling unit does not reside in

the dwelling unit during the rental period. Single family dwelling units used and licensed as a short term rental shall not be considered a motel as defined by the Zoning Ordinance.

**Sign.** A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, or inform that is visible from a public right-of-way including bodies of water.

- A. Abandoned. Any sign not advertising an active business, product, or event for a period in excess of one (1) calendar year, and where there is no attempt to reestablish a business use associated with the sign within this time period.
- B. Billboard. An off-premise sign that is not temporary.
- C. Freestanding. A sign supported on poles not attached to a building or wall.
- D. Changeable Copy. Any part of a sign that is changeable either manually or electronically, including changeable message boards, digital static messages or images that change physical position or lighting intensity, by any movement or rotation or gives the illusion of movement or rotation.
- E. Illuminated. Any sign which has characters, letters, figures, designs, or outlines illuminated by internal or external electric lights or luminous tubes.
- F. Incidental. A sign that is less than 2 square feet in area.
- G. Off-Premise. A sign whose message is unrelated to the property where the message is displayed.
- H. On-Premise. A sign carrying a message relating to an activity on the property where the sign is displayed
- I. Projecting. A sign attached to a building or wall that extends perpendicularly outward.
- J. Temporary. A sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs
- K. Wall. A sign painted on, or attached directly to and parallel to an exterior wall. A marquee, canopy, or awning sign is a type of wall sign for purposes of this Ordinance.
- L. Window. A sign affixed to, in contact with, or within twelve (12) inches of a window installed for purposes of viewing from outside the premises. This does not include merchandise located in a window.



**Sign Alteration.** Any change to a sign that results in a change in the height, size, or location of a sign. Painting or replacing a sign face within an existing cabinet is not a sign alteration.

**Site Condominium.** A form of ownership in which ownership of a dwelling unit (or nonresidential unit, in the case of a nonresidential site condominium project) in a multi-unit development, and ownership of a proportionate interest in the common elements of the development. Site condominiums are established and approved in conformance with the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended.

**Solar Collector Surface** shall refer to any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware. **(Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Solar Energy** shall mean radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system. **(Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Solar Energy System (SES)** shall mean a system (including solar collectors and ancillary equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems. **(Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Special Land Use.** Those uses of land which are not inherently incompatible with the permitted uses in a given zoning district, but which possess specific characteristics, operational, or locational qualities which require Planning Commission review, and the possible imposition of certain restrictions or approvals, to avoid incompatibility with the character of the surrounding area, public services, facilities, and/or adjacent land uses.

**Stacking Lane.** An area on a parcel of land that does not interfere with on-site traffic circulation, parking facilities, and pedestrian movement and that is used for the queuing of vehicles waiting for service.

**Stacking Spaces.** Spaces occupied by vehicles within a parking area while waiting for a service to be provided.

**Street.** A public or private right-of-way, other than an alley, which affords the principal means of access to abutting property.

**Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, including, but not limited to, advertising signs, fences, buildings, decks, towers, poles, antennas, storage tanks, and swimming pools. Structure shall not include sidewalks, boardwalks, patios, and decks that are flush with the ground (with no more than the floorboards above the finished grade).

**Subdivision.** A division of lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose (whether immediate or future) of sale or building development.

**Temporary Produce Stands.** Any accessory building, structure, or area located along a roadway used or intended to be used solely for the purpose of the sale of seasonal farm products and can be self-service and unmanned.

**Township.** The Charter Township of Elmwood in Leelanau County, Michigan.

**Township Board.** The Township Board of Trustees of the Township.

**Township Planner.** An individual(s) or firm employed by the Township Board to carry out the duties and responsibilities of Planner as defined by the Township Board, the Michigan Planning Enabling Act and this Ordinance.

**Township Planning Commission.** The Planning Commission of the Township.

**Township Zoning Administrator.** The individual, individuals, or firm employed by the Township Board to carry out the administrative and enforcement provisions of this Ordinance.

**Use, Existing.** A use of premises, buildings or structures actually in operation, openly, visibly and notoriously prior to the effective date of the Ordinance or any amendment thereto.

**Use of Medical Marihuana.** The smoking, eating, swallowing, applying, or any other means of consuming or attempting to obtain the medical benefits of medical marihuana on or in the human body. It does not have the same expansive meaning as does the term “medical use” contained in the Medical Marihuana Act, MCL 333.26421 et seq., as amended.

**Utility-Scale SES** shall mean a solar energy system that meets one or more of the following:

- i. Is the primary use of the property;
- ii. Is primarily used for generating electricity for sale and distribution to an authorized public utility (not intended to be used on-site) and is not located on the roof of a structure; (**Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018**)

**Variance.** A modification of the dimensional provisions of this Ordinance granted by the Zoning Board of Appeals when strict enforcement of this Ordinance would cause an undue hardship or practical difficulty owing to circumstances unique to the specific property or parcel.

**Vehicle.** A form of transport designed to move persons or products from one place to another.

**Vehicle Repair Establishment, Major.** An automotive repair establishment which may perform, in addition to activities defined below as “minor repairs,” one (1) or more of the following: general repair of vehicles; engine rebuilding; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair; overall painting and undercoating of vehicles; major overhauling of an engine requiring removal of the cylinder head or crankcase pan; recapping or re-treading of tires; steam cleaning; and similar activities.

**Vehicle Repair Establishment, Minor.** An automotive repair establishment that performs maintenance and minor repair, including one (1) or more of the following: oil change; tire and brake service; exhaust system repair; glass repair; and audio and alarm installation.

**Vehicle Service.** A facility used for the retail sales of motor fuels and/or the servicing, repair or washing of automobiles, including as accessory uses the sale and installation of lubricants, tires, batteries, and similar automotive products.

**Vehicle Washing Facility.** A building containing one (1) or more stalls where the customer either washes the vehicle using high pressure water or drives the vehicle through an automatic washing device. Vacuum cleaners may be available for customer use.

**Warehousing.** The indoor storage of goods and materials, usually in association with the operation of a wholesale or retail operation.

**Warehousing, Mini.** A commercial venture which rents individual cubes of space for storage purposes. Individuals typically have joint access to the lot but possess individual access and keys to their respective units. Also known as self-storage units.

**Water's Edge, also Waterfront.** The ordinary high water mark or where an ordinary high water mark has not been established, the line between the upland and bottomland which persists through successive changes in water levels, below which the presence of 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 the vegetation. For a stream, river or creek, the top of the bank of the channel. In the case of the presence of bluff, the shoreline setback shall be measured from the edge of the bluff.

**Wetlands:** As defined in Act 451 of the Public Acts 1994, as amended, a wetland shall mean land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. **(Amendment ZO 2017-04-09, Ordinance #2021-1, Effective January 29, 2021)**

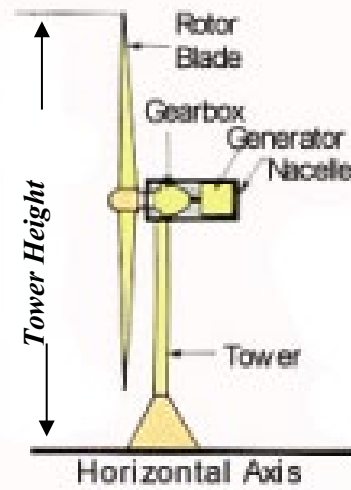
**Wholesale.** The sale of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

**Wind Energy Conversion System (WECS).** An aggregation of components and accessory equipment designed to convert wind power into mechanical or electrical energy.

A. WECS shall mean a combination of:

1. A surface area, either variable or fixed, for utilizing the wind for electrical power.
2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device.
3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy.
4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

- B. Commercial WECS. WECS designed or operated to provide energy principally to consumers located off the premises or for sale to a utility.
- C. Noncommercial WECS. WECS incidental and subordinate to a permitted use on the same parcel that are designed to supply electrical power primarily for on site use.



**WECS Tower Height.** The height of a WECS measured from the ground to its highest point.

- A. Horizontal Axis Wind Turbine Rotors. The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and blades.
- B. Vertical Axis Wind Turbine. The distance between the ground and the highest point of the WECS.

**Wine.** A drink made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit, and containing not more than 21% of alcohol by volume,.

**Wine, Brandy.** An alcoholic liquor as defined in Federal Standards of Identity for Distilled Spirits, 27 CFR 5.22 (d) 1980.

**Wine Drink, Mixed.** A drink or similar product containing less than seven percent (7%) alcohol by volume, consisting of wine and sparkling or carbonated or water and/or containing one (1) or more of the following: non-alcoholic beverages; flavorings; fruit juices; coloring materials; fruit adjuncts; sugar; preservatives; and carbon dioxide .

**Winery.** A Michigan licensed facility where agricultural fruit production is maintained, and juice is processed into wine, stored in bulk, packaged and sold at retail or wholesale to the public. The site and buildings are used principally for the production of wine and the storage of wine and wine-related beverages.

**Wine-Related Beverages.** Fortified wines, wine brandy, other mixed wine drinks, and drinks related to or inclusive of wines.

**Wine Tasting Room.** A Michigan licensed room used in conjunction with a winery where the tasting of wine, fruit wines, and non-alcoholic fruit juices takes place at a charge or at no charge to the individual, and the retail sales of winery and cheese products, incidental wine-related non food items, products by the bottle, container, or case for off-premises consumption, and wine-related packaged food items are allowed as provided herein.

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



**Wireless Communication Support Structures.** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

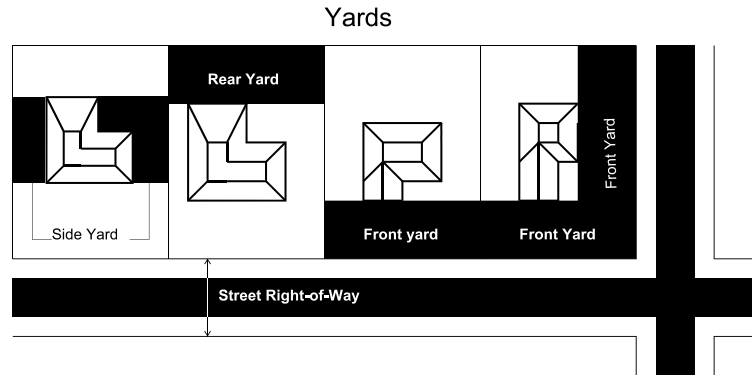
**Yacht Club.** A building or a portion of a building used as a meeting place for members of a social club organized for the purpose of supporting yachting and boating.

**Yard.** The area of any lot that is not supporting any building.

A. Yard, Front. A yard extending across the full width of the lot between the front lot line and the nearest line of the principal building.

B. Yard, Rear. A yard extending across the full width of the lot between the rear lot line, and the nearest line of the principal building.

C. Yard, Side. A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the principal building or accessory building.



**Zoning Act.** The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**Zoning District.** A portion or portions of the township for which the zoning regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform.

**Zoning Map.** A map of Elmwood Township, which depicts the various zoning districts and their locations into which the township is divided, and which is entitled "Charter Township of Elmwood Zoning Map." The map shall bear the date adopted or amended and is an integral part of this Zoning Ordinance. The Zoning Map shall be maintained at the Charter Township of Elmwood Office by the Township Clerk.



**Article 3  
General Provisions**

**SECTION 3.1 APPLICABILITY**

Unless otherwise specifically stated, the provisions of this Article shall apply to all lands within the Township and within all Zoning Districts. As an aid to users, this Ordinance cross-references sections that are or might be applicable to other sections. For example, zoning districts refer to “Other Requirements” and list other sections of this Ordinance that are or might be relevant to land uses within that zoning district. An incorrect or lack of cross-reference does not relieve a person from complying with all applicable requirements of this Ordinance. The Ordinance must be read and applied “as a whole.”

**SECTION 3.2 LAND DIVISION**

The partitioning or division of parcels or tracts of land shall comply with the provisions and standards of the Ordinances of Elmwood Township, including but not limited to the Elmwood Township Land Division Ordinance, the Elmwood Township Zoning Ordinance, Elmwood Township Private Road Ordinance and the provisions of the State Land Division Act, Act 288 of 1967, as amended

**SECTION 3.3 SIMILAR USE DETERMINATIONS**

Since every type of potential use cannot be anticipated in this Ordinance, the Zoning Administrator shall determine if the use is similar to a use listed in this Ordinance. The Zoning Administrator may refer matters wherein a use not specifically listed in this Ordinance or may be substantially similar to a permitted use or permitted special land use to the Zoning Board of Appeals for its interpretation and decision. The Zoning Board of Appeals determination shall be in writing and provided to the applicant.

**SECTION 3.4 USES NOT PERMITTED**

Those uses not specifically included as permitted or as special land uses in a zoning district are not permitted. The only exception to this requirement is when a land use, although not specifically listed, is found by the Zoning Administrator or Zoning Board of Appeals to be substantially similar to a permitted use or permitted special use as authorized in Section 3.3.

**SECTION 3.5 ONE DWELLING PER LOT**

In a residential zoned district no more than one (1) dwelling shall be permitted per residential lot or parcel, unless two family or multiple-family dwellings are specifically permitted under this Ordinance in a given zoning district.

**SECTION 3.6 ACCESSORY STRUCTURE WITHOUT A PRIMARY STRUCTURE**

- A. When a principal building has been lawfully demolished and any such action results in an otherwise legal accessory structure remaining alone on a parcel, then the accessory building shall be permitted to remain and shall be considered to be a conforming structure.
- B. Accessory structures without a primary structure may also be established where:

1. The parcel is actively in agricultural use (as defined in the Michigan Right to Farm Act, Public Act 93 of 1981, as amended), and the agricultural use is the primary use on the parcel.
2. The parcel is located in the Agricultural-Rural zoning district and is at least five (5) acres in area, and agricultural is the primary use on the parcel.

### **SECTION 3.7 FLOOD PLAIN MANAGEMENT**

Intent. The Township desires to participate in the National Flood Insurance Program and comply with all applicable statutory and regulatory requirements for the purpose of significantly reducing hazards to persons, property damage, and public expenditures, and thus by doing so to provide for the availability of flood insurance and federal funds or loans.

- A. The most recently updated and revised maps issued by the Federal Emergency Management Agency (FEMA) entitled Flood Hazard Boundary Map or Flood Insurance Rate Map of Elmwood Township, Leelanau County, shall be the official maps for determinations and regulation pursuant to this Ordinance.
- B. The Zoning Administrator shall obtain, review, and reasonably utilize flood evaluation data available from federal, state, or other sources pending receipt of data from FEMA. The most recent flood evaluation data received from FEMA shall take precedence over data from any other source.
- C. Regulatory Floodway. A regulatory floodway is hereby adopted within the township, which shall consist of the channel of any stream plus adjacent 100-year flood plain areas that must be kept free of encroachments in order that the 100-year flood may be carried without any increase in flood height.
- D. Encroachments Prohibited. All encroachments within the regulatory floodway including fill, new construction, substantial improvements, and other development which would result in any increase in flood levels within the township during the occurrence of the base flood discharge are prohibited.
- E. Manufactured Homes. All manufactured homes are prohibited within the regulatory floodway, except for manufactured home parks or subdivisions existing prior to the adoption of this ordinance.
- F. Variances.
  1. The Zoning Board of Appeals shall hear and decide requests for variance from the requirements of this section to permit construction in a manner that would otherwise be prohibited by this section.
  2. Variances must be consistent with the standards and procedures of the National Flood Insurance Program, Title 44 of the Code of Federal Regulations, Parts 59 and 60.

### SECTION 3.8 SANITATION REQUIREMENTS

The placement of any sewage disposal system on any lot shall not endanger the domestic water supply of any neighboring property owner, and shall not be placed on any lot without a permit from the Health Department.

### SECTION 3.9 PUBLIC ROAD ACCESS LIMITATION REQUIREMENTS

All lots on which a development will take place shall conform to the access requirements of this Ordinance.

### SECTION 3.10 CLEAR VISION AREA

A. No plantings or structures shall be established or maintained on any corner lot or along any driveway that will likely result in obstructing the view of a vehicle driver approaching the intersection, or entering or exiting the driveway.

B. Clear Vision Triangle.

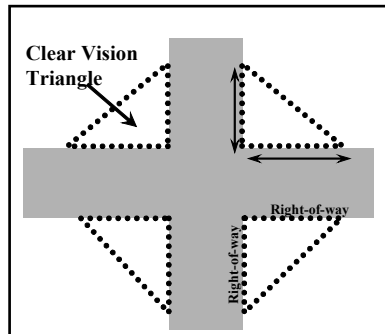
A clear vision area shall mean a triangular area formed by the street property lines and a line connecting them at the distances designated in this Section from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended.

1. Driveway: Ten (10) feet.

2. County Local Road Intersections: Twenty five (25) feet.

3. County Local Road and State Trunk-line: Thirty (30) feet.

4. Intersection of two (2) State Trunk-lines: Fifty (50) feet in accordance with MDOT standards and requirements.



C. This shall not prohibit the maintaining of landscaping less than thirty (30) inches in height in this area, nor the planting of trees whose lowest branches are higher than eight (8') feet from grade.

D. The Zoning Administrator may require a reduction in the height of screening or vegetation where necessary to ensure adequate sight distance and/or corner clearance visibility for drive approaches and public streets in proximity to screening or vegetation.

In this case, height shall be reduced only for that portion of the screening or vegetation necessary to provide adequate sight distance and/or corner clearance necessary for traffic safety.

### SECTION 3.11 SHARED SHORELINE ACCESS (Keyhole Development)

A. It is the intent of this Section to promote the integrity of the lakes within the Township while preserving the quality of recreational use of the inland waters; to protect the quality

of the lakes and streams by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes and streams; and to maintain the natural beauty of the lakes and streams by minimizing man-made adjustments to the established shorelines. Nothing in this Ordinance shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government. Nothing in this section shall infringe upon a person's right to assert that a pre-existing, lawful land use is a valid non-conforming use under this Zoning Ordinance.

- B. When two or more families/legal entities/parties/tenants in common (hereinafter referred to as parties), share access to a shoreline or a connecting tributary, the common use of the shared access shoreline parcel shall be governed by this Section. This section shall only apply to inland lakes and not the Grand Traverse Bay.
- C. The shared access provisions herein shall apply regardless of whether access to the shoreline parcel is gained by easement, common or joint fee ownership, single fee ownership, lease, license, condominium master deed, stock or membership in a corporation or any other means.
- D. All shared access shoreline parcels must be approved by the Planning Commission pursuant to Article 8, Site Plan Review, along with the following additional requirements:
  - 1. All shared shoreline access parcels shall have a minimum shoreline frontage of not less than one hundred (100) feet, measured at the ordinary high water mark and as recorded in the parcel's legal description, and an area of at least fifteen thousand (15,000) square feet. For each party in excess of two (2) having shared shoreline parcel access privileges, the shoreline frontage shall be increased by fifty (50) feet and the area shall be increased by seven thousand five hundred (7,500) square feet for each additional party.
  - 2. No permanent structures except for sanitary facilities approved by the Health Department shall be located on the shared access shoreline parcel.
  - 3. The site plan shall reflect provisions for all watercraft slips, moorings, boat hoists, or any other means of anchorage to be developed on the shared access shoreline parcel. No more than two (2) watercraft slips, moorings, boat hoists, or other means of anchorage shall be allowed per one hundred (100) feet of shoreline frontage, measured at the ordinary high water mark and as recorded in the parcel's legal description.
  - 4. This section of the ordinance does not modify nor supersede any more restrictive ordinances, whether enacted before or after this Ordinance including, but not limited to the Elmwood Township Boat Regulation Ordinance #119, adopted November 12, 1991. Further, this ordinance is not intended to modify or supersede State or Federal regulations, including but not limited to MDEQ permit approval pursuant to Part 301, Inland Lakes and Stream Act and/or Part 303, Wetlands Protection Act, Michigan Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.
  - 5. Off-street parking shall be prohibited on a shared shoreline access parcel unless the principal residential use(s) are established on the same parcel. This requirement

may be waived through a special use permit application, by the Planning Commission when the following standards are met, Article 9 standards do not apply:

- a. When off-street parking is demonstrably required to enjoy reasonable use of the parcel
  - b. When such parking can be located and screened by existing and/or proposed landscaping from the lake and adjoining residential parcels.
6. The site plan shall also reflect the location of all temporary and permanent docks to be developed on the shared access shoreline parcel and shall otherwise comply with all state and federal statutes and regulations pertaining thereto. For inland lakes, if any portion of a temporary or permanent dock is constructed parallel to a shoreline, the parallel portion shall be no longer than twenty-five (25) feet (i.e. excluding the non-parallel dock portion extending from the shoreline), with a width no greater than six (6) feet and an overall area no larger than one-hundred (100) square feet, unless otherwise required to meet state barrier-free requirements.
  7. Boat launch facilities, if provided, shall be solely for the private use of the owner(s) of the parcel.
  8. The storage or display of items, such as but not limited to boats, personal watercraft, boat hoists, and trailers shall not be permitted on shared access shoreline parcels. However, this provision shall not apply to winter storage of boat hoists provided they do not exceed the number of boat hoists allowed on the shared access shoreline parcel.
  9. The storage or display of items for sale or rent shall not be permitted.
- E. The Planning Commission may approve, deny, or approve with conditions the site plan. In addition to the other standards and requirements contained in this Section, the Planning Commission shall consider any adverse impacts (including but not limited to noise) to other parcels, land uses or the public. The Planning Commission may impose conditions for the purpose of minimizing any adverse impacts. In evaluating potential adverse impacts, the Planning Commission shall consider the compounding effects of other existing waterfront land uses and subsequent developments of a similar nature.

### **SECTION 3.12 SINGLE FAMILY DWELLING REQUIREMENTS**

All single-family dwellings (outside of manufactured home parks) shall meet the following requirements:

- A. Have a minimum width of twenty-four (24) feet and a minimum living area of seven hundred twenty (720) square feet.
- B. All construction shall be commenced only after a County building permit has been obtained in accordance with the applicable provisions and requirements.

- C. Be connected permanently to a public sewer and water supply, or to private facilities approved by the Health Department.
- D. The foregoing requirements shall not apply to a manufactured home located in a licensed manufactured home park, except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

**SECTION 3.13 RESERVED**

**SECTION 3.14 RESERVED**

**SECTION 3.15 AGRICULTURAL SETBACK**

This setback is intended to reduce the effects of residential development on agricultural practices as well as the effects of agricultural operations on residential developments.

- A. Requirements for Agricultural Setbacks.
  - 1. In addition to any other setbacks or buffers required by this Ordinance, an agricultural setback shall be required for any residential development over five (5) lots developed adjacent to any property zoned Agricultural- Rural unless adjacent to an already developed subdivision.
  - 2. A setback buffer area of one hundred (100) feet shall be required when a residential development is developed adjacent to land that is in active agricultural use located in the Agricultural-Rural zoning district; or
  - 3. A setback buffer area of fifty (50) feet shall be required when a residential development is developed adjacent to land that is zoned residential but is currently in active agricultural use.
- B. Setback Planting and Maintenance. The setback buffer area shall be planted and maintained in such a way as to mitigate noise and spray drift from the use of pesticides or herbicides.
- C. Exceptions to Required Setbacks and Plantings. The Planning Commission may decrease the setback or planting requirements when the Planning Commission determines that one (1) or more of the following conditions exist:
  - 1. The existence of topographic conditions (i.e. steep slopes, changes in grade, wetlands, etc.) provides sufficient separation.
  - 2. The properties are sufficiently separated to mitigate incompatibilities of use.
  - 3. An easement, such as a conservation easement, is placed on the land adjacent to the proposed development that restricts agricultural uses in a way that is equal to or better than the one hundred (100) foot setback.
  - 4. A planting buffer is established and maintained between proposed residences and active or potential agricultural uses in a way that is equal to or more than the one hundred (100) foot setback.



### **SECTION 3.16 FENCING ADJACENT TO CERTAIN AGRICULTURAL LANDS**

- A. When lands used for a residential development abut Agricultural-Rural zoned property, the developer shall, prior to construction of residential units, install a fence along the boundary between the development and the adjacent agriculturally zoned lands. The fence shall effectively limit trespass onto agricultural lands.
- B. The fencing shall be continuously maintained by the developer and his/her assigns.
- C. Alternate fencing to meet the requirements of this Section may be approved by the Planning Commission. Prior to approval of any fence, a plan showing spacing and fence specifications shall be submitted to the Zoning Administrator.
- D. If the fencing has a decorative side, it shall face the adjacent properties or the adjacent street.
- E. The fence may be removed by the developer if agricultural property is rezoned to or developed for residential use.

### **SECTION 3.17 TEMPORARY/ SEASONAL USES AND STRUCTURES**

- A. Temporary structures.
  - 1. Two (2) types of temporary structures may be permitted by the issuance of a temporary land use permit:
    - a. Temporary structures associated with a construction site intended to allow materials and tools to be secured, and to provide an office for construction workers. Such structures shall not be used as a residence for overnight accommodations.
    - b. A temporary structure to be used as a temporary residence in response to a fire or other property destruction of an existing legal residential structure. The temporary structure shall be provided with adequate means of water, septic disposal, and other utilities.
  - 2. A permitted structure shall not be more than one (1) story high. All such structures must be setback from public right-of-way at least thirty-five (35) feet.
  - 3. A temporary structure shall be permitted by the Zoning Administrator in any district for a period not to exceed one hundred and eighty (180) days. One (1) extension may be granted by the Zoning Administrator for a period of ninety (90) days if the applicant demonstrates that progress is being made on construction. The specific time allowed shall be stated on the permit.
  - 4. The temporary structures shall be removed when a County occupancy permit is issued for the primary building under construction.
- B. In the Neighborhood Commercial (NC), Shoreline Commercial (SC), and General Commercial (GC) zoning districts, temporary special events and sales, including, but not limited to, activities such as community picnics, circuses, carnivals, parades, street fairs,

Christmas tree sales, flea markets, sidewalk sales, farmers markets, arts and crafts fairs, shall only be permitted with approval by the Zoning Administrator and submission of any applicable fees established by the Township Board.

1. Upon finding that the following items are submitted and satisfactory, the Zoning Administrator shall issue a permit:
  - a. Names and contact information of event organizers.
  - b. Approvals and plans from appropriate agencies, as deemed necessary by the Zoning Administrator, such as the Michigan Department of Transportation (MDOT), the Leelanau County Road Commission, the Health Department, and the Leelanau County Sheriff's Department.
  - c. Location and proposed land area limits of activities and associated uses for all temporary special events and sales.
  - d. Location of parking, vehicular and pedestrian access, proposed circulation patterns, and proposed closing of any public roadways.
  - e. Location and method to provide any proposed electricity, water, sanitary facilities, trash containment, lighting, loud speakers to the site.
  - f. Hours and dates of the activity.
  - g. Proposed plans for crowd control, security, and traffic safety.
  - h. Description and amount of any special event insurance proposed.
  - i. Written permission of the property owner.
  - j. Not more than 2 special events have been held in the last 90 days.
2. The Zoning Administrator shall approve the number, size, height, location and type of temporary signs related to the event.
3. Permit applications must be resubmitted each year for annual events.

### **SECTION 3.18 NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEMS (WECS)**

Non-commercial WECS may be erected in any zoning district, subject to the following:

- A. A non-commercial WECS designed or operated to provide more than 50% of its rated energy production for off-site consumption shall not be considered non-commercial, except in cases where the power is consumed by residences within one thousand (1,000) feet of the WECS tower.
- B. Installed on a property that also receives electrical power supplied by a utility company, any excess electrical power generated and not presently needed for on-site use may be sent to the utility company.

- C. All utility lines leading to or from the non-commercial WECS shall be underground.
- D. A non-commercial WECS shall be considered an accessory use to an approved permitted use or approved special land use and is subject to Zoning Administrator review in accordance with Article 8, Site Plan Review. The land use application shall include a plot plan that includes existing structures, lot lines, roads, overhead utility lines, and the WECS itself. A cross-section drawing of the structure, base, and footings must also be included.
- E. Approval of a non-commercial WECS may be revoked as per Section 11.9 of this Ordinance.
- F. The owner/operator shall obtain and comply with any other permits required by federal, state, and local agencies prior to erecting the system, and shall submit copies of each to the Township.
- G. No more than three (3) non-commercial WECS may be erected on any lot or parcel, provided the property meets the requirements of the zoning district in which it is located.
- H. Minimum lot size for the establishment of a non-commercial WECS shall be 2.5 acres.
- I. Maximum height of a non-commercial WECS shall be one hundred and fifty (150) feet.
- J. Setbacks from all property lines and buildings shall be one hundred ten (110) percent of the total height of the WECS.
- K. No part of a non-commercial WECS shall be located within or over drainage, utility, or other established easements unless expressly permitted by the easement.
- L. Colors shall be white, light grey or some other neutral color so long as the surface is non-reflective.
- M. No lights shall be installed on the tower, unless required to meet Federal Aviation Administration (FAA) regulations.
- N. One (1) sign, limited to four square feet, shall be posted at the base of the tower that provides a notice of no trespassing, a warning of high voltage, and the phone number of the property owner/operator to call in case of emergency.
- O. Towers must be equipped with an appropriate anti-climbing device and be enclosed by security fencing not less than six (6) feet in height.
- P. No portion of the rotor blade shall extend to within twenty (20) feet of the ground, nor may any portion extend over parking areas, driveways, sidewalks, decks, or required setback areas.
- Q. All systems shall be equipped with manual and automatic over-speed controls to limit the blade rotation speed to within the design limits.

- R. Maximum noise levels shall not exceed 55 dB-A at any property line. This level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- S. If the system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, including foundations, transmission equipment and fencing from the property. Non-function or lack of operation may be proven by reports from the interconnected utility.
- T. If removal of towers and appurtenant facilities is required, the Zoning Administrator shall notify the owner/operator. If the Township removes a tower and appurtenant facilities, it may sell the salvage and/or place a lien on the property to defray the costs of removal and proper disposal of materials.

### **SECTION 3.19 SOLAR ENERGY**

Solar panels shall be permitted in all districts as a permitted use for use on-site with a land use permit.

Roof mounted solar energy equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulations.

Properties in any zoning district that are one (1) acre or less in size are subject to the following:

- A. Placement of ground mounted solar energy equipment is not permitted within the required front yard.
- B. Ground mounted solar panels shall only be located in a side or rear yard and shall meet or exceed required yard setbacks and shall be located to minimize any glare to adjacent properties.

**Article 4**  
**Zoning Districts and Zoning Map**

**SECTION 4.1 ELMWOOD TOWNSHIP ZONING MAP**

- A. **Zoning Map.** The boundaries of the zoning districts are hereby established as shown on the map entitled “Elmwood Township Zoning Map” that accompanies this Ordinance. The zoning map, along with all notations, references, and other explanatory information, is a part of this Ordinance. The zoning map shall be available for examination at the Elmwood Township Hall during regular office hours and shall be kept with the records of the Township Clerk.
- B. **Official Zoning Map.** The official zoning map shall be identified by the signature of the Township Supervisor, attested to by the Township Clerk, under the following words: “This is to certify that this is the Elmwood Township Zoning Map referred to in the Elmwood Township Zoning Ordinance, adopted on (date of adoption),” together with the most recent effective date of any amendment to the Zoning Map.
- C. **Authority.** Regardless of the existence of copies of the zoning map which may from time to time be made or published, the Official Zoning Map which shall be located in the Elmwood Township Hall shall be the final authority as to the location of all zoning districts and zoning districts overlay boundaries.
- D. **Changes.** In the event of an amendment to this Ordinance that has the effect of changing the location of a zoning district boundary, the Township shall promptly make, or cause to be made, a change on the Official Zoning Map and the date of the map revision noted on the Official Zoning Map.
- E. **Replacement.**
  - 1. The zoning map shall be replaced upon amendment to the location of a zoning district boundary in accordance with Section 4.1.D above. The Official Zoning Map may be replaced from time to time if it becomes damaged, destroyed, or lost.
  - 2. A new zoning map may correct drafting or other errors or omissions on the prior zoning map, but no such correction shall have the effect of amending this Ordinance or the prior zoning map unless it shall have been adopted in accordance with the Michigan Zoning Enabling Act, as amended.

**SECTION 4.2 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

- A. Where uncertainty exists with respect to the boundaries of any of the zoning districts indicated on the zoning map, the following rules of interpretation shall apply:
  - 1. A zoning district boundary indicated as approximately following the corporate boundary line of the township shall be construed as following that line.

2. A zoning district boundary indicated as following along a section line, quarter-section line, platted lot line, or other survey line shall be construed as following that line.
  3. A zoning district boundary indicated as following a property line shall be construed as following that property line.
  4. A zoning district boundary indicated as approximately following a highway, street, alley, or easement shall be the centerline of that highway, road, alley, or easement.
  5. Whenever any road, alley, or other public right-of-way or railroad right-of-way is vacated by official action, the property formerly within that road, alley, or right-of-way shall be included within the zoning district of the adjacent property to which it is adjoined. In the event that the road, alley, or right-of-way was a zoning district boundary between two (2) or more zoning districts, the new zoning district boundary shall be the boundary of the new property formed by the joining of the closed road, alley, or right-of-way to the adjacent properties. Where no joining takes place, the new zoning district boundary shall be the former center of the road, alley, or right-of-way.
  6. A zoning district boundary indicated as following the right-of-way of a railway or an electrical, gas, or oil transmission line shall be the centerline of the right-of-way.
  7. A zoning district boundary indicated as following the shoreline of any lake, river, stream, or other body of water shall be construed as following that shoreline.
  8. A zoning district boundary indicated as approximately parallel to a street or highway center line, or to section lines, quarter-section lines, or other survey lines shall be construed to be parallel thereto and at the distance as indicated on the zoning map.
  9. A zoning district boundary indicated as parallel to, or an extension of, a feature described in subsections 1 through 8 above shall be so construed.
- B. Where the provisions of Section 4.2.A.1 through 4.2.A.8 above are not applicable in determining the location of a zoning district boundary, its location shall be determined by the Zoning Administrator by measuring the distance from the nearest definable geographic reference point as indicated on the Zoning Map.
- C. A distance not specifically indicated on the zoning map shall be determined by the scale of the Zoning Map.
- D. Where a physical or cultural feature existing on the ground is at variance with that shown on the Zoning Map, or where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between zoning districts, the regulations of the more restrictive zoning district shall govern the entire parcel in question, unless otherwise determined by the Zoning Board of Appeals.

## SECTION 4.3 ESTABLISHMENT OF ZONING DISTRICTS

The Township of Elmwood is hereby divided into the following zoning districts:

LETTER	DISTRICT NAME
A-R	Agricultural-Rural
R-1	Residential District-1
R-2	Residential District-2
R-3	Residential District-3
MHP	Manufactured Home Park
MC	Municipal Center
NC	Neighborhood Commercial
GC	General Commercial
LI	Light Industrial
SC	Shoreline Commercial
RR	Rural Resort

### AGRICULTURAL-RURAL (A-R) ZONING DISTRICT

#### A. Intent.

1. The A-R zoning district encourages continued agricultural pursuits and recognizes the historic importance of agriculture to the region and the need for productive and unique farmland to sustain the food production needs of the region and the nation.
2. The A-R zoning district encourages an open and rural character for the majority of Elmwood Township.
3. Without unduly limiting private property rights, the A-R zoning district preserves scenic vistas, retains contiguous greenways for natural habitat, limits impacts to the natural environment, and to the extent possible and practical protects significant woodlands, sloped areas, wetlands, and other sensitive lands in the zoning district.
4. Lastly, the use restrictions and dimensional requirements of this zoning district directly or indirectly discourage and limit a sprawling land use pattern and encourage responsible development practices.

### RESIDENTIAL (R-1) ZONING DISTRICT

**Intent.** The R-1 zoning district is intended to accommodate single-family residential and related uses in semi-rural-residential areas of the township.

### RESIDENTIAL (R-2) ZONING DISTRICT

**Intent.** The R-2 zoning district allows single-family and two family residential and related uses in semi-rural areas of the township.

### **RESIDENTIAL (R-3) ZONING DISTRICT**

**Intent.** The R-3 zoning district accommodates high density, single-family residential and attached residential uses in appropriate locations where public utilities and services, commercial services, and other facilities are immediately available. This zoning district shall only expand into areas serviced by, or capable of being serviced by, municipal sanitary sewer and/or water.

### **MANUFACTURED HOME PARK (MHP) ZONING DISTRICT**

**Intent.** The MHP zoning district accommodates high-density residential uses in appropriate locations where public or shared utilities and services, commercial services, and other facilities are immediately available. Parcels in this zoning district shall be accessed by a major roadway.

### **MUNICIPAL CENTER (MC) ZONING DISTRICT**

**Intent.** The MC zoning district is established to accommodate the majority of the township's functions that it provides to the local community. These include but are not limited to township management, payment and tracking of financial transactions, collection of recyclable materials, elections, record-keeping, assessing, planning and zoning, fire and emergency medical services, and maintenance and upkeep of township buildings and grounds.

### **NEIGHBORHOOD COMMERCIAL (NC) DISTRICT**

**Intent.** The NC zoning district shall be developed as a seamless blend of commercial, public, and residential uses. NC zoning district uses shall be designed with pedestrian accessibility in mind to minimize auto dependency.

### **GENERAL COMMERCIAL (GC) ZONING DISTRICT**

**Intent.** The GC zoning district recognizes existing larger scale, highway-oriented, commercial uses and accommodates anticipated future needs for more intensive commercial uses and densities. It is also intended to promote a wide range of retail and personal service establishments characterized by clustered development, where possible, with common access drives and parking areas. In some instances, persons entering the district should be able to park once and enjoy the use of multiple shops and recreational facilities. This zoning district is also intended to accommodate more intense commercial uses which may require large amounts of land, as well as light commercial uses which are compatible with nearby residential areas and mixed use development.

### **LIGHT INDUSTRIAL (LI) ZONING DISTRICT**

**Intent.** The LI zoning district accommodates light manufacturing, storage, and related uses and activities that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or other potentially harmful or nuisance characteristics. It further accommodates warehousing and light manufacturing whose operational and physical characteristics do not have a detrimental effect on surrounding areas. The zoning district accommodates the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared materials and wholesale distribution of products. Limited retail sales are allowed if they are incidental to the industrial use of the property.



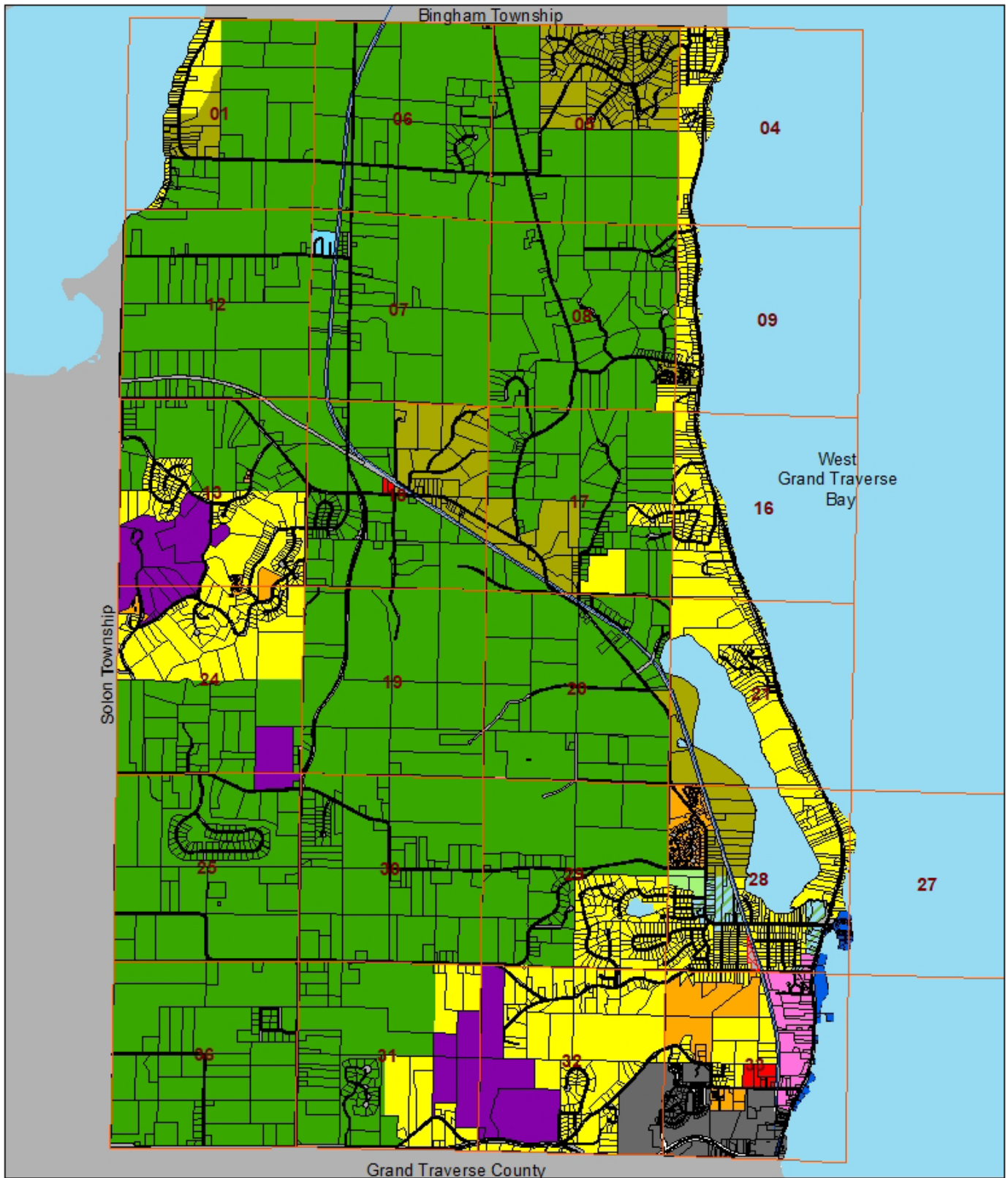
## **SHORELINE COMMERCIAL (SC) ZONING DISTRICT**

**Intent.** The SC zoning district promotes land uses and activities within the coastal zone which are compatible with and in support of a shoreline district. The SC zoning district accommodates water-oriented commercial activity at a moderate density that is enhanced by its location near the water. Permitted uses shall place priority on open space and the preservation of valuable natural shoreline assets for future generations including the natural shoreline, encourage the retention of trees, and discourage dredging, filling, and the construction of bulkheads for the purpose of increasing development density.

## **RURAL RESORT DISTRICT (RR) ZONING DISTRICT**

**Intent.** The RR District seeks to maximize protection of the Township's rural atmosphere and its natural environment and by complementing the character of surrounding neighborhoods. This is accomplished by permitting resorts with limited commercial development near the Agricultural-Rural (A-R) zoning district that satisfy market needs of the local community, including seasonal residents and tourists. Such resorts must help maintain a local sense of community by integrating a mix of land uses that are of a size, character, function, and location suitable to the needs of Elmwood Township and are sited so as to minimize impacts on, and views from, adjacent properties and roads. They are intended to have primarily an outdoor orientation so that they complement the open, rural character of the Township.





## CHARTER TOWNSHIP OF ELMWOOD

### Zoning Districts

Agricultural - Rural (A-R)	Manufactured Home Park (MHP)	General Commercial (GC)	Conditional Rezoning
Residential 1 (R-1)	Rural Resort (RR)	Light Industrial (LI)	
Residential 2 (R-2)	Municipal Center (MC)	Shoreline Commercial (SC)	
Residential 3 (R-3)	Neighborhood Commercial (NC)	Traverse City	

**Official Zoning Map**

September 1, 2017



**Article 5**  
**Use Restrictions and Dimensional Requirements by Zoning District**

No building, structure, or parcel shall be used or occupied except for those uses identified in the Zoning District within which they are located and as permitted. Unless otherwise required by law, a use that is not listed in this Ordinance is not permitted, unless the use has been determined to be substantially similar to a permitted use as described in Section 3.4.

**Uses.** Permitted uses, special land uses, and accessory uses are subject to the Table of Dimensional Requirements listed in this Article.

**Other District Requirements.** See other related development requirements and standards in General Provisions, Signs; Parking and Landscaping, Site Plan Review; and Special Land Uses.

**SECTION 5.1 LAND USE AND ZONING DISTRICT TABLE**

The Use Table in this Article lists by Land Use Type (i.e. residential, commercial, etc.) where a particular land use is allowed in a respective zoning district. Land uses that are allowed in a specific zoning district are categorized by the following:

**Permitted Uses [P]**

If a land use is permitted by-right and subject to Zoning Administrator review and approval in a Zoning District, it is identified by the symbol “P.”

**Permitted Uses Subject to Site Plan Review [Psp]**

If a land use is permitted by-right and subject to Planning Commission review and approval of a Site Plan in a Zoning District, it is identified by the symbol “Psp.” Site Plan Review requirements and process is outlined in Article 8.

**Special Use Permit [SUP]**

The symbol “SUP” is noted if a land use is permitted after review and approval as a Special Use Permit in accordance with Article 9.

**Uses Not Allowed**

If a land use type is not allowed in a Zoning District it will not have a symbol and will be blank.

**SECTION 5.2 SPECIFIC USE REQUIREMENTS**

Uses that are contained in Section 5.5 shall comply with the specific site requirements listed for each specific use. These specific site requirements shall be in addition to requirements applicable to the zoning district in which that use will be located. If there is a conflict between the general requirements of the applicable zoning district and the site requirements listed in Section 5.5, then the requirements in Section 5.5 shall control.

**SECTION 5.3 RESERVED**

**SECTION 5.4 LAND USE AND ZONING DISTRICT TABLE**

<b>Applicable to Multiple Districts</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
1. Accessory buildings and uses customarily incidental to the permitted uses	P	P	P	P	P	P	P	P	P	P	P
2. Planned developments				SUP			SUP	SUP	SUP	SUP	SUP
3. Routine essential services	Psp	Psp	Psp	Psp	Psp	Psp	Psp	Psp	Psp	Psp	
4. Wind Energy Conversion System, Non-commercial	P	P	P	P	P	P	P	P	P	P	P
5. Wireless communication facilities	SUP										
<b>Agricultural Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
6. Agricultural Commercial Enterprises (not otherwise listed in this table)	SUP **							SUP			
7. Farms and agricultural operations	P										
8. Fruit and vegetable processing plants**									SUP		
9. Livestock and poultry on 4 or more acres in a fenced enclosure	P	P	P								
10. Riding stables	Psp										
11. Temporary produce stands*	P										
<b>Residential Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
12. AFC Family Home	P	P	P	P	P		P				P
13. Cluster residential developments	SUP	SUP	SUP	SUP			SUP	SUP			SUP
14. Dependent Care Facilities*				SUP			Psp	Psp		Psp	
15. Family Child Care Home	P	P	P	P	P		P				P
16. Foster Family Care	P	P	P	P	P		P				P
17. Foster Family Group Home	P	P	P	P	P		P				P
18. Group Child Care Home	SUP	SUP	SUP	SUP	SUP		SUP				
19. Housing, Seasonal Help	P										
20. Manufactured home parks					Psp						
21. Mixed Use (Residential above first floor)							Psp	Psp	Psp	Psp	
22. Multiple/Attached Family Housing*				Psp							
23. Residential-Single Family	P	P	P	P	P		P				P
24. Residential-Two Family			P	P			P				
25. Short Term Rentals*	P	P	P	P	P	P	P	P	P	P	P
26. Traditional Subdivisions	SUP	Psp	Psp	Psp	Psp		Psp	SUP			
<b>P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit</b>											
<b>* see Section 5.5                      **See End of Table</b>											

<b>Institutional and Public Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
27. Cemeteries	Psp										
28. Community Recreation Centers							Psp			Psp	
29. Conservation uses	Psp	Psp	Psp	Psp			Psp	Psp		Psp	
30. Government buildings *						Psp					
31. Major essential services	SUP								SUP		
32. Municipal and Commercial Parking Lots						Psp		SUP	SUP		
33. Museums and libraries *	SUP							Psp	Psp	Psp	
34. Nonprofit educational and recreational facilities							Psp	Psp		Psp	
35. Places of worship*	Psp	Psp	Psp	Psp			Psp	Psp	Psp		
36. Schools including preschool and trade schools*	SUP	Psp	Psp	Psp			Psp	Psp	Psp		
37. Parks open to the public and neighborhood parks	Psp	Psp	Psp	Psp		Psp	Psp	Psp	Psp	Psp	
<b>Commercial Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
38. Athletic clubs								SUP		SUP	
39. Banks and Lending Institutions								Psp			
40. Bed and breakfast inns	SUP			P			Psp			SUP	
41. Bed and breakfast	P	P	P	P			P	SUP	SUP		
42. Business and professional offices							Psp	Psp	Psp	Psp	
43. Business Centers							Psp	Psp	Psp	Psp	
44. Campgrounds and seasonal trailer parks	SUP										
45. Car Wash								SUP	SUP		
46. Child Care Center*							Psp	Psp		Psp	
47. Conference centers and banquet facilities								SUP			
48. Country Clubs	SUP							SUP			
49. Distillery Tasting Rooms**	SUP							Psp	Psp	Psp	
50. Drive-In/Drive Thru Business								SUP	SUP		
51. Docks and Piers										Psp	
52. Fraternal Organizations and Lodges							Psp	Psp	Psp		
53. Gasoline Service Station								SUP			
54. Golf courses and complementary uses	SUP										
55. Home businesses	SUP	SUP	SUP	SUP	SUP		Psp				
<b>P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit</b>											
<b>* see Section 5.5                      **See End of Table</b>											

<b>Commercial Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
56. Home occupations*	P	P	P	P	P		P				
57. Kennels**	SUP						SUP	Psp			
58. Marine related sales, service and storage								SUP	SUP	Psp	
59. Marina, mooring facilities, and complimentary uses										SUP	
60. Microbreweries/Distilleries regulated by Michigan Liquor Control Commission	Psp**							Psp	Psp	Psp	
61. Motels*								Psp		SUP	
62. Nurseries and greenhouses	Psp										
63. Personal Service Establishment							Psp	Psp	Psp	Psp	
64. Resorts								SUP		SUP	SUP
65. Restaurants							Psp	Psp	Psp	Psp	
66. Retail sales							Psp	Psp		Psp	
67. Retail outlets with outdoor storage (building supplies, equipment rentals, etc)								Psp	Psp	Psp	
68. Retail outlets without outdoor storage (building supplies, equipment rentals, etc)								Psp	Psp		
69. Seasonal indoor vehicle storage, including boats**	SUP							SUP	SUP		
70. Seasonal outdoor storage of boats and recreation vehicles							SUP	SUP	SUP		
71. Sexually Oriented Businesses									Psp		
72. Showrooms, offices, and workshops of building tradesmen							Psp	Psp	Psp	Psp	
73. Small engine equipment sales, rentals, and service								SUP	Psp		
74. Two or more principal buildings or uses on a single property							Psp	Psp	Psp	Psp	
75. Vehicle service**									SUP		
76. Veterinary clinics	SUP						SUP	SUP	SUP		
77. Wind Energy Conversion System, Commercial	SUP							SUP	SUP		
<b>P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit</b>											
<b>* see Section 5.5                    **See End of Table</b>											



<b>Commercial Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
78. Wine Tasting Room	SUP						Psp	Psp		Psp	
79. Winery	Psp							P	P		
80. Yacht Clubs										Psp	
<b>Industrial Related Uses</b>	<b>A-R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MHP</b>	<b>MC</b>	<b>NC</b>	<b>GC</b>	<b>LI</b>	<b>SC</b>	<b>RR</b>
81. Light Fabrication							Psp	Psp	Psp		
82. Light industrial								SUP	SUP		
83. Mini Warehousing*							Psp	SUP	SUP		
84. Tank for storage of liquid petroleum									SUP		
85. Warehousing									Psp		
86. Utility-Scale Solar Energy Systems**	SUP										
<b>P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit</b>											
<b>* see Section 5.5                      **See End of Table</b>											

\*\* Distillery Tasting Room- Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018  
Special Event Facility- Amendment ZO 2017-04-02, Ordinance #2018-01, Effective June 28, 2018  
Utility-Scale Solar Energy Systems- Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018  
Agricultural Commercial Enterprises-Amendment ZO 2017-04-05, Ordinance #2019-02, Effective September 4, 2019  
Fruit and Vegetable Processing Plants- Amendment ZO 2017-04-05, Ordinance #2019-02, Effective September 4, 2019  
Kennels, Seasonal Indoor Storage, Vehicle Service changes in NC- Amendment ZO 2017-04-10, Ordinance #2020-2, Effective October 30, 2020

## **SECTION 5.5 SPECIAL REQUIREMENTS FOR SPECIFIC USES**

In addition, to other applicable requirements, as contained in this Ordinance, the following specific land uses shall also comply with the following:

### **A. Reserved**

### **B. Child Care Center**

1. The play area of the center shall be enclosed by a six (6) foot high fence with latches that are inaccessible to children.
2. The center shall maintain the property consistent with the visible characteristics of the neighborhood.
3. The center shall not operate between the hours of 10:00 p.m. and 6:00 a.m.
4. The center shall comply with all other applicable governmental standards and requirements.

### **C. Dependent Care Facilities.**

1. An applicant shall submit a preliminary report by the Health Department stating that the parcel can accommodate on-site sewage disposal, if necessary, sufficient for the number of proposed residents.
2. If required by state law, the operator must be licensed by the State of Michigan.
3. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.

### **D. Government Buildings.**

1. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.
2. Buildings shall face and be generally parallel to the primary road serving the facility.
3. An outdoor area developed for public use (to include but not be limited to such uses as a park, seating area, public art, or garden interpretive area) may be included when the proposed outdoor area is consistent with the use to which the government building will be used and will not create a risk of harm to users of the outdoor area.

**E. Home Occupations.**

1. **Intent.** It is the intent of this section to accommodate both old and new styles of home occupations, which are clearly subordinate and incidental by their very nature to the use of a single family dwelling unit for residential purposes and which are clearly compatible with the character of a residential neighborhood.
2. **Conditions.** Home occupations shall be permitted subject to the following conditions:
  - a. All home occupations shall be so conducted as not to be noticeable from the exterior of the single family dwelling unit.
  - b. No signs in connection with the home occupation are permitted.
  - c. Traffic and delivery of goods created by the home occupation shall not exceed that which is normally created by residential uses.
  - d. No employees other than the residents of the single family dwelling unit shall be employed in the home occupation.
  - e. No noise, odors, or illumination created by the home occupation shall be noticeable outside the single family dwelling unit.

**F. Motels.**

1. In all districts except RR, the total number of rooms shall be limited to one hundred and fifty (150).
2. A restaurant, banquet rooms, or conference space shall be permitted with the addition of adequate parking.

**G. Multiple/Attached Family Housing.**

1. The applicant shall submit a preliminary report by the Health Department stating that the parcel can accommodate on-site sewage disposal, if necessary, sufficient for the number of residents proposed.
2. To assure that all common areas and utilities will be maintained, the development shall be under single ownership or organized with a condominium association, or maintenance shall be ensured by other means satisfactory to the Planning Commission.
3. In the R-3 zoning district, the total number of units shall not exceed the net density permitted in the zoning district.
4. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.

5. Units shall face and shall be relatively parallel to the primary road and interior roads serving the attached housing development.

**H. Museums and Libraries.**

1. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.
2. An outdoor area shall be set aside and developed for public use (to include, but not be limited to such uses as a park, seating area, public art, and a garden interpretive area). The Planning Commission may waive this requirement if found to be unreasonable or unfeasible on a particular site.

**I. Places of Worship.**

1. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.
2. Height may exceed that required by the district. Steeple and decorative tower heights shall not exceed seventy-five (75) feet.

**J. Schools.**

1. Pedestrian access shall be provided throughout the site, including to all common areas, between all units, and to all off street parking areas. If practical, the Planning Commission may require current/future pedestrian and/or vehicular access to all abutting uses.
2. Bus loading/unloading and parent drop off/pick-up area must be designed to avoid pedestrian/vehicular conflicts.
3. Bus loading/unloading and parent drop off/pick-up area must be designed as a one-way drive.

**K. Temporary produce stands.** Temporary produce stands are to allow active farmers to directly market their farm products. The following conditions apply:

1. The produce stand shall be located on the parcel owned or leased by the farmer.
2. The produce stand shall not be located in the public road right-of-way.
3. A minimum ten (10) foot front setback is required between the produce stand and the front property line.

4. One (1) produce stand shall be allowed per parcel.
5. Additional agricultural products may be sold at the produce stand provided it is grown or produced (e.g., honey, syrup, etc) in Elmwood Township.
6. Sale of craft items is limited to those produced on the property.
7. A parking area to accommodate customers shall be provided off the public road right-of-way.
8. A minimum fifty (50) foot setback is required between the produce stand and any rear or side property line.
9. Produce stands shall not be greater than one hundred (100) square feet in area and shall be a temporary structure.
10. Removal of the produce stand is required immediately after the produce stand is closed for the season.

**L. Mini Warehouse (Amendment ZO 2017-04-10, Ordinance #2020-2, Effective October 30, 2020)**

In the Neighborhood Commercial District, structures used for mini warehousing shall be limited to 1 story or 12 feet in height, whichever is less.

**M. Short Term Rentals.**

Shall a conflict exist between this section and any other section in this Ordinance, this section shall prevail.

1. Short Term Rentals shall maintain a license as required by the Short Term Rental Licensing Ordinance
2. A land use permit shall not be required for short term rentals

**SECTION 5.6 TABLE OF DIMENSIONAL REQUIREMENTS**

District	Minimum Lot Requirements (See Note A)		Minimum Setback (ft.) (See Notes A, B, C, G)					Max. Height (ft.) (See Notes D, E)	
	Minimum Area	Width (ft.)	Wetlands	Water's Edge	Front	Sides	Rear		
A-R	1 acre	125	30	30	50	10	25	35	
R1	12,500 sq. ft.	100	30	30	30	10	25	35	
R-2	12,500 sq. ft.	100	30	30	30	10	25	35	
R-3	6,250 sq. ft.	100	30	30	30	10	25	35	
MHP	See Note F								
NC	W/public water or sewer***	20,000 sq. ft.	100	30	30	30	10	25	3 Stories
	W/out public water or sewer***	40,000 sq. ft. minimum	100	30	30	30	10	25	3 Stories
GC	12,500 sq. ft.	100	30	30*	30*	10	20	3 Stories	
LI	20,000 sq. ft.	100	30	30*	30*	10**	20	3 Stories	
SC	12,500 sq. ft.	100	30	30*	30*	10	30	35	
RR	Single Family Dwelling	5 acre	235	30	30	50	10	25	35
MC	12,500 sq ft	100	30	30	30	10	20	35	

- \* 15 feet if parking on side or rear of structure.
- \*\* 20 feet if abuts residential district.
- \*\*\* public water and sewer means municipally-provided services.

**FOOTNOTES TO THE TABLE OF DIMENSIONAL REQUIREMENTS**

The following footnotes apply to the Table of Dimensional Requirements (Section 5.6)

**Note A:** *Existing Parcels.* Nonconforming parcels may be developed for uses permitted in the zoning district. Unless otherwise stated in this Ordinance, setbacks of the district shall apply to all parcels.

**Note B:** *Corner Lots.* The following setbacks shall be observed on corner lots:

1. **NC and GC Zoning Districts.** The shortest side of the lot along the street right-of-way shall be considered the front lot line. Side yard setbacks shall apply to the exterior and interior side lot lines; if a rear yard exists, rear yard setbacks shall apply to the remaining lot line.
2. **All other zoning districts.** The required front yard setback shall apply to lot lines that are adjacent to the street. For all other lot lines, side yard setbacks apply.

**Note C:** *Through Lots.* For through lots, front yard setbacks apply to any property line adjacent to a street.

**Note D:** *Height Exemptions.* The following appurtenances shall be allowed to exceed height limits as long as they do not project into a utility easement; however, they cannot be used for human occupancy.

1. *Special elements, such as church steeples, belfries, cupolas, domes, and ornamental towers may exceed maximum height limits in each zoning district, but in no case shall exceed seventy-five (75) feet in height.*
2. *Appurtenances to mechanical or structural functions such as chimney and smoke stacks, penthouses, water tanks, elevators and stairwells, ventilators, bulkheads, radio aeriels, fire and hose towers, cooling towers, and HVAC units.*
3. *Appurtenances to agricultural functions such as silos, barns, water towers, and outbuildings, including other such agricultural structures not specifically delineated.*

**Note E:** *Residential Height.* Height exemptions shall not be permitted for residential buildings or structures.

**Note F:** *Manufactured Home Park District.* All dimensional standards and requirements under the Michigan Department of Labor and Economic Growth's Manufactured Housing Commission rules (adopted February 12, 1998 or as amended or as replaced with alternative rules) shall be observed.

**Note G:** *Wetlands.* Section 324.30305 of NREPA lists exemptions not subject to wetlands protection regulations. Elmwood Township shall not impose wetland setbacks on said exemptions. The applicant has the burden of proof for providing evidence of any exemption(s).

## **SECTION 5.7 ACCESSORY BUILDINGS AND DECKS**

### **A. Accessory Buildings**

1. Accessory buildings less than one hundred (100) square feet in area may be located within the rear yard setback. No accessory building shall be closer than ten (10) feet from any side lot line.
2. An accessory building shall occupy no more than thirty (30) percent of a rear yard.
3. In the R-2 and R-3 zoning districts, and for residential uses in the NC zoning district, a maximum of three (3) accessory buildings are permitted on a single parcel. Furthermore, within these zoning districts the square footage of the combined area of all accessory structures on a single parcel shall not exceed three (3) times the area of the footprint of the principal building.
4. Maximum permitted building height for accessory structures shall be twenty-five (25) feet.

### **B. Residential Decks**

1. For purposes of this Ordinance, decks shall be considered an accessory structure.
2. Decks shall meet all required setbacks.

3. For lakefront properties, a deck may be permitted in the water's edge setback, provided:
  - a. Side setbacks are met.
  - b. Deck shall not be larger than two hundred fifty (250) square feet.
  - c. Deck shall not be located within the water or at an elevation lower than the ordinary high water mark.



**Article 6**  
**Site Development Requirements**

**SECTION 6.1 PARKING**

**SECTION 6.1.1 Applicability**

No building shall be erected, altered, or used, and no land shall be used unless there is provided adequate off-street parking spaces for the needs of the owners, tenants, personnel, visitors, and patrons, together with means of ingress and egress. Parking spaces may be provided in a building or in the open in accordance with the provisions of this Article.

**SECTION 6.1.2 - General Requirements**

- A. **Single Family and Two Family Residential Parking.** Required off-street parking facilities shall be located on the same property as the dwelling they are intended to serve. Parking shall not be permitted within a required front yard setback unless located on a driveway. Required off-street parking spaces for single-family residential lots three-quarters ( $\frac{3}{4}$ ) of an acre or less shall consist of a driveway, garage, or parking bay. All parking areas and driveways shall be constructed of asphalt, concrete, compacted gravel, pavers or other solid, dust-free, permeable material.
- B. **Non-Residential Off-Street Parking.**
1. Off-street parking in nonresidential districts or for non-residential uses within a residential district shall not be permitted within a front yard setback, but may be located behind or to the side of the primary structure.
  2. All parking areas, maneuvering lanes, driveways, and loading areas shall be constructed of asphalt, concrete, pavers or other solid, dust-free, permeable material.
  3. The parcel proposed for a use shall have sufficient room for off-street parking to meet the requirements of this Ordinance. Shared parking may be used as per Section 6.1.2.C. If a lot is split by a public road, parking shall be on the same side of the road as the use.
  4. No parking lot shall be located within the clear vision area, as established by Section 3.10 of this Ordinance.
  5. Parking shall be on the same side of the road as the use it serves. When required parking cannot be located on the same side of the road as the primary use, a grade separation (tunnel or overpass) or an at-grade crossing served by a traffic control device may be approved by the Planning Commission as a Special Land Use subject to the application requirements and procedures as provided in Article 9, Special Land Uses. However, the review standards in Section 9.3 shall not be applicable; instead, this special land use shall comply with the following standards/requirements:
    - a. The grade separation or at-grade crossing shall safely convey pedestrian traffic between the primary use and the required parking.

- b. The grade separation or at-grade crossing must be approved by the agency having jurisdiction over the public road (e.g. either the Michigan Department of Transportation or the Leelanau County Road Commission).
  - c. The required parking shall be screened from public view or located at the rear of any building or structure located on the same parcel as the parking.
  - d. The grade separation or at-grade crossing shall comply with applicable nationally recognized standards for such a crossing.
6. Every parking lot or parking area shall be so constructed that no surface water shall shed into or towards such body of water unless such surface water is first treated or filtered to remove any silt, grease or oil, salt or other matter which would deteriorate the water quality of said body of water. Snow removal from parking lot or parking area shall not be stored within the water edge setback unless contained to the parking area.

**C. Shared use of off-street parking areas** may be provided collectively by two (2) or more adjacent buildings as allowed below:

- 1. The total number of parking spaces shall be computed separately based on Section 6.1.3 then divided by the Effective Parking Factor.
- 2. Institutional and Municipal uses, Agricultural Commercial and Industrial uses are prohibited from using shared use parking areas.

Function	Function (Effective Parking Factor)			
	Residential	Lodging	Office	Business / Commercial
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Business / Commercial	1.2	1.3	1. 2	1.0

*For example, if an office and retail establishments separately need 44 parking spaces and they have an agreement to share parking then the 44 parking spaces is divided by 1.2 resulting in an effective parking lot size of 37 parking spaces.*

**D. Fractional spaces.** If calculations determining the number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one (1) parking space.

**E. Uses not specifically mentioned.** The off-street parking space requirement shall be as determined by the Zoning Administrator using the use that is most similar in use and intensity.

- F. **Bench Seating.** When benches, pews or other similar seating is used to calculate the required number of parking spaces, each twenty-four (24) linear inches shall be counted as one (1) seat.
- G. **Off-Street Restrictions.** Use of off-street parking areas for commercial repair work, storage of merchandise, servicing, or selling of vehicles, vehicle storage or seasonal boat storage is prohibited. Seasonal storage of boats in a marina parking lot shall not violate this section if previously approved in accordance with Section 9.8.
- H. **Limitation of Parking Spaces.**
1. Maximum Parking.
    - a. To minimize excessive areas of pavement, which detract from the aesthetics of an area and contribute to high rates of storm water runoff, the total number of parking spaces provided for any nonresidential parking area constructed after adoption of this Ordinance shall not exceed one hundred twenty five percent (125%) of the parking required under this Article, unless specifically authorized by the Planning Commission through the site plan review process of Article 8, Site Plan Review.
    - b. In granting any additional spaces beyond the required amount, the Planning Commission shall determine that the parking is necessary based on documented evidence of actual use or anticipated demand as provided by the applicant. The Planning Commission shall also consider impacts on the property and surrounding properties, including any natural features thereon.
  2. Overflow Parking. For uses that require additional parking for special events on an infrequent basis, an auxiliary overflow parking area may be designated on the site plan. The overflow parking area shall be landscaped or otherwise improved with a mowed, graded, porous, and/or permeable surface.
  3. Deferred Parking. The Planning Commission may defer construction of a portion of the required number of parking spaces if the following conditions are met:
    - a. Areas proposed for deferred parking shall be shown on the site plan and shall be sufficient for construction of the required number of parking spaces, in accordance with the requirements of this Article for parking lot design and other site development requirements. The deferred area shall not be used for any purpose that would generate a need for parking.
    - b. Modifications and construction of parking facilities within the deferred parking lot may be initiated by the owner or required by the Zoning Administrator, and shall require the approval of an amended site plan by the Zoning Administrator.

### SECTION 6.1.3 Spaces Required

A. The following schedule contains the parking requirements for individual uses and activities within the township.

USE	MINIMUM NUMBER OF SPACES REQUIRED
Agricultural commercial enterprise	1 space for each 100 sq ft of retail floor area open to the public.
Automobile repair garages	4 spaces per stall
Athletic field, ball field, ball diamond	20 spaces per sports field
Bank	1 space for every 100 sq ft of floor area
Beauty Parlor	2 spaces per every chair
Bed and breakfast inn	2 spaces plus 1 space for each unit for rent
Business and professional office	
	NC zoning district
	All other districts
Child care centers	1 space for each employee and 1 space for every 3 children center is licensed for
Community Park and Playground	1.5 spaces for each 20,000 sq ft of park area plus 3 spaces for each playground equipment set
Community Recreation Center	1 space per 200 sq ft of floor area
Courts- Tennis, basketball, volleyball	3 spaces per court
Dependent Care Facility	
	Nursing Home
	Other
Fraternal organizations	1 space for every 2 persons allowed by occupancy permit
Gasoline service station	1 space for every 300 sq ft of floor area in convenience store plus 1 space per employee on largest shift
General warehousing	5 spaces plus 1 per employee on largest shift
Golf Course	3 spaces for each golf hole plus 1 space for every 2 spaces at the driving range
Governmental buildings	1 space for every 200 sq ft of floor area
Home child care	2 spaces plus 1 space for every 6 children
Indoor and Outdoor commercial recreation center	1 space per 150 sq ft dedicated to the use
Kennels	1 space for every employee
Light industrial including fruit and vegetable processing plants	5 spaces plus 1 per employee on largest shift
Manufactured Home Park	2 spaces per dwelling unit plus 1 space for each employee
Marinas	1 space per every 2 slips plus 8 trailer parking spaces for each boat launch ramp plus 4 spaces per each charter boat lease slips
Medical Clinics, Veterinary clinics	1 space for each 300 sq ft of waiting room plus 1 space per patient room, chair, or similar area

USES		MINIMUM NUMBER OF SPACES REQUIRED
Mini-Warehousing		1 space for every 300 sq ft of floor area in office plus 2 space for on-site dwelling
Motel		1 space for each occupant unit plus 1 space per employee on largest shift
Natural Areas		1 space for every 4 acres
Nurseries and greenhouse		1 space for every 600 sq ft of retail space
Outdoor pavilion and picnic areas		1.5 spaces per picnic table
Place of Worship		1 space for every 4 fixed seats or 1 space for every 4 lineal feet of pew or bench
Schools		
	Elementary, Junior High School	1 space per employee plus 1 space for each classroom
	High School	1 space per employee plus 1 space per every 10 students
Public or Private Clubs		1 space per every family or individual memberships. 1 space for each 100 sq ft of water surface plus accessory uses
Residential-Multiple Family		2 spaces per dwelling unit plus 1 guest space for every 4 dwellings
Residential-Single Family & Two Family		2 spaces per dwelling unit
Restaurants including outdoor seating and tasting rooms		1 space for every 3 people allowed by occupancy permit
Retail stores not otherwise listed		
	NC zoning district	1 space for every 250 sq ft of floor area
	All other districts	1 space for every 200 sq ft of floor area
Riding stables		1 space per every 2 stalls
Temporary produce stands		1 space for every 60 sq ft of area devoted to the use
Yacht Club		1.5 spaces per boat plus 1 space per every 4 people allowed by occupancy permit

**A. Pedestrian and Non Motorized Circulation.**

1. For all uses other than residential, off-street parking areas shall be designed to safely accommodate pedestrian circulation and access to the primary use.
2. Where a parking area is adjacent to a bike path or sidewalk along the right-of-way, the site shall be designed to provide hard surface access from the bike path or sidewalk onto the site.
3. As a condition of Site Plan approval and consistent with the provisions regarding Site Plan review and the imposition of conditions of approval, the Planning Commission can require the installation of bicycle facilities, such as bike loops, bicycle parking pads, and related signage.

**B. Parking Spaces for the Disabled.** All parking areas shall conform to the requirements of the Americans with Disabilities Act and any other accessibility requirements in effect at the time. These spaces shall be included in the calculations for meeting the parking requirements of this Article.

## SECTION 6.1.4 Off-Street Parking Development

Off-street parking lots shall be designed, constructed, and maintained in accordance with the following requirements:

- A. A parking lot shall not be constructed until a land use permit has been issued by the Zoning Administrator.
- B. Before a permit is issued, plans and specifications shall be submitted for review and approval showing the location, capacity, size, site design, surfacing, marking, lighting, landscaping, drainage, curb cuts, entrances, exits, and any other detailed features essential to design and construction of the proposed parking facility.
  1. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width (ft.)		Parking Space (ft.)	
	One way	Two way	Width	Length
0 degrees (Parallel Parking)	12	18	8	23
30 to 53 degrees	14	18	9	19
54 to 74 degrees	18	20	9	18
75 to 90 degrees	20	24	9	18

2. Each off-street parking lot shall not cross residentially zoned property but shall connect parking area with adjacent parking areas where possible. Easements shall be recorded when parking does not have direct access to a highway or street.
3. All parking spaces shall be accessed by means of maneuvering lanes. Backing directly onto a street shall be prohibited except for single family and two family residential uses.
4. Adequate ingress and egress to the off-street parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be permitted across property zoned for single-family residential use.
5. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single family residential use shall be at least twenty five (25) feet from adjacent lots located in any single family residential district.
6. All off-street parking lots abutting a residential district shall be provided with a fence of not less than five (5) nor more than six (6) feet in height, constructed of materials sufficient to block the view of the parking lot from the abutting residential district. A living fence of not less than four feet, six inches (4' 6") when planted may be substituted to meet this requirement. Such fences shall be constructed of materials approved by the Zoning Administrator and shall be durable, weather resistant, and easily maintained.
7. Except for single family and two family residential lots, all parking areas, including parking spaces, loading zone, and maneuvering lanes, shall be surfaced with a material that

provides a durable, smooth, and dustless surface and shall be graded and drained to dispose of all properly collected surface water so that it does not pollute adjoining waters or lots.

8. To further the goals of the Greilickville Sub Area Master Plan, all new or redeveloped properties along M22 shall connect parking areas to adjacent parking areas where feasible.

#### **SECTION 6.1.5 Snow Storage**

- A. Whenever an off-street parking lot is two thousand seven hundred (2,700) square feet or larger, provision shall be made for on-site snow storage in addition to the required parking lot. Snow storage shall be provided in the ratio of ten (10) square feet of storage area per one hundred (100) square feet of parking lot surface area.
- B. Snow storage areas shall be located so they do not interfere with clear visibility of traffic on internal roads or drives, adjacent streets, and highways.
- C. Snow storage areas shall not interfere with emergency vehicle access.

#### **SECTION 6.1.6 Stacking Spaces**

In addition to parking spaces required within this Article any drive-through use shall be provided with 10 stacking spaces for each drive through service window. Where a restaurant, financial institution, or any other use incorporates a drive-through or pick-up window, stacking spaces shall be provided in a manner so as not to interfere with the safe movement of traffic on a public right-of-way. Compliance with this requirement may be demonstrated by a traffic impact analysis. Stacking spaces shall not utilize or otherwise interfere with the use of any required parking space.

#### **SECTION 6.1.7 Existing Parking Conditions**

Any use that meets the parking requirements of this Ordinance at the time of site plan approval shall continue thereafter to comply with all parking requirements hereof. Upon expansion of an existing use or structure, any nonconforming parking lot shall be required to comply with the parking requirements in place at the time of the expansion of the use or structure.

#### **SECTION 6.1.8 Off-Street Loading And Unloading Requirements**

- A. On the same off-street parking lot with every building, structure, or part thereof involved in the receipt or distribution of vehicles, materials, or merchandise, space shall be provided and maintained on the lot for standing, loading, and unloading in order to avoid interference with the public use of dedicated public streets.
- B. Loading docks shall be located on either the rear or side of the building not facing a street, and shall be enclosed on two (2) sides by a decorative masonry wall.
- C. Loading spaces shall be fourteen (14) feet by sixty (60) feet, with fourteen (14) feet of clearance.

#### **SECTION 6.1.9 Parking Area Landscaping**

All parking area landscaping shall comply with Section 6.4 of this Ordinance.





## **SECTION 6.2 ACCESS MANAGEMENT**

- A. Access Management. The following restrictions apply to properties in all commercial and business zoning districts within the Township:
1. Driveways along the primary road frontage shall be spaced, as measured from the driveway centerlines, a minimum of one hundred and twenty-five (125) feet apart.
  2. Driveway locations and design shall be approved by either the Michigan Department of Transportation (MDOT) or the Leelanau County Road Commission.
  3. A maximum of one (1) driveway per parcel shall be permitted on the primary road frontage. When accessible:
    - a. Driveways on adjacent parcels shall be shared.
    - b. At the rear of a parcel, driveways shall be accessed via an alley or a secondary drive located within an easement.
  4. Driveways on opposite sides of an arterial shall be aligned or offset a minimum of one hundred and fifty (150) feet, as measured from the centerlines where practicable.
  5. Shared commercial driveways and service roads shall be located within an access easement which has been approved by the Township Attorney prior to being recorded with the County Register of Deeds.
  6. Where it can be demonstrated that preexisting conditions and the natural features prevent adherence to the minimum commercial driveway spacing requirements, the Planning Commission may modify those requirements. Requirements shall be modified by the minimum amount necessary to achieve safe access.

## **SECTION 6.3 OUTDOOR STORAGE AND PRIVACY FENCES**

All loading and unloading areas, waste receptacles, and outside storage areas which face or are visible from residential districts or public streets, shall be screened by a vertical screen consisting of a solid masonry enclosure or wood enclosure no less than six (6) feet in height. The finished side of any wall, fence, or other screen shall face adjacent properties.

**SECTION 6.4 LANDSCAPING**

**SECTION 6.4.1 Intent and Applicability**

- A. Intent. The intent of this Article is to promote the provision of adequate vegetative landscaping and buffering to improve aesthetics; to reduce potential light and noise nuisances; to reduce impervious surface area; to retain existing naturalized vegetation; to improve filtration of storm water runoff; and to provide shade in parking areas.
- B. Applicability
  - 1. The requirements in this Section shall apply to all applications that require a site plan review.

**SECTION 6.4.2 General Landscaping Requirements**

- A. Landscaping shall be comprised of species chosen for the site’s specific condition (soil type, hydrology, hardiness, etc). Factors to be considered in determining species shall include the ability to thrive in the proposed location, expected full size of the species, and whether it is poisonous to humans.
- B. Elmwood Township will use the “Recommend Planting Guidelines for Municipalities” as published by the Northwest Michigan Invasive Species Network, as periodically revised, to determine what constitutes a “native species” from an “invasive species”.
  - 1. Only “native species” listed under “Recommended Plants” shall be used as plant materials for any type of landscaping.
  - 2. “Invasive species” shall be removed during development and will not be allowed for landscaping in any non-residential zoning district.
- C. The following minimum plant sizes and spacing shall be provided at time of installation.

<b>Minimum Plant Sizes and Spacing</b>		
<b>Type of Plant Material</b>	<b>Minimum Plant Sizes</b>	<b>Recommended Spacing Requirements</b>
Deciduous Canopy Tree.	2½ in. caliper	25 ft. on-center
Deciduous Ornamental Tree.	2 in. caliper 6' height (clump form)	15 ft. on-center
Evergreen Tree.	6 ft. height	15 ft. on-center
Deciduous Shrub.	2 ft. height	4-6 ft. on-center
Upright Evergreen Shrub.	2 ft. height	3-4 ft. on-center
Spreading Evergreen Shrub.	18-24 in. spread	6 ft. on-center

- D. Landscaping shall be maintained in a healthy, growing condition. Diseased or dead materials shall be replaced within the current or next planting season.

- E. A landscaping plan for a development entranceway shall be submitted to the Planning Commission for review and approval.
- F. Any berms installed in the township shall meet the following requirements:
  - 1. Berms shall be no higher than five (5) feet, as measured from the average grade along the primary road side or along the perimeter of the site (depending on the proposed location).
  - 2. Berms shall have a minimum width of three (3) feet at the crown and shall have a maximum side slope of 2:1.
  - 3. Berms shall undulate or otherwise be designed to avoid an unnatural appearance.
  - 4. Landscaping shall be in naturalized groupings planted along the slopes of the berm.

### **SECTION 6.4.3 Parking Area Landscaping**

- A. Parking lot screening shall be constructed to create a visual screen at least six feet in height along all adjoining boundaries between a residentially zoned property and either a conflicting nonresidential land use or a conflicting residential land use. A landscape buffer having a minimum width of 10 feet may consist of landscaped earthen berms and/or living plant material so as to maintain a minimum opacity of at least 80%. The buffer area shall consist of natural landscape materials such as lawn, ground cover, shrubs, and trees and shall not contain impervious materials except sidewalks or pathways. Opacity shall be measured by observation of any two-square-yard area of landscape screen between one foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this requirement based upon reasonably anticipated growth over a period of three years.

### **SECTION 6.4.4 Buffers**

- A. Where a nonresidential use is adjacent to a residential zoning district or use, a minimum buffer of fifteen (15) feet shall be required along the perimeter(s) of the nonresidential site.
- B. A buffer may consist of any or a combination of the following:
  - 1. Existing natural vegetation, provided that it provides substantial screening year around.
  - 2. Existing natural vegetation, augmented with additional plantings to provide substantial screening year around.
  - 3. A “living wall” of upright evergreen shrubs with a minimum height of five (5) feet within two (2) years of planting.
  - 4. Naturalized groupings of planted vegetation with a minimum of one (1) tree and four (4) shrubs per twenty (20) linear feet

## **SECTION 6.5 LIGHTING**

### **SECTION 6.5.1 Intent**

To preserve the character of Elmwood Township, the dark night sky, and the restful quality of nighttime by eliminating intrusive artificial light and glare.

To prevent unwanted/undesirable illumination of neighboring properties.

To maintain safe nighttime vehicular and pedestrian traffic.

### **SECTION 6.5.2 Requirements**

- A. All light sources and light lenses shall be shielded and down-facing. Lighting from exposed, bare light bulbs or from bare luminous tubes shall not be permitted.
- B. Lighting shall not be directed off one's property.
- C. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color. Beacon lights, searchlights, or lasers are not permitted.
- D. No lights shall be used in any location or in any manner so as to be confused with or construed as a traffic control device.

### **SECTION 6.5.3 Exceptions**

- A. Safety lighting required by law, such as obstruction lights on tall structures and construction projects.
- B. Farm related lighting for Agricultural Commercial Enterprises as defined in Article 2 of this Ordinance.
- C. Exceeding the height and/or intensity of lighting fixtures as stated in this Section may only be approved by a variance approved by the Zoning Board of Appeals under Article 12.

### **SECTION 6.5.4 Other Lighting Restrictions**

- A. Internally lit outdoor vending machines may be allowed by the Planning Commission if visually screened from adjacent properties.
- B. All non-residential outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary or an infrared sensor security fixture is used.
- C. Any installed parking lot lighting shall comply with the following requirements:
  - 1. All pole-mounted lighting of parking or display areas shall be fully shielded, and in no case shall the light be permitted to extend above the horizontal plane of ninety (90) degrees.

2. Pole mounting height for any outdoor lighting shall not exceed twenty- five (25) feet.
- D. Lighting for a parking area shall be installed so that the light is directed into the parking area only. Parking lot lights shall be extinguished after working hours or shall be placed on an infrared sensor.

## **SECTION 6.6 SIGNS**

### **SECTION 6.6.1 Intent**

The intent of this section is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, welfare, and traffic safety. While this section recognizes that signs and outdoor advertising are necessary to promote commerce and public information, it also recognizes that the failure to regulate them may lead to poor identification of individual business, deterioration and blight of the business and residential areas of the township, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists. To achieve its intended purpose, this section has the following objectives:

1. To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses;
2. To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products;
3. To keep signs within a reasonable scale with respect to the buildings they identify;
4. To reduce visual distraction and obstructions to motorists traveling along, entering or leaving streets;
5. To promote a quality manner of display which enhances the character of the township;
6. To prevent the proliferation of temporary signs which might promote visual blight; and
7. Promote economic development by allowing a fair opportunity for each property owner to attractively display their message in a clean and clear way.

### **SECTION 6.6.2 General Requirements**

- A. All signs, unless otherwise specified in this Article, require a sign permit. Signs may also be subject to fees and/or a performance guarantee.
- B. Sign Quality. Each sign erected pursuant to this Ordinance must be constructed of permanent materials. The structure, surface and paint must be kept in good repair to ensure safety and aesthetics. Damaged or structurally unsound signs shall be prohibited, as well as signs with chipped paint, rust, cracking, or damaged lettering, and other forms of damage or wear. Signs shall be anchored to a permanent structure or sunk to a depth in the ground sufficient to ensure stability.
- C. Illumination.
  1. Each sign, which is artificially illuminated, shall have the light source shielded from the direct vision of individuals using adjacent roadways, properties, or sidewalks. Any applicable electrical permits for the sign shall be obtained and filed with the Zoning Administrator.
  3. Signs shall not emit light directly into the sky. The light source shall not be positioned so that the center of the light source exceeds more than 45 degrees from ground level.
  4. Illumination by bare bulbs or flames is prohibited excluding miniature LED lights used in changeable copy signs.
  5. Underground wiring shall be required for all illuminated signs that are not attached to a building.

D. Sign Clearance. Signs shall not project into the road right-of-way, a sidewalk, pedestrian easement or other area normally used by pedestrians even if such usage is on private property.

E. Sign Measurements.

1. Area.

- a. The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet. For a wall sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle) or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separate by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprise(s) all of the display areas, including the space between different elements. See Table 6-1 area calculations.

Example of calculations:



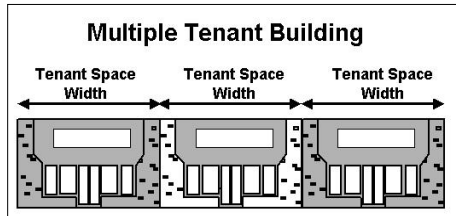
Table 6-1

**FORMULAE: COMMON GEOMETRIC SHAPES**

Even the most complex sign backgrounds are simply combinations of various geometric shapes. Included here are useful formulae to assist in the computation of the areas of common shapes. Some of these formulae utilize the Greek letter pi, designated as the symbol  $\pi$ . The approximate numerical value of  $\pi$  is 3.1416.

	<p><b>CIRCLE</b></p>
<p>The AREA of a circle is found by multiplying the square of its radius (radius is the distance from the center to the outer edge or circumference) by <math>\pi</math> (3.1416). <b>Area = <math>\pi r^2</math></b></p>	
	<p><b>SQUARE, RECTANGLE, PARALLELOGRAM</b></p>
<p>The AREA of a square, rectangle, or parallelogram (all four sided figures with two pair of parallel sides) is found by multiplying the length by the width. <b>Area = <math>L \times W</math></b></p>	
	<p><b>TRIANGLE</b></p>
<p>The AREA of a triangle (three sided figure) is found by multiplying one-half of the base times the height. <b>Area = <math>\frac{1}{2} (b \times h)</math></b></p>	
	<p><b>ELLIPSE</b></p>
<p>The AREA of an ellipse is found by multiplying half the length of the major axis by half the length of the minor axis, then multiplying the result by <math>\pi</math> (3.1416). <b>Area = <math>\pi (a \times b)</math></b></p>	
	<p><b>TRAPEZOID</b></p>
<p>A four sided figure with only one pair of parallel sides. The AREA equals one-half the product of its altitude (a) multiplied by the sum of its bases (the bases are the two parallel sides - b and c). <b>Area = <math>\frac{1}{2} a (b+c)</math></b></p>	
	<p><b>REGULAR POLYGONS</b></p>
<p>Polygons are figures bounded by straight lines called sides. The AREA of a polygon equals the number of triangles within it times the area of each triangle. See formula for triangle. <b>Area = <math>\frac{1}{2} (b \times h) \times \text{number of triangles}</math></b>.</p>	

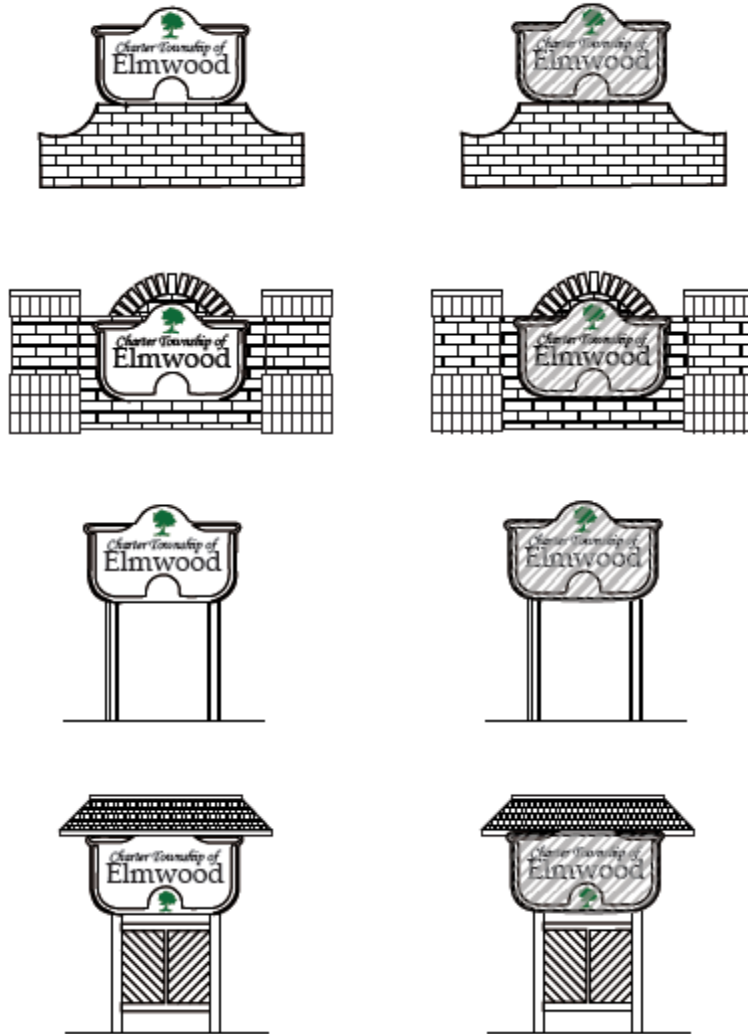
- b. In a Business Center, each tenant may, on that portion of the building or site occupied by it, construct a wall sign as permitted in the zoning district in which it is located.



- c. Pole covers, framing, support structures, etc. are excluded from the measurement of sign area provided there is no written advertising copy. Property address numbers may be part of the embellishments or be placed on the supporting structure, but shall not be included in the measurement of sign area.



Examples of area to be used in calculating sign area in shaded area



- d. Signs may be double-faced, but only the greater face shall be measured in determining size.

### SECTION 6.6.3 Prohibited Signs

The following signs are prohibited in any district:

- A. Any sign not specifically permitted by this Article.
- B. A sign that contain any moving or animated parts or have the appearance of having any moving or animated parts when such sign is visible from any public right of way or from any private driveway or vehicular easement. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light.

- C. Pennant flags, streamers, searchlights, strings of lights, balloons, over-the-street banners, or other similar material or devices used for advertising purposes, except as provided in Section 6.6.6. of this Ordinance.
- D. A temporary or movable sign and air blown device not specifically permitted herein.
- E. A sign placed or painted upon trees or rocks or natural features.
- F. A sign affixed to gas station pumps that can be read from off the site, except those as may be required by state or federal regulations.
- G. A sign placed on any light pole, utility pole, or other support.
- H. A sign erected in any place where, by reason of its position, shape, color, or other characteristic, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device.
- I. A sign erected, relocated, or maintained that prevent free ingress or egress from any door, window, or fire escape or that are attached to a standpipe or fire escape.
- J. A sign or other advertising structure erected at the intersection of any street in such a manner as to obstruct free and clear vision of motorists.
- K. A sign on a motor vehicle if the motor vehicle is parked in a position visible to traffic on a public road or parking area for the primary purpose of displaying the sign to the public.
- L. Trailer mounted or similar portable sign, such as a wheeled device.

**SECTION 6.6.4 Signs Not Requiring A Sign Permit**

The following signs are allowed in all districts without a sign permit:

- A. Incidental signs.
- B. Signs containing only non-commercial speech totaling 12 sq ft per parcel and not more than 4 feet in height
- C. Signs located at the entryway of a subdivision provided that:
  - 1. Signs are limited to 1 per entry street.
  - 2. Signs are a maximum of 12 sq ft in area.
  - 3. Signs are not more than 4 feet in height.
  - 4. Signs are made out of natural or natural looking materials (stone, wood, limestone, etc).
- D. Signs placed inside business windows provided that:
  - 1. Sign area, in total, shall not exceed twenty (20) percent of the window area.

2. Signs are located less than 12 feet above grade.

E. Vehicle mounted signs with a permanent message displayed on trucks, buses, trailers, or other such vehicles which are being operated or stored in the normal course of a business, provided that the primary purpose of such vehicle is not for the display of signs, and provided, further, that such vehicle is parked or stored in an area regularly used by business patrons or the employees of the business.

**SECTION 6.6.5 Table Of Sign Regulations for Commercial Uses**

Sign	Zoning District	Size		Height above grade	Number	Location
		Base Area	Area Bonus			
Freestanding	Municipal Center**	32 sq ft	For dark or opaque background: 10 additional square feet	8 ft	1 per parcel or business, whichever is less	On premise, outside of road right of way
	Neighborhood Commercial**					
	General Commercial**					
	Light Industrial**					
	Shoreline Commercial**		For signs located 20 feet or more from the road right of way: 10 additional square feet			
	Agricultural-Rural	24 sq ft		8 ft	1 per parcel or business, whichever is less	On premise, outside of road right of way
	Residential-1 Residential-2 Residential-3	12 sq ft	For dark or opaque background: 4 additional sq ft	4 ft	1 per approved commercial use, excluding home occupation use	On premise, outside of road right of way
	Manufactured Home Park					
	Rural Residential					

Sign	Zoning District	Size		Height above grade	Number	Location
		Base Area	Area Bonus			
Wall	Municipal Center	12 sq ft	For dark or opaque background: 6 additional square feet	12 ft	1 per business per wall	On premise
	Neighborhood Commercial					
	General Commercial					
	Light Industrial					
	Shoreline Commercial					
	Agricultural-Rural					
	Residential-1	3 sq ft		12 ft	1 per approved commercial use including home occupation use	
	Residential-2					
	Residential-3					
	Manufactured Home Park					
	Rural Residential					

\*\* Lots with frontage on two streets may have a second sign identifying the business provided the signs are not located on the same street and the second sign does not exceed 16 square feet in area.

**SECTION 6.6.6 Special Event Signs**

Temporary special event signs at an event approved in Section 3.17 shall be allowed only with a permit for each sign and subject to the following:

- A. Such temporary signs shall be erected not more than sixteen (16) days prior to the special event and removed within three (3) days following a special event.
- B. Such signs shall be of a design and materials to withstand moisture, wind and similar weather-related conditions.
- C. Such signs shall be maintained as required by Section 6.6.2.B.
- D. Any special event signs not approved by the Zoning Administrator may be removed by the Zoning Administrator without having to so advise the sponsoring organization in advance of the signs being removed.

**Section 6.6.7 Changeable Copy Signs (LED or manual change)**

Freestanding signs incorporating manually changeable letters, digital static messages, or images that change are permissible in the MC, GC, and SC zoning districts, provided the changeable copy does not exceed 20%

of the permitted base area and provided further that the rate of change between two static messages or images is not less than five (5) minutes. The change sequence must be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure.

### **Section 6.6.8 Billboards**

#### **A. Intent.**

1. To allow Elmwood Township to regulate the height, size, display area, setback, lighting, and distances between billboards, and other regulatory powers pursuant to Act 153 of 1990 to control outdoor advertising along M-72 and M-22.
2. To allow billboards for the purposes of outdoor advertising that provide information, identification, and/or direction without jeopardizing the beauty of the natural landscape, disrupting the environment of historically significant features or sites, or creating a potential distraction that may be hazardous to motorists.
3. To allow signs which are appropriate, proportional, and in scale with adjacent uses and roadways and are compatible with the character of the community.
4. To regulate outdoor advertising in such as way as to foster land use objectives, and to prevent signs that would detract from scenic roadways and scenic views.
5. To ensure compatibility with rural lands, neighborhoods, and business areas in order to protect land values, thereby enhancing the image of the community for residents, tourists, and visitors.

#### **B. Requirements.**

1. Billboards can only be located along M-72 and M-22 on properties zoned General Commercial (GC).
2. Billboards shall be considered a principal use on any commercial lot/parcel and shall comply with all relevant and appropriate General Commercial (GC) requirements within the Ordinance.
3. The parcel on which the billboard is to be located shall be vacant, (i.e., there are no other business, industrial, or residential uses on said parcel).
4. All billboards must be setback a minimum of fifty (50) feet from all property lines.
5. No billboard shall be illuminated. LED billboards are not allowed.
6. There shall be a minimum horizontal spacing of two thousand (2,000) feet between any two (2) billboards, including both sides of a highway.
7. A permit from the State of Michigan is required to obtain a sign permit from the Township.

C. Size and Height.

1. A billboard may not exceed thirty-two (32) square feet in area, and no billboard shall be longer than four (4) times its height. The maximum height of each billboard shall be ten (10) feet, as measured in accordance with Section 6.6.2.E.
2. The area of the billboard shall be determined by circumscribing the exterior limits of each display erected on one billboard structure, including the background.
3. The square foot area measurement shall be based on one (1) display face, but both sides of the billboard face may be used for advertising purposes without exceeding the maximum allowed area of the billboard. Parallel billboard faces shall not be separated by more than four (4) feet. V-type billboard faces shall not exceed an inside angle of forty-five (45) degrees. Otherwise, the second face shall be counted as another billboard.

D. The following billboards are prohibited:

1. A billboard within five hundred (500) feet of any residential zoning district, park, school, church, hospital, retirement home, cemetery, or government building.
2. A billboard that is stacked, tiered, stepped, or placed next to or alongside of any other billboard or sign.
3. Billboards containing flashing, intermittent, changing, or moving lights or sequential reflectorized lettering or parts, and billboards with moving or revolving parts or messages.
4. Billboards affixed to trees, rocks, shrubs, fences, utility poles, and/or natural features.
5. A billboard that would, by its erection, destroy significant natural vegetation and/or cause significant existing vegetation to be removed.
6. Billboards utilizing vehicles, trucks, vans, or other wheeled devices, tripods, or sandwich boards.
7. A billboard mounted on or over the roof of a building.
8. Billboards that may otherwise be prohibited by any other laws, ordinances, or regulations.

**SECTION 6.6.9 RESERVED**

**SECTION 6.6.10 Nonconforming and Abandoned Signs**

A nonconforming sign may not be altered, modified or reconstructed except:

- A. When such alteration, modification or reconstruction would bring such sign into conformity with these regulations;

- B. Any alteration, modification or reconstruction permitted in this section shall be limited to the replacement of a sign panel or repainting a signs face, and does not permit changes to the structure, framing, erection or relocation of sign unless such changes conform to subsection ‘A’ above.
- C. Abandoned signs shall be removed from the premise upon formal notification mailed to the property owner’s address on file with the Township when the time has lapsed causing the sign to become abandoned. The Zoning Administrator shall file an affidavit with the Register of Deeds stating that the property contains an abandoned sign.

**SECTION 6.6.11 Sign Permits**

A. Permit Required.

It shall be unlawful for any person to erect, or alter a sign within the Township any sign as defined herein, without first obtaining a sign permit from the Zoning Administrator and making payment of the fee as set by the Township Board, unless specifically exempted herein.

Compliance with the provisions of this Ordinance does not, nor is intended to, relieve any owner or proprietor of the obligation of meeting all local, state and federal requirements with regard to signs and appropriate Codes.

B. Application and Approval.

- 1. Application forms for sign permits are provided by the Zoning Administrator and shall contain or have attached thereto the following information at a minimum:
  - a. Name, address, and telephone number of applicant.
  - b. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
  - c. If proposed to be attached to a building, its proposed location on the building.
  - d. A sketch or scale drawing with dimensions of the plans and specifications, and method of construction and attachment to the building or placement in the ground.
  - e. Name of person, firm, or corporation erecting the sign.
  - f. Written consent of the owner of the building, structure, or lot to which or upon which the sign is to be erected.
  - g. Other information as the Zoning Administrator shall require to establish compliance with this Section.
  - h. For temporary signs, the specific dates that the sign is to be displayed.
- 2. It shall be the duty of the Zoning Administrator, upon the filing of an application for a sign permit, to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign. If the proposed sign meets all ordinance requirements, the

Zoning Administrator shall issue the sign permit within fifteen (15) days of receipt of a fully completed application.

3. Administrative decisions made by the Zoning Administrator, which relate to signs, may be appealed to the Zoning Board of Appeals in accordance with the procedures of Article 12 of this Ordinance.

C. Revocation and Extensions of Sign Permits.

1. Any sign or other advertising structure regulated by this Ordinance which is unsafe or insecure, or is a menace to the public, or has been constructed or erected, or is otherwise not in compliance with this Ordinance shall be a violation of this Ordinance.
2. If the work authorized under a sign permit is not completed within one (1) year after the date of issuance, the permit shall become null and void. However, the Zoning Administrator may grant a three (3) month extension without payment of an additional fee if the extension is requested prior to the original sign permit becoming null and void.

**SECTION 6.6.12 Substitution Clause**

Any non-commercial message may be substituted for a commercial message on any sign permitted by this Ordinance.

**SECTION 6.6.13 Removal**

The Zoning Administrator may remove any sign or other advertising structure that is determined to be an immediate peril to persons or property without notice prior to removal, but with notice as soon as practicable after removal.

Signs, which do not comply with any of the requirements of this Ordinance, are in violation of this Ordinance. The Zoning Administrator shall order the removal of such signs.

The Zoning Administrator shall provide the property owner with written notice of the violation and give the property owner 10 days to correct the violation or remove the sign. The property owner has a right to be heard and appeal the Zoning Administrator's determination. Appeals shall be heard by the Zoning Board of Appeals after noticing as required by the Michigan Zoning Enabling Act, as amended. The Zoning Board of Appeals shall determine if the sign is in violation of this Zoning Ordinance, as contained in the written notice that was provided by the Zoning Administrator.



**Article 7**  
**Land Development Options**

**SECTION 7.1 CLUSTER RESIDENTIAL DEVELOPMENT**

**SECTION 7.1.1 Intent, Objectives and Applicability**

- A. It is the intent of this Article to establish and implement the goals of the Elmwood Township Master Plan, which, in part, directs the Township to retain the rural atmosphere of Elmwood Township, and to protect the wetlands, farmlands, woodlands, and other open space, by encouraging the clustering of single family dwellings while keeping the same per unit area requirements. The greater flexibility afforded by these design alternatives should make development of sites easier and more aesthetically pleasing.

Therefore, this Article includes requirements and supplemental standards for the submittal and the design, review, and approval of development projects based on cluster residential and redevelopment options allowed in specific zoning districts. This Article also supports a stable and sound policy that encourages a more imaginative and creative approach to land development through flexible and innovative regulations.

- B. The objectives of this Article are to:
1. Encourage greater compatibility in design and use between neighboring properties.
  2. Recognize and promote land use patterns that permit development while simultaneously preserving the open and rural character of the township.
  3. Provide more desirable living environments by preserving the natural characteristics of open fields, woodlots, flood plains, water bodies, and similar assets.
  4. Preserve woodlands, wetlands, and slopes that, because of their characteristics, can serve to retain and filter water, buffer water bodies and groundwater recharge areas, and provide plant and wildlife habitat.
  5. Allocate land in the township that can accommodate homes with shared open spaces and recreation areas.
  6. Ensure Elmwood Township will continue to be a desired and stable community by encouraging variety in its physical development through a mixture of housing types and forms.
  7. Provide economically viable development.
  8. Provide enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for township residents.

**SECTION 7.1.2 General Requirements**

- A. **Minimum site requirements:** Ten (10) acres.
- B. **Allowable Zoning Districts:** Cluster residential developments are permitted under a Special Use Permit as listed in Article 5.
- C. **Residential Base Density:** The maximum base residential density and number of permitted dwelling units shall be determined by dividing the total gross acreage by the minimum lot size of the underlying zoning district.
- D. **Bonus Density.**
  - 1. Additional density may be allowed for cluster residential developments that incorporate significant natural resource protection into their design, or where open space is provided beyond the minimum requirements of the cluster residential development option.
  - 2. The base density and bonus density together shall not be more than twice the base density. For example, if the base density is one hundred (100) units and the maximum bonus density is one hundred (100) units, then the total number of units allowed would be two hundred (200) units.

Facility/Open Space Provided		Density Bonus
Open Space	55% open space.	10%
	60% open space.	20%
	65% open space.	30%
Providing walking trails/pathways through the entire cluster residential development.		Up to 10%
Providing recreation areas (ball field, tennis court, tot lot, swimming pool, community gardens, etc.) at a ratio of at least one facility per 25 dwelling units.		Up to 20%
Providing innovative design features, such as traditional neighborhood development, traffic calming measures, and other similar features.		Up to 30%
Provide active agriculture plan for undeveloped open space.		25%
Public Sanitary Sewer Service.		30%
Public Water Service.		20%

**E. Minimum Development Requirements.**

1. Uses within a cluster residential development shall be limited to those residential uses permitted by the underlying zoning district.
2. A minimum of fifty (50) percent of the parent parcel shall be set aside as permanently protected open space. This area shall include at least fifty (50) percent of the parcel area.
3. To encourage flexibility and creativity consistent with the open space preservation concept, a clustered housing development may depart from the normal dimensional requirements for lot size, setbacks, lot width, and lot coverage. However, the following minimum requirements shall apply:
  - a. The minimum development setback shall be thirty (30) feet from any lot line, easement line, right-of-way line, or shoreline.
  - b. All lots shall have a minimum of thirty (30) feet of road frontage. Rural roadside character may be preserved through the use of a single common drive or private road, developed in accordance with the Township's private road ordinance as an alternative to driveway access to the existing public road system.
4. Native or natural vegetation shall not be removed from the development setback, nor shall grading occur, except as necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may modify this requirement provided the applicant demonstrates that by clearing existing vegetation and substituting it with new landscaping the result will be a significant contribution to the intent, objectives and design principles of this Article.
5. An undisturbed buffer of native vegetation of at least thirty (30) feet in depth from adjacent surface waters shall be maintained.
6. Health Department requirements for on-site groundwater water supply and sewage disposal shall be met unless connected to municipal water and sewer.

**F. Open Space Requirements.**

1. Roads, road easements, or rights-of-way shall not be included in the open space computation. The footprint of any existing or proposed buildings in the open space shall not be included unless it has a direct connection to the proposed uses in the open space.
2. Open space areas shall be controlled by a conservation easement that prohibits their future development and splitting into parcels of less than forty (40) acres. The conservation easement may be held jointly by the Township or a recognized local land conservancy and the landowner (a homeowner's association or individual). Open space areas may be controlled as part of the original parent parcel or dedicated to a homeowner's association, land conservancy, unit of government, or other individual or group as approved by the Township Board.

3. Open space areas shall be at least fifty (50) feet wide.
4. The applicant, at the time of application, shall submit a statement or documents showing the proposed or allowed uses and restrictions within the Open Space.
5. Required improvements to the open space must be undertaken and completed prior to their dedication.
6. Only the following uses shall be permitted in the open space:
  - a. Conservation uses.
  - b. Farming.
  - c. Public parks and facilities for recreation.
  - d. Pedestrian trails and pathways.
  - e. Accessory Uses or Structures accessory to recreation, conservation, or agricultural use may be erected within the dedicated open space, subject to the approved site plan. These accessory structures or buildings shall meet or exceed requirements of the underlying zoning district.
  - f. Easements for utilities and septic systems.

#### **SECTION 7.1.3 Design And Review Standards**

- A. All Cluster Residential developments shall be designed and reviewed in accordance with the design principles, standards, and requirements of this Article.
- B. The following review standards help to foster more creative development design, support using open space to enhance development, help maintain the township's rural character, ensure access to open spaces, preserve natural features, and include other design objectives that help achieve an improved living environment. All cluster residential developments shall meet the following standards:
  1. Open space shall be used to preserve the most sensitive and significant natural features and maintain agricultural land.
  2. Wetlands, floodplains, and steep slopes shall be protected and preserved from clearing, grading, filling, or construction.
  3. Impacts on woodlands shall be minimized.
  4. The development shall be compatible with adjacent land uses and the natural environment.
  5. To the extent practical, existing fields, pastures, and orchards shall be preserved and maintained to create buffers between residential and agricultural land uses.

6. Existing trees are retained, or new ones are planted and maintained to soften the visual impact of new construction from adjacent existing land uses.
7. Adequate landscaping shall ensure that proposed uses are buffered from one another and from surrounding public and private property in order to screen any objectionable views.
8. Valuable historic, archaeological, and cultural sites are preserved or incorporated into the design.
9. Open spaces areas shall be contiguous and usable for vegetation and pedestrians.
10. Development fronting directly onto existing public roads shall be avoided to the maximum extent possible in order to preserve rural roadside character and public safety.
11. Residential neighborhoods shall be clustered as groups and separated by open space areas. Open spaces between clusters shall be kept in their natural state and shall not be perceived as a vacant lot for future development.
12. The capacities of affected public services and facilities can support the new development if the development plan is to connect to the public facilities.
13. Vehicular and pedestrian access and circulation shall allow for safe, convenient, non-congested, and well defined circulation within and to the development.
14. The proposed development shall reflect the Township's goals stated in the Master Plan.
15. All standards and requirements for Article 8, Site Plan Review, shall be met.

#### **SECTION 7.1.4 Approval Process**

Any application for a cluster residential development shall be accompanied by a site plan as required in Article 8 of this ordinance. An escrow fund shall be required to review any application submitted as per Section 11.7. A cluster residential development shall be a Special Use or Planned Development and shall be processed in accordance with the Special Use or Planned Development provisions of this Ordinance, whichever is applicable.

#### **SECTION 7.1.5 Amendments**

Amendments to a site plan for a cluster residential development shall be processed in the same manner as a major or minor site plan amendment. Amendments to a Special Use or Planned Development, which is a cluster residential development, shall be processed in accordance with the Special Use or Planned Development sections of this Ordinance, as applicable.

## **SECTION 7.2 PLANNED DEVELOPMENT (PD)**

### **SECTION 7.2.1 Intent and Purpose**

- A. The provisions of this Article establish the authority and requirements for the submission, review, and approval of applications for Planned Development (PD). It is the intent of this Article to authorize the creation of PDs as a Special Land Use in zoning districts as listed in Article 5 for the purposes of:
1. Encouraging the use of land in accordance with its character and adaptability.
  2. Conserving natural resources, natural features, energy, and improving water quality.
  3. Encouraging innovation in land use planning by providing walkable neighborhoods and districts, and increasing vehicular and pedestrian connectivity between properties and land uses.
  4. Encouraging enhanced housing, employment, shopping, recreational/open space opportunities for the people of Elmwood Township.
  5. Bringing about a greater compatibility of design and use between neighboring properties.
  6. Encouraging quality design and construction of building and site amenities.
  7. Permitting mixed uses within the same building, or on the same parcel.
  8. Facilitating the implementation of the Township Master Plan and adopted subarea plans.
- B. The provisions of the PD are designed to permit a degree of flexibility not available through conventional underlying zoning districts that results in a development that fully utilizes the assets of the subject property, meets and exceeds the objectives of the Elmwood Township Master Plan and adopted subarea plans, and integrates successfully with surrounding properties and neighborhood.

### **SECTION 7.2.2 Application And Review Procedures**

- A. **Special Land Use – Planning Commission Review.** A Planned Development (PD) shall constitute a special land use and a PD application shall be reviewed by the Planning Commission. The Planning Commission shall make the final determination regarding the PD application.
- B. The Planned Development process is divided into three components:
1. Pre-Application Conference.
  2. Planned Development (PD) Plan Review.
  3. Site Plan Review.

- C. **Pre-application Conference.** Prior to submitting an application for a PD, the applicant shall meet with the Township Planner, Zoning Administrator and any staff and/or consultants that the Township deems appropriate. The purpose of a pre-application conference is to discuss the eligibility of a project for consideration as a PD, to discuss application procedures, and for Township representatives to obtain such information as is needed for their recommendation regarding the amount of funds to be placed in escrow.
- D. **Escrow Fund Requirements.** Escrow shall be required as per Section 11.7 of this Ordinance.
- E. **Planned Development (PD) Plan.** Following the pre-application conference, the applicant shall submit a completed PD application form, an application fee, and printed copies (the number and format of copies to be determined by the Zoning Administrator), and one (1) digital Adobe® PDF of the materials and information described under this heading. These materials and information are also collectively called the PD Plan. It is the responsibility of the Applicant to provide pertinent and useful information to the Planning Commission upon which to base their decision. If the PD is to be developed in phases, the PD Plan shall show all phases. The PD Plan shall contain, or include with it:
1. A narrative statement together with supporting charts, maps and documents describing the project. Information shall include, but is not limited, to the following:
    - a. The total number of acres in the project.
    - b. The number of acres to be occupied by each type of use.
    - c. The number of residential units.
    - d. A residential density calculation indicating the total number of dwelling units divided by gross site area, and a more detailed residential density calculation that divides the number of a specific unit type by the gross site area associated with that specific unit type.
    - e. The number of acres and/or square feet and type of nonresidential uses.
    - f. The number of acres and/or square feet to be preserved as common open or recreational space.
    - g. The relationship of the proposed PD to the Township Master Plan and adopted subarea plans.
    - h. The implementation phases of the PD, the approximate time frame to complete each phase, and a specific schedule of the intended development and construction schedule details, including anticipated construction start and completion dates.
    - i. Proposed utility services and how they are to be provided, including, but not limited to, water, sanitary sewer, telecommunications, and storm water

management. Where applicable, the Applicant shall use low impact development storm water best management practices.

- j. Proposed deed restrictions, covenants, or similar legal instruments to be applied within the PD.
  - k. Variations from ordinance regulations that are being sought, and the reasons to support the requested variations.
  - l. Areas of the site containing significant natural features, including a breakdown of the approximate square feet/acres by type of significant natural feature. Significant natural features shall include: wetlands, flood plains, water bodies, woods, slopes in excess of eighteen (18) percent, active agricultural land, or any other unique natural features as determined by a local, state, or federal department or agency authorized by law to designate or classify a unique natural feature.
  - m. Signatures of all parties having an interest in the property with a statement of the nature of their interest and their intention to see the development of the property completed in accordance with the approval, if granted.
  - n. Written recommendations from the Leelanau County Road Commission or MDOT as to access and road improvement needs and/or contributions toward necessary upgrades, if any.
2. Plans shall be drawn at a conventional scale that is appropriate to the size of the property and the proposed planned development. The PD Plans shall contain the following:
- a. The name of the PD, the applicant's name, the name and address of the firm or individual who prepared the preliminary development plan, date, scale, and north arrow.
  - b. Property lines, dimensions of all property lines, and size of the PD (and individual phases) in acres.
  - c. Existing zoning and land uses of all abutting properties.
  - d. Significant natural features on the site as defined in Section 7.2.2.E.1(l) above.
  - e. Existing buildings and structures on the site and those located on abutting land within fifty (50) feet of a common property line.
  - f. Proposed uses, buildings, and their locations.
  - g. Rights-of-way and pavement edges or curb lines of existing streets abutting the PD.



- h. Locations of proposed access drives, parking lots, and streets within the PD.
  - i. Proposed walkways or pedestrian paths.
  - j. Proposed methods of providing water, sanitary sewer, and storm water drainage facilities.
  - k. Layout and typical dimensions of proposed lots.
  - l. The general improvements that constitute a part of the development, including, but not limited to lights, signs, service areas, dumpsters, mechanisms designed to reduce noise, utilities, and visual screening features.
  - m. Specifications for exterior building materials for structures proposed in the project.
  - n. Elevations for proposed buildings or building types.
  - o. Photometric plans for the project area.
3. The Planning Commission, subject to a written recommendation from the Township Planner, may require additional information reasonably necessary to determine compliance with the review standards and other requirements applicable to a PD, or to determine the impacts of the proposed development. Such information may include, for example, soil reports, hydrological tests, traffic studies, wetland determinations, or a market analysis. At any time during the PD Plan review process, the Planning Commission shall have the right to hire such experts as may be needed to provide independent studies regarding issues related to the PD approval standards or to review documents or consultant reports provided by the applicant or others. Fees and expenses related to any such experts shall be paid from the monies that have been deposited to the Township in escrow.

F. **PD Public Hearing.** Upon determining that the application and all required information are complete, the Planning Commission shall conduct a public hearing. Notice of the hearing shall be in accordance with the notification procedures for Special Land Use as described in the Michigan Zoning Enabling Act.

G. **Final Decision by the Planning Commission.**

- 1. The Planning Commission shall make its decision at any regular or special meeting.
- 2. At the meeting when a decision is reached, the Planning Commission shall review the record compiled at the public hearing(s) and the reports of any experts or consultants.
- 3. Based on the record compiled at the public hearings and any regular or special meeting(s) held, the Planning Commission shall determine whether the PD Plan

complies with the standards and requirements of Section 7.2.3. If it does comply, then the Planning Commission shall approve it, or approve it with conditions. However, if it does not comply, then it shall be denied. In any case, a decision by the Planning Commission shall be in writing and shall contain findings of fact or reasons regarding why the application complies or fails to comply with applicable provisions of this zoning ordinance. The findings of fact shall address the following:

- a. The application submitted by the Applicant was complete, and information required by the Planning Commission was provided and is part of the public record.
  - b. The PD fulfills the objectives of the Elmwood Township Master Plan, adopted subarea plans and the land uses policies of the Township, and presents an innovative and creative approach to the development of the subject property.
  - c. The proposed land uses fulfill a need or demand for such land uses within the Township.
  - d. The property is suitable for the proposed purposes and land uses.
4. The Planning Commission's decision shall be final after the meeting minutes at which the decision was adopted are approved, or after the decision is certified in writing. Once the decision is final, judicial review may be sought as authorized by law.
  5. Approval of the PD Plan does not constitute approval to modify the subject property in any form or fashion until a Site Plan is submitted and approved by the Planning Commission for the entire development, or for each phase as approved in the PD Plan. The site plan review and its contents shall comply with the requirements of Article 8, Site Plan Review. The Site Plan approval process is separate from the PD review and approval process. As a result, approval of the Planned Development (PD) Plan does not constitute approval of the PD site plan.
  6. The PD Plan site plan review process commences once the PD Plan is approved by the Planning Commission. The Applicant, at its discretion, can concurrently submit for review the PD Plan and Site Plan.

### **SECTION 7.2.3 Standards and Requirements For Approval**

- A. When the Planning Commission makes a decision regarding a PD Plan in any zoning district a PD is allowed, they shall make them based on compliance with the standards in Article 9 and the following standards. If there is a conflict between these standards and the standards in Article 9, these standards shall prevail.
  1. Land uses shall be consistent with the intent of the underlying zoning district and the Elmwood Township Master Plan and adopted sub-area plans.
  2. The PD shall meet the minimum land area requirements specified for the underlying zoning district.

3. A PD shall comply with all dimensional and use regulations of the underlying zoning district, unless variations are otherwise approved by the Planning Commission. (Also see requirements for Rural Resort District Below) Such proposals shall be accompanied by supporting material demonstrating that the variations would provide equal or greater protection to adjacent or nearby properties.
4. The lands comprising a PD must be subject to unified ownership or control so that the person or legal entity applying for PD approval has proprietary responsibility for the completion of the development, if approved. If multiple persons or legal entities have ownership interests in the land, all such persons or entities shall sign the PD application. If the application is signed by a prospective purchaser or person who has optioned the land, written consent by all owners of the land must be submitted with the application.
5. As provided for in this paragraph, except for on-site septic systems and wells, water supply and sanitary sewage disposal in and for a PD shall only be accomplished by public or community water supply and sanitary sewer systems. These must be approved by the Health Department and other agencies having jurisdiction and be in compliance with applicable Township ordinances. If approved by the Health Department, on-site septic systems and wells may be permitted for individual residential lots containing a single-family dwelling.
6. The PD Plan must be consistent with the intent of this Article, as described in Section 7.2.1, and it must also represent a development opportunity for the community that could not be achieved through conventional zoning.
7. The PD Plan and its proposed uses must be compatible with the type, character, and density of land uses on adjacent and nearby lands based on the future land use map in the Elmwood Township Master Plan and adopted subarea plans.
8. The proposed PD must be compatible with the capacities of public services and facilities affected by the development.
9. The proposed PD must preserve significant natural features, if any.
10. If a proposed PD lies partially outside the jurisdictional boundary of the township, then the minimum parcel size shall be based on the total size of the project and not just that portion located within the township.
11. The proposed PD must provide for useable open space which meets the following standards:
  - a. At least ten (10) percent of the parcel(s) acreage or square footage.
  - b. Acreage or square footage provided shall be for recreation use and shall be accessible to the occupants or users of the PD.
  - c. No area which exceeds twelve (12) percent grade shall be allocated or designated as useable open space.

- d. At least 40% of the total area required as usable open space shall be landscaped and maintained.
  - e. Any useable open space which is not planted shall be developed to encourage outdoor recreational use and shall include such elements as decks, sports courts, outdoor seating, decorative paved areas, and walkways which do not serve as entrance walkways.
  - f. No area designated for off-street parking and loading areas, service areas, driveways, required walkways, or portions thereof, or any features that are used for required access to dwelling units shall be counted as satisfying any useable open or recreation space area requirement.
12. Landscaping must be provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property meeting the minimum requirements of Section 6.4, as applicable.
  13. Motor vehicle access to the uses within a PD shall be from interior roads only unless approved otherwise by the Planning Commission or the Leelanau County Road Commission. Safe, convenient and well-defined vehicular and pedestrian circulation within, and access to, the development must be provided.

**B. Rural Resort Zoning District.** When the Planning Commission makes a decision regarding a PD Plan in the Rural Resort Zoning District, in addition to the standards in Article 9, they shall include the following additional standards. If there is a conflict between these standards and the standards in Article 9, these standards shall prevail.

1. The development is intended to have primarily an outdoor orientation so that they enhance quality of life while preserving the open, rural character of the Township.
2. A traffic study based on the most recent edition of the *Trip Generation Manual* published by the *Institute of Transportation Engineers* shows that the new trips per day as a result of the primary and any supporting or accessory uses will not be unreasonable and will ensure vehicular and pedestrian safety, convenience, and limited impact on adjacent roads and highways, drives, and neighboring uses. Items to be considered by the Planning Commission may include, but are not limited to, pedestrian and vehicular traffic conflicts; adequacy of site distances; road surface and character; impacts to the surrounding character of the area based on new trips generated; and impacts to level of service and capacity on existing roads. The Planning Commission may waive the requirement for a traffic study in instances where the increase in traffic will be minimal.
3. Any non-residential or intensive outdoor recreation elements should be generally located centrally and to the interior of the site.
4. The site contains outdoor recreation uses such as ski areas, golf courses, equestrian facilities, and athletic and ball fields.

4. The site contains no more than 5% of total site area of supporting uses that are directly related or integral to the outdoor recreation use(s), but that are supporting in nature including: ski lodges, golf clubhouses, indoor sports facilities, hard surface outdoor recreation facilities, aquatic centers and racquet courts, hotels/motels, restaurants, snack bars, small retail shops selling goods directly related to or integral to the on-site recreational uses, and including parking, loading and service areas for supporting uses.

The site area for supporting uses can be increased to 8% if the applicant can show three out of the following standards are met:

- a. The project uses a permeable surface for parking and low impact design for stormwater
- b. The project is improving the quality of the property by removal of invasive species and planting native species in place of removed vegetation throughout the site
- c. The project limits the use of chemicals for landscaping and snow removal
- d. The project is designed with Universal Design Principles
- e. The recreational use is open and available to the public free of charge for a minimum of 4 opportunities in a year

#### **SECTION 7.2.4 Conditions**

- A. To the extent authorized by law, reasonable conditions may be required with the approval of a PD Plan. Conditions may include, but are not limited to, those necessary to:
  1. Ensure that public services and facilities will be sufficient to serve the proposed land use(s)
  2. Protect the natural environment
  3. Promote the use of land in a socially and economically desirable manner
  4. Ensure compatibility with other uses of land adjacent to the subject property.
- B. Imposed conditions shall be designed to protect public health, safety, and welfare, be reasonably related to the purposes affected by the PD, be necessary to meet the intent and purpose of this ordinance, and be related to ensuring compliance with the standards of this ordinance. All conditions shall be made a part of the record of the approved PD.
- C. When conflicts arise between other provisions of the Zoning Ordinance and this Article; the provisions of this Article shall take precedence unless determined otherwise appropriate by the Planning Commission.

#### **SECTION 7.2.5 PD Plan Approval and Land Use Permit Issuance**

PD Plan approval does not constitute approval of a land use permit. For those aspects of an approved PD Plan that are controlled by the Township, no construction shall commence until a Site Plan has been approved by the Planning Commission and a land use permit has been issued by the Zoning Administrator. The Township Zoning Administrator shall issue a land use permit once all

conditions have been met and the performance guarantee, in a form as referenced in Section 11.8, has been provided to the Township Clerk.

### **SECTION 7.2.6 Changes and Amendments To An Approved PD Plan**

Changes to an approved PD Plan shall be permitted only under the following circumstances:

- A. All holders of an approved PD Plan shall notify the Zoning Administrator, in writing, of any desired change to the approved PD Plan.
- B. Minor changes may be approved by the Zoning Administrator after determining that the proposed revision(s) will not alter the basic design and character of the PD Plan, nor any specified conditions imposed as part of the original PD Plan approval. Minor changes shall include the following:
  - 1. Change in any building size, up to ten (10) percent in gross floor area.
  - 2. Movement of buildings or other structures by no more than ten (10) feet measured horizontally.
  - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  - 4. Changes in building materials to a comparable or higher quality.
  - 5. Changes in floor plans which do not alter the character of the use.
  - 6. Relocation of dumpster(s) or signs.
  - 7. Modification of parking areas allowing up to a ten (10) percent change in their location as noted on the PD Plan, provided there is no change in the approved driveway location(s).
  - 8. Changes necessary to conform to other laws or regulations as required or requested by the Township, the Leelanau County Road Commission, or other County, State, or Federal regulatory agency.
  - 9. Change of phases or sequence of phases only if all phases of the PD Plan have received final approval, and if the change does not alter any conditions of approval.
- C. A proposed change determined by the Zoning Administrator not to be minor shall be considered as an amendment to the PD Plan, and shall be processed in the same way as the original PD Plan application.

### **SECTION 7.2.7 Recording Of Affidavit**

The applicant shall provide an Affidavit acceptable to the Township Attorney that contains the full legal description of the project site, the date when the PD Plan was approved, the description or identification number which the Township has assigned to the PD project, all conditions that were imposed as part of the approval, and all improvements that will be carried out in accordance with

the approved PD application, PD Plan, and PD Site Plan. If the PD Plan is amended, the applicant shall record an amended affidavit acceptable to the Township Attorney that contains all of the information described above, describes the amendment, specifies the date on which the amendment was approved, describes all conditions that were imposed as part of the amendment approval, and declares that the improvements will be carried out in accordance with the approved PD Plan, as amended. Finally, the Affidavit, all deed restrictions and easements shall be duly filed with the Leelanau County Register of Deeds, and copies of recorded documents shall be provided to the Zoning Administrator prior to the issuance of any land use permit.

#### **SECTION 7.2.8 Phasing**

- A. Phasing. When phased construction of a project is proposed, each phase, upon completion, shall be capable of standing on its own in terms of the presence of services, facilities, and open or recreational space. Each phase shall also contain the necessary components to ensure protection of natural resources and public health, safety, and welfare.
  
- C. For PDs with both residential and nonresidential uses, each phase shall contain a mix of land uses that are similar to the land use mix proposed for the entire PD.

#### **SECTION 7.2.9 Time Limit**

- A. Extensions. Construction of improvements in the planned development shall begin within twelve (12) months from the date of approval of the Site Plan by the Planning Commission. An extension of time for beginning construction may be requested in writing by the applicant
  
- B. The Planning Commission may grant two (2) extensions for up to an additional twelve (12) month period for each extension, provided that the applicant applies for such an extension prior to the date of the expiration of the PD Plan and provided that:
  - 1. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant.
  - 2. The PD requirements and standards, including those of this ordinance and the Master Plan or adopted subarea plans that are reasonably related to the development, have not changed.

#### **SECTION 7.2.10 Rehearing Of Approval**

Any approval is subject to a rehearing as provided in Section 11.9.

#### **SECTION 7.2.11 Final As-Built Drawings**

The Applicant shall provide the Township with a complete set of “as-built” drawings for the PD and/or each completed phase in Adobe® PDF and the most recent release of AutoCAD®.

#### **SECTION 7.2.12 Zoning Board Of Appeals Jurisdiction**

The Zoning Board of Appeals is without jurisdiction to accept any appeals regarding a PD Plan, including, but not limited to its revocation.

## **SECTION 7.3 TRADITIONAL SUBDIVISIONS**

### **SECTION 7.3.1 Intent**

The purpose of this provision is to regulate the creation and use of residential subdivision developments within the township under the authority of the Condominium Act, Act 59 of 1978, as amended and to promote and protect the health, safety, and general welfare of the public. These regulations and controls shall in no way repeal, annul, or in any way interfere with the provisions and standards of any other state and federal laws and regulations.

### **SECTION 7.3.2 Legal Authority**

These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this Ordinance under which residential developments utilizing the Condominium Act shall be reviewed, and approved or disapproved by the Planning Commission.

### **SECTION 7.3.3 General Requirements**

- A. **Compliance with Federal, State and Local Laws.** All site condominiums projects, including manufactured home condominium developments, shall comply with all applicable federal, state, and local laws and ordinances.
- B. **Zoning Requirements.** All site condominium projects shall be located within the zoning district that permits the proposed use, and shall comply with all zoning requirements of this Ordinance.
  - 1. For the purposes of these regulations, each condominium unit in a site condominium projects shall be considered as a single parcel, and shall comply with all regulations of the zoning district in which it is located.
  - 2. In a site condominium project containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a single site condominium unit nor shall a dwelling unit be located on a site condominium unit with any other principal structure or use.
  - 3. Required yards shall be measured from the boundaries of the site condominium unit.
  - 4. Lot requirements, setbacks and height requirements as specified in Table of Dimensional Requirements shall apply to a site condominium unit.
- C. **Site Plan Review.** Prior to the recording of a plat or master deed, site condominiums shall undergo site plan review and special use approval by the Planning Commission.
  - 1. Application.
    - a. An application for site plan approval shall be filed for review as per the requirements of Article 8 of this Ordinance.



- b. All condominium site plans shall include the information required in MCL 559.166 of the Condominium Act, and all other information required under regulations pertaining to the zoning district in which the condominium development is proposed or located.
- c. The application for site plan review shall also include a copy of the proposed deed restrictions and/or master deed and by-laws to be recorded with the County Register of Deeds for review and approval by the Planning Commission.
- d. In the case of single-family detached dwelling units, the location and dimensions of site condominium common elements, limited common elements and building envelopes, rather than individual buildings and required yards, shall be shown on the site plan.

2. Deed Restrictions, Master Deed, By-Laws.

- a. The deed restrictions and/or master deed and by-laws shall be reviewed with respect to all matters subject to regulation by the Township, including but not limited to preservation and maintenance of drainage, retention ponds, wetlands and other natural areas, and maintenance of landscaping in common areas in the project.
- b. Also, the deed restrictions and/or master deed and by-laws shall provide for the means by which any private road rights-of-way may be dedicated to the public entity having jurisdiction in the future, should such dedication be later deemed appropriate.
- c. The Planning Commission may request that the Township Attorney assist in the review of the site condominium documents.

3. Performance Guarantees. Performance guarantees shall be required as per Section 11.8 of this Ordinance.

D. **Easements for Utilities.** Road rights-of-way shall be parcels separate from individual residential units or lots. The rights-of-way shall be for roadway purposes, and for the maintaining, repairing, altering, replacing, and/or removing of pipelines, wires, poles, mains, conduits, and other installations of a similar character, hereinafter collectively called “public structures” for the purpose of providing public utilities including electric, communications, water, drainage and sewers, and subject to easements to be dedicated to the Township.

E. **Additional Filings Required.** Subsequent to the recording of the deed restrictions and/or master deed and by-laws, and subsequent to the construction of improvements, the developer shall file the following information with the Township Zoning Administrator:

- 1. One (1) copy of all digital files as approved by the Planning Commission and “as-built” after construction has taken place. Digital files shall include AutoCAD® files and Adobe® PDF.

2. Two (2) copies of the recorded deed restrictions and/or master deed and by-laws with all pertinent attachments.
  3. Certification from the developer's engineer that improvements have been installed in conformance with the approved construction drawings and monuments.
- F. **Escrow Fund.** An escrow fund may be required to review any application submitted as per Section 11.7 of this Ordinance.

**Article 8**  
**Site Plan Review**

**SECTION 8.1 INTENT AND PURPOSE**

The intent and purpose of this Article is to establish the process and standards for site plan review. Furthermore, it is intended that this Article will allow the Township and the applicant to work together to achieve the goals of the Master Plan and adopted subarea plans and to promote a development designed in the best interests of all parties.

**SECTION 8.2 SITE PLAN REVIEW REQUIRED**

**A. Activities Prohibited.**

1. No grading, clearing, cutting and filling, excavating, or tree removal shall take place on a site where site plan approval is required for a use, except as may be necessary to remove any hazards to public health or to remove dead or diseased plant material.
2. No land use or special land use permit shall be issued or otherwise authorized until after a final site plan has been approved, all conditions have been fulfilled, and all security requirements have been met.
3. No activity associated with an approved site plan shall be undertaken until permits and approvals from all outside agencies have been presented to the Township Zoning Administrator. Such permits and approvals shall include but not be limited to soil erosion and sedimentation control permits, wetland permits, floodplain permits, driveway and road permits, and Health Department permits.

**B. Zoning Administrator Site Plan Review.** The following site plans shall be reviewed by the Zoning Administrator:

1. Residential uses related to single family dwellings, two family dwellings, accessory structures and use, and home occupations.
2. A change in use where no increase in the building footprint or other site changes are proposed.
3. An expansion of a permitted use where the building footprint is increased by no more than twenty five (25) percent of the existing and originally approved floor area, or by not more than one thousand (1,000) square feet in area, whichever is less. Only one such expansion is permitted without having to undergo Planning Commission approval.
4. Any other use required in this Ordinance that does not require review under the provisions of Section 8.2.C below.

**C. Planning Commission Site Plan Review.** A site plan review by the Planning Commission is required for the following:

1. An expansion of an existing use which initially required site plan approval, or for an expansion of a lawful nonconforming use which would have initially required site plan approval if this Ordinance had been in effect when the nonconforming use began, where the building footprint is increased by more than twenty five (25) percent of the existing and originally approved floor area, or by more than one thousand (1,000) square feet in area, whichever is less.
2. Any use or development for which the submission of a site plan is required by any provision of this Ordinance.
3. All cluster residential developments in accordance with the requirements in Section 7.1, Cluster Housing Development.
4. All subdivisions of land subject to regulation under the Subdivision Control Act of 1967, as amended.
5. All site condominium and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.01 et seq), as amended.
6. All commercial uses not complying with 8.2.B, above.
7. All conditional land uses.
8. For excavation, construction, moving, alteration, or change in type of use or type of occupancy.

### **SECTION 8.3 SITE PLAN REVIEW APPLICATION PROCEDURES**

#### **A. Optional Preliminary Plan Review.**

1. Prior to submitting an application for a land use permit or final site plan approval, an applicant may choose to submit a preliminary plan for review by the Planner, Zoning Administrator, and/or the Planning Commission. While the applicant is not required to provide specific information to the Planner, Zoning Administrator, and/or Planning Commission, the more information available to the Planner, Zoning Administrator, and/or the Planning Commission the more constructive the comments regarding the preliminary plan the applicant may receive.
2. General comments regarding the preliminary plan and layout shall be provided. The review shall be informal and advisory only, and shall not constitute approval, authorization, or the granting of any type of permit. Any comments shall not be construed as binding upon the Planning Commission or the applicant.

**B. Escrow Fund.** An escrow fund may be required to review any application submitted as per Section 11.7 of this Ordinance.

**C. Application.** An application for approval of a site plan shall be submitted for review to the Zoning Administrator.

1. Every application for a site plan review shall be accompanied by the following information and materials:
  - a. The site plan application form provided by the Township, filled out in full by the applicant.
  - b. An affidavit signed by the applicant stating that he or she is the owner, or has a possessor interest in the parcel, or is acting as the authorized agent of one (1) of the foregoing.
  - c. Payment of a fee, as set by the Township Board.
  - d. Payment of an escrow fee, if applicable.
  - e. Number of site plan copies as determined by the Zoning Administrator
2. All site plan applications shall be reviewed for completeness by the Zoning Administrator. If the site plan is determined to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
3. The applicant will forward copies of the site plan to the Leelanau County Road Commission, Leelanau County Drain Commissioner, Health Department, the Elmwood Township Fire Department, Department of Public Works and Michigan Department of Transportation, as applicable, for their review and comments. Any review comments will be forwarded to the Zoning Administrator. Comment letters shall be provided to the Zoning Administrator prior to application being placed on the Planning Commission agenda for consideration.
4. If the site plan is determined to be complete, the Zoning Administrator shall place the site plan application on the next available Planning Commission agenda and shall forward a copy of the site plan to each member of the Planning Commission.

#### **SECTION 8.4 REQUIREMENTS FOR SITE PLAN APPROVAL**

The following information shall be provided with the site plan as indicated, unless waived by the Zoning Administrator when such information is not applicable. The site plan must be drawn at a scale of one (1) inch equals one hundred feet (1"=100') or less. Required site plan elements shall include:

1. Applicant's name, address, and telephone number.
2. Property owner's name, address, telephone number, and signature.
3. Proof of property ownership, and whether there are any options or liens on the property.
4. A signed and notarized statement from the owner of the property that the applicant has the right to act as the owner's agent.

5. The address and/or parcel number of the property, complete legal description and dimensions of the property, width, length, acreage, and frontage.
6. Seal of the registered engineer, architect, and landscape architect who prepared the plan, as well as their names, addresses, and telephone numbers.
7. Project title or name of the proposed development.
8. Statement of proposed use of land, project completion schedule, and any proposed development phasing.
9. Statements regarding the project impacts on existing infrastructure, including traffic, schools, existing utilities, and the natural environment on and adjacent to the site.
10. Total number of units, employees, bedrooms, offices, total and usable floor area, amount and type of recreation or open space proposed, and similar information required to evaluate compliance with the Ordinance.
11. A vicinity map showing the area and road network surrounding the property.
12. The gross and net acreage of the parcel.
13. Land uses, zoning classification, and existing structures on the subject parcel and adjoining parcels.
14. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, and monument locations.
15. Existing topographic elevations at two (2) foot intervals, except at five-foot intervals where slopes exceed 18%.
16. The location and type of existing soils on the site, and any certifications of borings.
17. Location and type of significant existing vegetation.
18. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, wetlands, and sand dunes.
19. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building or building envelope.
20. Proposed location of all proposed structures, buildings, equipment, and uses.
21. Elevation drawings of typical proposed structures and accessory structures.
22. Location of existing public roads, rights-of-way, easements of record, and abutting streets.

23. Location and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration, and passing lanes, including those within 100 feet of the property.
24. Location, design, and dimensions of existing and/or proposed curbing, barrier-free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes, and all lighting thereof.
25. Location, size, and characteristics of all loading and unloading areas.
26. Location and design of all sidewalks, walkways, bicycle paths, and area for public use.
27. Location of water supply lines and or wells, including fire hydrants and shut off valves; and the location and design of storm sewers, retention or detention ponds, waste water lines, and clean-out locations; and connection points and treatment systems (including septic system if applicable).
28. Location of all other utilities on the site, including, but not limited to, natural gas, electric, cable TV, telephone, and steam.
29. Proposed location, dimensions, and details of common open spaces, and common facilities such as community buildings or swimming pools, if applicable.
30. Location, size, and specifications of all signs and advertising features, including cross-sections.
31. Exterior lighting locations, with area of illumination illustrated as well as the type of fixtures and shielding to be used.
32. Location and specifications for all fences, walls, and other screening features, with cross sections shown.
33. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. The proposed sizes of landscape materials (not previously existing) must be indicated. All vegetation to be retained on site must also be indicated, as well as its typical size by general location, or range of sizes as appropriate.
34. Location, size, and specifications for screening of all trash receptacles and other solid waste disposal facilities.
35. Location and specifications for any existing or proposed (above or below ground) storage facilities for any chemicals, salts, flammable materials, or hazardous materials. Include any containment structures or clear zones required by county, state, or federal government authorities.
36. Identification of any significant site amenities or unique natural features, and whether they will be preserved.
37. North arrow, scale, and date of original submittal and last revision.

## SECTION 8.5 REVIEW AND APPROVAL

- A. All applications for site plan approval shall be reviewed against the standards and requirements of this Ordinance. Only when satisfied that the application meets all standards and requirements shall the Planning Commission approve, or approve with conditions, an application for site plan approval to ensure the health, safety, and welfare of the residents of Elmwood Township.
- B. **Standards for Site Plan Approval.** The Planning Commission shall make a finding that the following standards are met prior to approving a site plan:
1. All required site plan and application information has been provided as specified in this Article.
  2. All required permits and approvals from outside agencies have been secured, or have been made a condition of site plan approval.
  3. Adequate essential facilities and services including highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools are available, or the provision of such facilities and services has been assured.
  4. All applicable standards of agencies including, but not limited, to the Township Fire Department, Michigan Department of Transportation, Leelanau County Road Commission, Leelanau County Drain Commission, Health Department, and the Michigan Department of Environmental Quality (MDEQ) have been met.
  5. Compliance with all non- zoning ordinances adopted by the Township, including, but not limited to the private road ordinance.
  6. All buildings and structures shall be designed, constructed, operated, and maintained so as to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity.
  7. The buildings, structures, and entryway thereto proposed are situated, designed, and screened/buffered so as to minimize any adverse effects upon owners and occupants of adjacent properties and the neighborhood.
  8. All buildings and structures are accessible to emergency vehicles.
  9. Complete and safe pedestrian, non-motorized and vehicular circulation is provided.
  10. The percentage of impervious surface has been limited on the site to the extent practicable.
  11. Efforts have been made to protect the natural environment to the greatest extent possible.



12. There exists within the site plan sufficient protection to accommodate storm water runoff on the site location.
13. The proposal furthers the goals and objectives of the Master Plan.

**C. Planning Commission Decision.**

1. The Planning Commission shall deny, approve, or approve with conditions, any application for site plan approval.
2. Site plan approval may be granted with conditions, limitations, or additional requirements imposed by the Planning Commission. Any conditions, limitations, or requirements upon which approval is based shall be:
  - a. Reasonable and designed to protect natural resources and/or the health, safety, and welfare of the public.
  - b. Relevant to the social and economic well-being of the owners and occupants of the parcel in question, of adjacent parcels, and the community as a whole.
  - c. A valid exercise of the Township police power.
  - d. Related to the purposes which are affected by the proposed use or activity.
  - e. Consistent with the intent and purpose of this Ordinance generally, and specifically for the zoning district where such use is to be permitted.
  - f. Designed to ensure compatibility with adjacent uses of land and the natural environment.
  - g. Designed to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by such use.
3. The decision of the Planning Commission shall be incorporated in a written statement containing at a minimum the following:
  - a. The conclusions based upon Findings of Fact that specify the basis for the decision and any conditions of approval.
  - b. The decision.
  - c. The conditions of approval, if any.
4. A Land Use Permit shall be issued to the applicant by the Zoning Administrator after receiving Planning Commission approval pursuant to Article 11, Administration and Enforcement, of this Ordinance when all conditions and performance guarantee have been met and a completed land use permit application has been received.

5. A person aggrieved by a decision of the Planning Commission in granting or denying approval of a site plan, or regarding any conditions attached to approval of a site plan, may appeal the decision to the Zoning Board of Appeals per the requirements of Article 12 of this Ordinance.

#### **SECTION 8.6 ADMINISTRATION OF SITE PLANS**

- A. At least two (2) copies of the approved site plan, all accompanying documents, record of approval, and list of conditions shall be kept by the Township for its record.
- B. Once construction has been completed and the site plan requirements have been met, an approved site plan shall be valid for as long as the approved site plan continues to be in compliance with the terms and conditions of the approval. The site plan will remain in full force and effect until replaced or superseded by a subsequent site plan.
- C. As-Built Site Plan Required. Upon completion of all proposed improvements as shown on the approved site plan, the property owner shall submit an “as-built” site plan certified by the preparer at least one week prior to the anticipated occupancy.
  1. The Zoning Administrator and any other Township officials, as necessary, shall review the “as-built” plan for conformity with the approved site plan.
  2. If determined that the “as-built” plan is in compliance with the approved site plan, the Zoning Administrator shall make a final inspection of the site and compare conditions to the as-built site plan.
  3. Where changes due to non-compliance with the approved site plan-are identified requiring Planning Commission review, such review shall proceed in accordance with Section 8.7 of this Ordinance.
  4. The approved as-built plan shall be signed and dated by the Zoning Administrator and shall be filed with the permanent land use records of the Township.
- D. Property that is the subject of an approved site plan shall be developed in full compliance with the approved site plan and any approved amendments thereto. Failure to conform to the approved site plan shall constitute a violation of this Ordinance.
- E. Site Plan Approval, Expiration and Extensions. An approved site plan shall be valid for a period of one (1) year from the date of approval. If construction, of the permitted use, has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the site plan approval shall expire. The Planning Commission may, at its discretion, extend the approved site plan for one (1) additional year, if requested to do so in writing by the applicant and if there is good reason to believe that the applicant will, in fact, commence construction of the permitted use and proceed meaningfully toward completion by the end of the second year

#### **SECTION 8.7 MINOR AND MAJOR AMENDMENTS**

- A. Changes to an approved site plan shall be permitted only under the following circumstances:

1. The holder of an approved site plan shall notify the Zoning Administrator, in writing, of any desired change to the approved site plan.
2. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan or any specified conditions imposed as part of the original site plan approval. Minor changes are the following:
  - a. Change in any building size, up to five (5) percent in gross floor area.
  - b. Movement of buildings or other structures by no more than ten (10) feet measured horizontally.
  - c. Replacement of plant material specified in the landscaping plan with comparable materials of an equal or greater size.
  - d. Changes in building materials to a comparable or higher quality.
  - e. Changes in floor plans which do not alter the character of the use.
  - f. Relocation of dumpsters or signs.
  - g. Modification of parking areas up to a ten (10) percent change in their location provided there is no change in the number of parking spaces or the approved driveway location(s).
  - h. Changes necessary to conform to other laws or regulations as required or requested by the Township, the Leelanau County Road Commission, or other county, state, or federal regulatory agency.
  - i. Change of phases or sequence of phases, only if all phases of the site plan have received final approval and if the change does not alter any conditions of the original site plan approval.
3. A proposed change determined by the Zoning Administrator not to be minor shall be submitted as an amendment to the approved site plan and shall be processed as defined in Article 8.7B of this Ordinance.

B. **Major Amendments.** Any amendment or change to an approved site plan not considered minor by the Zoning Administrator shall be approved by the Planning Commission and will require a new site plan review, payment of applicable fees, and processing in accordance with this Article as a new site plan application.

## **SECTION 8.8 REVOCATION**

Revocation may occur as per Section 11.9 of this Ordinance.



**Article 9**  
**Special Land Uses**

**SECTION 9.1 INTENT AND PURPOSE**

The formulation and enactment of this Ordinance is based upon the division of the Township into zoning districts, each which may permit specific uses, and special land uses. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and consideration in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, existing or planned public services and facilities, and adjacent uses of land. The purpose of this Article is to establish procedures and criteria which shall be applied in the determination of requests to establish special land uses and the issuance of special use permits. The standards, requirements, and findings for making approval determinations provided under the provisions of this Article shall be in addition to others required elsewhere in this Ordinance.

**SECTION 9.2 GENERAL PROVISIONS**

- A. **Authority to Consider Special Land Use Applications.** The Planning Commission as hereinafter provided shall have the authority to approve, deny, or approve with conditions (if appropriate) special land uses.
- B. **Application.** Application for any special land use permit permissible under the provision of this Ordinance shall be made to the Planning Commission through the Zoning Administrator by filing an official special use permit application and submitting a site plan in accordance with Article 8. In addition to information or documents required by Article 8, the applicant shall provide the following information:
1. Location of all proposed special land uses and activities to be conducted on the parcel(s);
  2. Height and footprint of all structures and improvements;
  3. Adjacent land uses and their corresponding zoning districts;
  4. Need for the proposed special land use in the specific area of the Township.
  5. Compatibility with the listed permitted uses in the zoning district where the proposed special land use is requested to be located;
  6. Such additional information or documents that will assist the Planning Commission in determining whether the proposed special land use meets the General Standards and Specific Requirements as provided in Section 9.3.
- C. **Public Hearing for Special Use Permit.** After a preliminary review of the site plan and application for a special land use permit, the Planning Commission shall hold a public hearing in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).

D. **Specific Requirements of the Review Process.** All special land uses in all zoning districts shall be processed and reviewed in accordance with the following procedure:

1. Pre-Application Meeting. The applicant shall request a preliminary meeting with the Zoning Administrator to discuss the proposal, design elements, ordinance requirements, etc.
2. Submission of Application. The applicant shall submit two (2) complete applications and site plans for completeness review by the Zoning Administrator or his/her designee. Upon the Zoning Administrator finding the application package complete, the applicant shall submit the requested number of copies (hard copies and digital) to the Zoning Administrator to be forwarded to the Planning Commission for initial consideration. If the application and site plan are found to be incomplete, the Zoning Administrator shall notify the applicant, in writing, that additional information is required. No applications or site plans will be forward to the Planning Commission until they are found to be complete.
3. Planning Commission Initial Review. Upon receiving an application and site plan that the Zoning Administrator has determined to be complete, if the Planning Commission agrees it shall schedule a public hearing. If additional information is needed, the Planning Commission shall notify the application of information requested in writing. Until the Planning Commission determines that the application is complete, a public hearing will not be scheduled.
4. Public Hearing. On the appointed date and time, the Planning Commission shall conduct the public hearing.
5. Action of the Planning Commission. Upon completion of the Planning Commission's review and completion of the public hearing, the Commission shall make findings to determine if the application meets the required standards and requirements. Based upon this determination, the Planning Commission may consider a motion for approval, approval with conditions, or denial of the special land use application based on the facts presented at the public hearing and the application of those facts to the General Standards and Specific Requirements for a special land use permit. The Commission may also postpone its determination to allow for verification, compilation, or submission of additional or supplemental information, or to address other concerns or issues raised during the Planning Commission's review during the public hearing. Announcement of the date for the Commission to decide upon the matter shall be processed in accordance with the provisions of this Article and the Open Meetings Act, PA 267 of 1976, as amended.

### **SECTION 9.3 STANDARDS, REQUIREMENTS AND FINDINGS**

The Planning Commission shall review the particular circumstances of the special land use permit application in accordance with the requirements of this Article and Article 8. Approval of the special land use application shall be contingent upon approval of the site plan and a finding of compliance with all of the General Standards and Specific Requirements listed below:

A. **General Standards.**

1. The proposed special land use meets the objectives, intent, and purposes of this Article and the zoning district in which the proposed special land use is to be located.
2. The proposed special land use is designed, and is intended to be constructed, operated, maintained, and managed so as to be consistent with the existing or intended character of parcels within the zoning district.
3. The proposed special land use meets or exceeds the minimum requirements for the zoning district in which it is requested to be located.
4. The proposed special land use will be served adequately by essential public utilities, facilities, and services such as water supply, wastewater disposal, highways, roads, police and fire protection, drainage structures, and refuse disposal. Alternatively, such services, if adequate to serve the proposed special land use, may be provided privately or by a combination of public and private providers.
5. The proposed special land use will not adversely impact existing or future neighboring uses. For example, but without limitation, the proposed special land use shall be designed as to location, size, intensity, site layout, and periods of operation to eliminate any possible conflicts. Additionally, it shall not be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration, and odors, nor have adverse environmental impacts and detrimental effects on the general aesthetics or appearance of the character of existing or future neighborhood uses.
6. The proposed special land use shall not have an adverse effect on the natural environment beyond the normal impacts of permitted principal uses in the same zoning district, and shall not result in impairments, pollution or destruction of the air, surface, ground water, vegetation, and other natural resources.
7. The proposed special land use will not create excessive additional requirements or costs for public facilities, utilities and services.
8. The proposed special land use has met or will meet all requirements of other Township, County, State, and Federal ordinance and code requirements.
9. The following specific requirements shall be met to the extent applicable to the proposed special land use:
  - a. Ingress and egress for the special land use shall be controlled to ensure maximum vehicular and pedestrian safety, convenience, and minimum traffic impact on adjacent roads and highways, drives, and nearby uses including, but not limited to:
    - i. Minimization of the number of ingress and egress points through elimination, minimization, and consolidation of drives and curb cuts;
    - ii. Proximity and relation of driveway to intersections;
    - iii. Minimization of pedestrian and vehicular traffic conflicts;

- iv. Adequacy of sight distances between road and driveway intersections as specified in Section 6.2, Access Management.
  - v. Location and accessibility of off-street parking, loading, and unloading for automotive vehicles, including buses and trucks;
  - vi. Location and potential use of ingress and egress drives to access special land use parcels for the purpose of possibly reducing the number of access points necessary to serve the parcels.
  - vii. Adequate maneuverability and circulation for emergency vehicles.
- b. Screening shall be provided along all sides and rear property lines by a buffer area, and along the front property line by a greenbelt in accordance with Section 6.4, unless it can be demonstrated that the proposed special land use can be adequately controlled through some other means, such as restrictions on the hours of operation, or reducing the impact by the type and level of activity to be conducted on the site.

C. **Conditions.** The Planning Commission may impose reasonable conditions that are allowed by this Ordinance or the Zoning Act. Any imposed conditions shall:

- 1. Be designed to protect the natural environment, conserve natural resources, protect the health, safety and welfare, and the social and economic well-being of those who will use the proposed special land use, as well as those residents and land owners immediately adjacent to the proposed special land use and the community as a whole.
- 2. Be related to the valid exercise of police power and purposes which could be adversely affected by the proposed special land use.
- 3. Be necessary to meet the intent and purpose of any applicable requirement of this Ordinance.
- 4. Be related to the standards and requirements established in this Article and Article 8 for the proposed special land use, and considered necessary to ensure compliance with those standards and requirements.
- 5. Be adequate to safeguard the protection of the general welfare and individual property rights, and to ensure that the intent, purpose, goals, and objectives of this Article are met.

D. **General Requirements.**

- 1. Application for a proposed special land use shall be made by those persons having ownership of the land on which the special land use is being requested. All persons having an ownership interest in the property shall sign the application prior to its acceptance by the Township.
- 2. In addition to the requirements of Section 9.7, a special land use application shall be deemed to have received final approval only if final approvals have been obtained on the special land use application and the site plan application. An approved special land use shall not receive a land use permit or begin construction or use of the property until a site plan is approved for the special use and all the



conditions have been met. The site plan may be approved at the same time or after the special use permit. Based on the complexity of the application and the potential length of the public hearing, the planning commission may consider the special use application and site plan at the same hearing or in separate hearings. The applicant may request either separate or joint consideration of the application and site plan. However, based on the standards described above, the determination of separate or joint hearings shall be made by the planning commission.

3. The approved minutes of the Planning Commission shall be the date official action was taken on a proposed special land use application. Said minutes shall constitute notice of the Planning Commission's decision regarding the proposed special land use application, and a copy of said minutes shall be made available to the Applicant, regardless of whether the proposed special land use is approved, approved with conditions, or denied.
4. All construction, improvements, or use of a parcel(s) of land shall be in complete accordance with the approved special land use, any conditions of approval, and the approved site plan.
5. A special land use approval may be terminated by subsequent rezoning of the affected parcel, unless subject to the continuance of any vested legal nonconforming use rights.
6. The reapplication, reconsideration, and rehearing for a proposed special land use that has been denied by the Planning Commission shall not be resubmitted until one (1) year from the date of such denial, except on the grounds of newly discovered evidence or proof of materially changed conditions sufficient to justify reconsideration by the Planning Commission at an earlier date. Each reapplication shall be treated as a new application.
7. All conditions included with the approval of a proposed special land use shall be recorded in the official approved minutes of the Planning Commission, and they shall remain in effect unless subsequently amended by the mutual approval of the Planning Commissions and any landowners. The Planning Commission's approved minutes shall include a record of any such subsequent agreements.

E. **Performance Guarantee:** Shall be required as per Section 11.8 of this Ordinance.

F. **Additional Requirements.**

1. Conditions and requirements included as a condition of approval shall be continuing obligations on all owners, managers, and users of the proposed special land use and shall be binding upon their heirs, assigns and upon any persons taking subsequent title to the affected property while such special land use approval remains in effect.

#### **SECTION 9.4 AMENDMENTS AND ADDITIONAL INFORMATION**

A. **Amendments.** Amendments to a special land use approval shall be permitted only under the following circumstances:

1. The holder of a special land use approval shall notify the Zoning Administrator, in writing, of any desired change.
2. Minor Amendment. Minor changes may be approved by the Zoning Administrator upon determining that the proposed amendment(s) will not alter the uses and basic character of the special land use approval, nor any specified conditions imposed as part of the original approval. Minor changes include, but are not limited to the following:
  - a. Changes necessary to conform to other laws or regulations of the Township, the Leelanau County Road Commission, or other County, State, or Federal regulatory agencies.
  - b. Change of phases or in the sequence of phases, only if all phases of the special land use have received final approval and provided that the change does not alter any conditions of approval.
  - c. An increase of less than twenty-five (25) percent in the main building's usable floor area, the land area occupied by the main or accessory uses, the size of the parking area, the number of parking spaces provided, occupancy load, capacity or membership, or traffic generation.
3. Major Amendment. A major amendment to an approved special land use shall require a new application and review as required by this Article.
  - a. A major amendment shall be considered as one (1) or more of the following:
    - i. The use is expanded to adjacent property that was not included in a previous approved special land use application.
    - ii. Any proposed amendment that is not a minor amendment.

**B. Additional Information and Escrow Funds.** The Planning Commission may require such additional information, data, or studies to be prepared by a qualified person or persons as deemed reasonably necessary to determine conformance with the General Standards and Specific Requirements of this Article, and the site plan review standards in Article 8. This material may include, but is not limited to, aerial photographs, traffic studies, wetlands delineation, soil tests, study and analysis of the perceived need for the proposed special land use in the Township and the area, legal and engineering review, and other pertinent information. Approval of the Health Department, the Leelanau County Road Commission, the Elmwood Township Fire Department, or other agencies that may be required to develop the site shall not be the sole determining factor in this regard. The Planning Commission may require the applicant to provide the additional information, data, or studies or the Planning Commission may select an independent entity. If an independent entity is selected to perform this work, then the charges for this work and all related costs, including analysis by professionals, shall be paid from the Escrow Funds, per Section 11.7, applicable to the application.

## **SECTION 9.5 SPECIAL LAND USE APPROVALS AND EXTENSIONS**

- A. Special land use approvals, and any conditions of approval, shall run with the land and be binding upon the applicant and any subsequent successors, heirs, or assigns.
- B. If substantial construction has not taken place within one (1) year of the special land use approval date, the special land use shall expire..
- C. The Planning Commission may grant two (2) extensions of a special land use approval, of an additional one (1) year period for each extension, provided that the applicant submits an extension request prior to the one year expiration date of the special land use approval or a prior extension. To grant an extension, the Planning Commission must find that any delays were beyond the control of the applicant, and that the applicant will complete substantial construction within the one (1) year extension period.

**SECTION 9.6 APPEALS OF SPECIAL LAND USE APPROVALS**

The Planning Commission shall grant or deny approval of all special land use applications. A person aggrieved by a decision of the Planning Commission in granting or denying approvals of a special land use, or regarding any conditions attached to approval of the special use permit, may appeal the decision to the Zoning Board of Appeals per the requirements of Article 12 of this Ordinance.

**SECTION 9.7 SPECIAL LAND USE APPROVAL AND LAND USE PERMITS**

Special land use approval still requires issuance of a land use permit. The Zoning Administrator shall issue a land use permit only after all conditions (if any) which can be met prior to issuance of the land use permit have been completed, and all fees have been paid. No construction shall commence until after a land use permit has been issued.

**SECTION 9.8 ADDITIONAL REQUIREMENTS FOR CERTAIN SPECIAL LAND USES**

Several land uses require additional requirements that must be met in addition to the Standards, Requirements, and Findings in Section 9.3. These additional standards are listed below.

- A. **Communication Towers.** It is the general purpose and intent of the Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, an attempt has been made to balance these potentially competing interests.
  - 1. Pursuant to Section 3514 of P.A. 110 of 2006, as amended, wireless communications equipment is a permitted use of property and is not subject to Special Land Use approval or any other approval if the following requirements are met:
    - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
    - b. The existing wireless communications support structure or existing equipment compound is in compliance with the Elmwood Township

Zoning Ordinance or was officially approved by the Zoning Administrator or Planning Commission.

- c. The proposed collocation will not do any of the following:
    - i. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
    - ii. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
    - iii. Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - d. The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the Zoning Administrator or Planning Commission.
2. Wireless communications equipment that meets the requirements of subsection 1 (a) and (b) but does not meet the requirements of subsection 1(c) is a permitted use of property if it receives special land use approval.
  3. The Planning Commission shall take into account the following:
    - a. Visual Impact. The application for special approval for the tower shall include a visual impact analysis, prepared by the applicant, which includes graphic depictions of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Zoning Administrator.
    - b. Height and Construction.
      - i. A cellular phone or other personal and business communications services antenna tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions.
      - ii. The tower and any ancillary building housing equipment needed for operation of the tower shall not exceed the floor area and height minimally necessary for such equipment, and shall be of a size, type, color, and exterior materials which are aesthetically and architecturally compatible with the surrounding area, and as minimally obtrusive as possible. Landscape screening may be required by the Planning Commission to accomplish screening of ancillary equipment buildings.
      - iii. Towers shall be monopole construction with no guy wires.

- c. Lighting. The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.
  - i. The color and intensity of tower lighting required by Federal Communications Commission (FCC), Federal Aviation Administration (FAA) or Michigan Aeronautics Commission (MAC) regulations shall be as unobtrusive as possible and must cause the least disturbance to the surrounding properties.
  - ii. Lighting shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or federal regulations.
  - iii. Lighting may consist of a red top light that does not pulsate or blink.
- e. Color. Towers shall be painted so as to be as unobtrusive as possible. The painting of towers in alternate bands of color shall be permitted only if specifically required by Federal Communications Commission (FCC), Federal Aviation Administration (FAA) or Michigan Aeronautics Commission (MAC) regulations. If alternate band painting is required by FCC, FAA, or MAC regulations, the applicant shall provide documentation of such requirements and regulations.
- f. Height. If the height required for the tower to serve its intended function decreases from the installed height due to technological advancement, additional tower installations at other locations, or other factors, the Township may order that the tower be lowered to such decreased minimum height.
- g. Signs. No signs other than signs required pursuant to federal, state or Township ordinance shall be allowed on an antenna or tower or site.
- h. Setback Requirements. The tower shall be set back not less than the distance equal to the height of the tower measured from the base of the tower to all points on each property line.
  - i. The tower and any supporting or appurtenant structures shall be no closer to any building, than the distance equal to the height of the tower measured from its base at grade to its highest point of elevation.
  - ii. The Planning Commission may reduce the required setbacks for towers that are designed to collapse onto themselves. In such a case, a sealed engineers drawing that states the minimum required

setback shall be provided with the special use application. The Township may retain the services of an independent engineer to review the tower design and requested setback. The costs associated with an independent review shall be paid for by the applicant.

- i. FCC/FFA/Other Regulations. The applicant shall provide documentation of conformance with any Federal Communications Commission, Federal Aviation Administration, of Michigan Aeronautics Commission regulations. The tower shall comply with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended).
- j. Use. The owner/operator of the tower shall agree to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable terms, so long as such use does not interfere with the owner/operators reasonable use of the tower.
- k. Removal of Abandoned Towers. Any tower that is not in use for a period of twelve (12) consecutive months shall be considered abandoned, and the owner of such tower shall remove the same within one hundred eighty (180) days of receipt of notice from the Township of such abandonment. In addition to removing the tower, the owner shall restore the site to its original condition. Any foundation shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the tower at the owner's expense. The Planning Commission shall require the applicant to file an irrevocable bond equal to the reasonable cost (including adjustment for inflation) of removing the tower and attendant accessory structures as a condition of a special use permit given pursuant to this section.
- l. Antenna Co-location on an existing tower or structure.
  - i. No antenna or similar sending/receiving devices appended to a tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.
  - ii. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.

## B. Essential Services

- 1. **Intent.** It is the intent of this Ordinance to allow routine essential services in any zoning district as a permitted use since routine essential services are likely to have a minimal adverse impact on surrounding properties.

2. Essential services shall be permitted as authorized under any franchise in effect within the Township, subject to regulation as provided in any law of the State of Michigan, or in any ordinance of the Township. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this Zoning Ordinance, wherever such conformity shall be practicable, and not to be in conflict with the specific requirements of such franchise, State legislation, or Township Ordinance. In the absence of any conflict, the Zoning Ordinance shall prevail.
  3. The following are considered routine essential services and are permitted in all zoning districts without a land use permit:
    - a. Overhead and underground utility distribution facilities such as water mains, sewer mains and lift stations, electrical, gas, telephone and cable television distribution lines and associated structures, pump stations, transformers, and utility boxes that are designed to serve primarily Elmwood Township and any adjacent township, subject to any franchise agreement with the Township. With new developments, utility easements will be approved as part of a subdivision plat, condominium, or site plan.
    - b. Any other similar facilities not listed above, as determined by the Zoning Board of Appeals in conformance with Section 3.3.
  4. The following are considered major essential services and are permitted in certain zoning districts subject to specific review and approval procedures as described below:
    - a. Distribution substations, pump stations and transformer substations designed to serve a larger geographic area beyond Elmwood Township and any adjoining township are allowed in all zoning districts.
    - b. Transportation pipelines for gas, petroleum, and other materials, high-voltage electrical power transmission lines and other similar utility corridors that pass through the township and serve a larger geographic area beyond Elmwood Township and any adjoining township are permitted in all zoning districts.
    - c. Transmission substations, essential public service buildings, public sewage treatment plants, public water plants, power plants, public works garages, storage yards and similar uses are only permitted in the Light Industrial and Agricultural-Rural zoning districts.
    - d. Fire stations, police stations, and other similar emergency services shall be permitted in the Agricultural-Rural and all non-residential zoning districts.
    - e. An essential service is subject to site plan and special land use approval.
- C. Home Businesses.**
1. With the special land use application and associated site plan, the following information shall be included:
    - a. Type of business.

- b. Hours of operation.
  - c. Number of employees.
  - d. Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e. Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
  - f. Anticipated traffic levels (customer, delivery vehicles, etc.).
2. The parcel shall contain a single-family dwelling.
  3. No more than three (3) persons who are not residents of the dwelling shall be employed on the premises at which the home based business is located.
  4. Any need for parking generated by the conduct of such home business shall be provided outside of the road right-of-way in an approved parking area and located as to not detrimentally affect the neighbor's property.
  5. The home business may be conducted within accessory buildings, but in no case shall the cumulative area utilized for the home business exceed two thousand four hundred (2,400) square feet.
  6. All activities shall be conducted within a building, and no outdoor storage of materials shall be permitted.
  7. An accessory building used for a home business shall have a setback of at least one hundred (100) feet from all property lines.
  8. The home business shall not result in the alteration of the dwelling or the construction of an accessory building which is not customary to dwellings and residential accessory buildings.
  9. The amount of hazardous materials related to the home business shall not require registration.
  10. Only those goods or products that are clearly primary to the home business shall be sold on the premises. No merchandise, equipment, or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the main building.
  11. The hours of operation shall be limited to 6:00 a.m. to 9:00 p.m.

**D. Kennels**

1. The minimum lot area shall be five (5) acres for the first five (5) animals, and an additional five thousand (5000) square feet for each animal in addition to the first five (5). The Planning Commission may reduce this requirement based on site conditions.



2. Buildings and/or the use shall not exceed twenty-five (25) percent of the lot except as pasture for animals.
3. The applicant shall declare, as part of the special land use application, the maximum number of animals intended to be housed at the facility. For the purposes of this paragraph, newborn animals not yet weaned shall not be counted toward such maximum.
4. Buildings where animals are kept, dog runs, tethers and exercise areas shall not be located nearer than fifty (50) feet from any adjoining property line. Additional landscape screening, berms, or fencing may be required by the Planning Commission.
5. Dog runs and exercise areas shall not be located within any front yard.
6. All principal use activities, other than outdoor dog runs, tethers or exercise areas, shall be conducted within a totally enclosed building.
7. An animal waste management plan shall be provided by the applicant. Animal waste must be managed in a manner so as not to be a hazard to health or a nuisance to neighbors.
8. All required state and local licenses and permits shall be obtained and maintained in good standing at all times.
9. Noise emanating from a kennel shall not cause the unreasonable interference of the comfortable use and enjoyment of an adjoining property.

**E. Marinas-Commercial, Private, and Public.**

1. Sanitary facilities (i.e. bathrooms) shall be provided.
2. Marinas must comply with all Federal and State regulations including permitting.
3. Sale of motor fuels may be allowed if located more than five hundred feet from any public bathing beach measure along the shoreline, and no closer than one hundred feet from any adjacent property.
4. Storage of boats, trailers, and cradles may be permitted provided that trailers and cradles are screened from view or located one hundred feet from any road right of way.

**F. Seasonal Outside Storage of Recreational Vehicles, Boats, Snowmobiles on Trailers, and Empty Cradles**

1. The storage area is at least two hundred fifty (250) feet from the front yard setback line.
2. The storage area is screened from the adjacent residential property lines (if any) by enclosing it with a solid wood fence not less than six (6) feet high or plant materials such as evergreen trees not less than five (5) feet in height and spaced

not further than eight (8) feet apart around that part of the storage yard which shares a lot line with a residential use or a residential zoning district. The location of said fence shall be shown on the final site plan. The design of the fence or landscape plan for the plantings shall be reviewed during the site plan review process and shall meet the approval of the Planning Commission. The fence or plantings shall be maintained in a neat and attractive manner and shall maintain their density and screening effect throughout the calendar year.

3. The storage area shall be in compliance with Soil Erosion/Stormwater permit and shall be graded and drained to dispose of all surface water so that it does not flow into adjoining lots or pollute adjoining waters.
4. The storage area is for storage only and no vehicle or motor repairs shall be made on the premises by the property owner, vehicle owner, boat owner, or any other person.
5. Empty boat cradles or trailers shall be completely screened by an opaque fence, or wall, or landscaping, or combination thereof. No empty boat cradles or trailers shall be stacked higher than six (6) feet.

**G. Sexually Oriented Businesses.**

1. In the development and execution of this subsection, it is recognized that there are some uses that, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them is located in proximity to a Residential District, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this subsection. These controls are intended for preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential area.
2. Any sexually-oriented business use is permitted if:
  - a. The proposed use is not an accessory or incidental use and it is located within a zone district where the use may be permitted as a special land use.
  - b. The use is not located within a one thousand (1,000) foot radius of a regular place of worship, a public or private nursery school, preschool, kindergarten, elementary or secondary school, or a licensed child care center. Nor shall the use be located within a two hundred fifty (250) foot radius of a residential use or district, or a public park.
  - c. The use shall not be within a five hundred (500) foot radius of another such use. Separation distances between sexually oriented businesses may be waived by the Planning Commission if the following findings are made:
    - i. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this subsection will be observed.

- ii. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
  - iii. That the establishment of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation or recreation.
  - iv. That all applicable state laws and local ordinances will be observed.
  - v. Prior to the granting of any waiver, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the sexually oriented business as may be, in its judgment, necessary for the protection of the public interest. Evidence and guarantees may be required such that the conditions stipulated in connection with the use will be fulfilled.
- d. For purposes of this subsection, the separation between a sexually oriented business and a use listed in this subsection shall be measured from the sexually oriented business to the boundary line of the use or district in which the other use is located, and the separation distance between a sexually oriented business and another sexually oriented business shall be measured from the sexually oriented business' lot line to the other sexually oriented business' lot line.
  - e. If any portion of the building or structure in which the sexually oriented business is located fails to meet the separation distance requirements of this subsection, then the entire building or structure shall be ineligible for a sexually oriented business use.
  - f. The presence or existence of a city, township, county, or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the separation distance requirements of this subsection.
  - g. A sexually oriented business lawfully operating is not rendered a nonconforming use by the location, subsequent to the location or grant or renewal of the sexually oriented business, of a regular place of worship, a public or private nursery school, preschool, kindergarten, elementary or secondary school, a public park, a licensed child care center, any entertainment business that is oriented primarily toward children or family entertainment, or another sexually oriented business.
- 3. Parking spaces shall be provided at the ratio of one (1) space per person permitted by the maximum occupancy load established by fire, health, or building codes.
  - 4. Parking shall be provided in conformity to Article 6 of this Ordinance.

5. No sexually oriented business use shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted at the building entrance(s) noting that minors are not allowed. All signage shall conform to the requirements of Article 6 of this Ordinance.
  6. All parking areas and the building shall be well lit to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour after closing each night.
  7. The physical structure of the establishment shall be architecturally compatible with the neighborhood.
- H. **Reserved (Amendment ZO 2017-04-06, Ordinance #2016-04, Effective January 3, 2020)**
- I. **Wind Energy Conversion System (WECS)- Commercial.**
1. The site plan shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all occupied dwelling units within three hundred (300) feet of the WECS.
  2. Underground power lines are encouraged where feasible.
  3. Each application shall be accompanied by a profile, showing at a minimum the following:
    - a. Height above grade of the wind turbine generator.
    - b. Diameter of the rotor.
    - c. Tower type.
    - d. Maximum sound level dB(A) at the property line.
  4. The maximum level of noise permitted to be generated by any WECS shall not exceed 55 dB(A) at the property line closest to the WECS. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be the ambient dB(A) plus 5 dB(A).
  5. WECS shall be erected such that no portion of the tower or turbine is closer than one hundred (100) feet from any property line.
  6. The maximum allowable height, including rotor blade length of horizontal wind turbines, of any WECS shall be two hundred fifty (250) feet, unless otherwise restricted by Federal Aviation Administration (FAA) requirements.

7. For both horizontal and vertical axis turbines, the WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is twenty (20) feet.
8. Towers shall be designed and constructed in such a manner that access is limited to authorized personnel.
9. Under no circumstances shall a WECS produce vibrations humanly perceptible beyond the lot boundaries.
10. Provisions shall be made for removing the tower, when it is no longer utilized for power generating purposes, by furnishing a performance guarantee in an appropriate amount as per Section 11.8, unless approval for another use is granted by Elmwood Township pursuant to this Ordinance.

**J. Wine Tasting Room**

The Township would like to encourage agriculturally related uses while preserving neighboring property owners' enjoyment of their land. Wine tasting rooms are permitted at wineries provided that the proposed wine tasting room complies with the following requirements:

1. The winery is licensed or will be licensed prior to occupancy by the appropriate Federal, State, and Local agencies.
2. The parcel shall have a minimum of 10 acres.
3. The winery is operated according to generally accepted agricultural management principles and the parcel shall have a minimum of five (5) planted acres of fruit that is used for the on-site production of wine.
4. The total footprint covered by buildings and structures used for any purpose, including wine tasting rooms shall not exceed two and one-half (2.5) percent of the lot area.
5. Setbacks shall be:
  - a. For any wine tasting room that adjoins a parcel where there is a residence, all wine tasting room structures and facilities shall be located at least 100 feet from the property line that adjoins a residence, and speakers and sound amplifiers shall be located at least 250 feet from the property line that adjoins a residence.
  - b. For any wine tasting room that adjoins a parcel where there is a residence, if the residence is within 500 feet of any wine tasting room structure, there shall be a fence along the property boundary line that adjoins the residence to discourage trespass.
6. The maximum size of wine tasting room shall be 2000 sq ft.

7. The hours of operation shall be between the hours of 10 am and 10 pm unless the Planning Commission determines that different hours are more appropriate to meet the standards of Section 9.3.
8. Amplified sound (including amplified music) shall be contained indoors and shall not exceed reasonable volumes, so as to avoid disturbance to any neighboring residents.
9. Lighting shall comply with Section 6.5.
10. 50% of the retail space and gross sales of a wine tasting room must be from product produced and grown on site as described in the Department of Agricultural Generally Accepted Agricultural Practices for Farm Markets.
11. On-site parking shall be designed and constructed according to Article 6.

**K. UTILITY-SCALE SOLAR ENERGY SYSTEMS (Amendment ZO 2017-04-01, Ordinance #2018-03, Effective September 28, 2018)**

**Purpose**

It is the intent of Elmwood Township to permit Utility Scale Solar Energy Systems by regulating their siting, design, and installation to protect public health, safety, and welfare, to ensure their compatibility with adjacent land uses, and protect active farmland, prime soils, and forested properties. Utility-scale SES shall be permitted as a special use subject to the following standards:

1. Standards for Ground-Mounted Utility-Scale SES
  - a. **Setbacks:** The minimum setback for all structures and equipment related to a SES shall be 100 feet from any front property line, 50 feet from any side or rear property line. In addition, all structures and equipment shall be located a minimum of 100 feet from any dwellings not located on the subject property.
  - b. **Minimum Lot Area:** Minimum lot area for a utility-scale solar energy system shall be five (5) acres.
  - c. **Signage:** Utility-scale solar energy system installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system. All signage shall conform to the requirements of Article 6 of this Ordinance.
  - d. **Utility Collection:** All utility collection lines from the solar energy system shall be placed underground. Interconnection to the electric grid shall meet the requirements of the transmission owner.
  - e. **Screening:** Utility scale solar energy systems shall be screened from any rights-of-ways including water. In addition to the screening requirements of Section 6.4.2, screening shall be a mixture of heights at the time of planting with 25% of the screening being at least 10 feet at the time of planting. When a utility-scale solar energy system is adjacent to a residentially or agriculturally zoned or used lot, side and rear yard screening may be required as determined by the Planning Commission to address specific site needs at

the time review. Solar panels shall be placed such that concentrated radiation or solar glare shall not be directed onto nearby properties or roadways.

- f. **SES Maintenance:** The utility-scale SES operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to local emergency response personnel. The operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s). All landscaping and buffer shall be maintained and replaced within the next growing year should it die.

2. Abandonment or Decommissioning

- a. Any utility-scale solar energy system which has reached the end of its useful life or has been abandoned consistent with this section of the Zoning Ordinance shall be removed and parcel owners shall be required to restore the site. The property owner shall physically remove the installation no more than one-hundred and fifty (150) days after the date of discontinued operations.
- b. The property owner shall notify the Township and the Planning Commission by certified mail of the proposed date of discontinued operations and plans for removal.
- c. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the utility-scale SES shall be considered abandoned when it fails to operate continuously for more than one year. If the property owner fails to remove the installation in accordance with the requirements of this Section within 150 days of abandonment or the proposed date of decommissioning, Elmwood Township is permitted to enter the property and physically remove the installation.
- d. The Decommissioning plan shall consider at minimum:
  - i. Physical removal of all aboveground utility-scale solar energy systems and ancillary solar equipment, structures, equipment, security barriers, and transmission lines from the site.
  - ii. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.
  - iii. Stabilization and re-vegetation of the site as necessary to minimize erosion.

- 3. **Financial Surety:** The applicant for a utility-scale solar energy system shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal of the SES in the event Elmwood Township must remove the installation. The amount and form of financial surety is to be determined by the Planning Commission, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared

by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

**L. Distillery Tasting Room (Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018)**

The Township would like to encourage agriculturally related uses while preserving neighboring property owners' enjoyment of their land. Tasting rooms are permitted at distilleries provided that the proposed distillery tasting room complies with the following requirements:

1. The distillery is licensed or will be licensed prior to occupancy by the appropriate Federal, State, and Local agencies.
2. The parcel shall have a minimum of 20 acres.
3. The distillery is operated according to generally accepted agricultural management principles and the parcel shall have a minimum of five (5) planted acres of crop that is used for the on-site production of spirits unless the Planning Commission determines that a different minimum is more appropriate to meet the standards of Section 9.3 for the reuse of existing commercial structures.
4. Tasting rooms shall not exceed two and one-half (2.5) percent of the lot area.
5. Setbacks shall be:
  - a. For any tasting room that adjoins a parcel where there is a residence, all tasting room structures and facilities shall be located at least 100 feet from the property line that adjoins a residence, and speakers and sound amplifiers shall be located at least 250 feet from the property line that adjoins a residence.
  - b. For any tasting room that adjoins a parcel where there is a residence, if the residence is within 500 feet of any tasting room structure, there shall be a fence along the property boundary line that adjoins the residence to discourage trespass.
6. The maximum size of tasting room shall be 2000 sq ft.
7. The hours of operation shall be between the hours of 10 am and 10 pm unless the Planning Commission determines that different hours are more appropriate to meet the standards of Section 9.3.
8. Retail sales and food service must be clearly accessory to production of the spirit being processed on-site. The tasting room may offer food service provided:
  - a. The area for serving food shall seat no more than twenty (20) patrons at one time.



- b. Sale of food shall not exceed 10% of gross sales of licensed products. At the request of the Township, the business shall provide supporting documentation to the Township verifying compliance with this section. This section does not limit the Township's ability to make documentation request in any other sections of the Zoning Ordinance.
  - c. Food service items shall be limited to appetizers and small plates. Carry-out foods are prohibited.
  - d. Distillery shall be licensed to prepare and serve food by the appropriate Health Agency.
- 9. Amplified sound (including amplified music) shall be contained indoors and shall not exceed reasonable volumes, so as to avoid disturbance to any neighboring residents.
  - 10. Lighting shall comply with Section 6.5.
  - 11. Any alcoholic beverages consumed or sold on-site must be produced on-site.
  - 12. On-site parking shall be designed and constructed according to Article 6.

**M. Agricultural Commercial Enterprises (Amendment ZO 2017-04-05, Ordinance #2019-02, Effective September 4, 2019)**

The purpose is to promote agricultural commerce, to conserve valuable farmland, and to protect public safety.

- 1. The use must be associated with a farm operation, operated according to the Generally Accepted Agricultural and Management Practices for Farm Markets (GAAMPS) for the State of Michigan and any additional GAAMPS that may apply for the proposed use.
- 2. Accessory Uses. The following are allowed as accessory uses to agricultural commercial enterprises:
  - a. Petting zoos, animal attractions, and playgrounds.
  - b. Children's games and activities.
  - c. Crop mazes and pumpkin patches.
  - d. Holiday-oriented activities.
  - e. Sales shall be limited to farm products in compliance with GAAMPS for Farm Markets, such as fruit, vegetables, or baked goods; plant and nursery stock; or farm-related products such as milk, cheeses, honey, preserves, or butter. A bakery may exist as part of a farm market.
- 3. Sales of the following are prohibited unless otherwise authorized by the Ordinance:

- a. Fuel or related products.
  - b. Tobacco products.
  - c. Lottery tickets.
  - d. Vehicles or related products.
  - e. New & Used household goods.
  - f. Alcohol production and sales.
4. Shall be located on a minimum parcel size of one (1) acre and shall be owned or leased by the farmer.
  5. The minimum setback from any lot line for any structure shall be fifty (50) feet. Vegetative planting or agricultural use of land is encouraged between the structure and any property line.
  6. Parking shall be setback a minimum of fifty (50) feet from any side or rear lot line and a minimum of ten (10) feet from the road right-of-way line.
  7. Landscaping shall comply with Section 6.4 including buffering requirements.
  8. Lighting. Greenhouse and other grow lights internal to agricultural enterprises are exempt from the lighting requirements of this Section. For all other lighting requirements, see Section 6.5, Lighting.

**Article 10**  
**Nonconformities**

**SECTION 10.1 INTENT**

Nonconforming uses or structures shall not be extended, added to, or altered except in conformity with the provisions of this Ordinance.

**SECTION 10.2 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE**

The lawful use of any premises existing at the time of the adoption or amendment of the Elmwood Township Zoning Ordinance may be continued. If such nonconforming use is discontinued (see Section 10.9 below), the future use of said premises shall be in conformity with the provisions of the current Elmwood Township Zoning Ordinance.

- A. If a structure is nonconforming because of height or floor area of the structure, or due to the associated parking or loading requirements, the structure may be altered if it is in compliance with the provisions of this Article.
- B. Neither a nonconforming use of land nor a structure associated with the nonconforming use shall be enlarged or increased nor extended, horizontal or vertically, to occupy a greater area of land than was occupied at the effective date of this Ordinance.
- C. A nonconforming use shall not be expanded.
- D. Any nonconforming use changed to a conforming use shall not thereafter revert to any nonconforming use.

**SECTION 10.3 RESTORATION, REPAIR, MAINTENANCE OR REMODEL**

- A. If any nonconforming structure is damaged by accidental fire, wind, an act of God, or a criminal act not of the owner's action, it may be rebuilt or restored. Rebuilt or restored facilities shall conform to current county building codes and other local and state agency regulations. Any such rebuilding or restoration shall be completed within one (1) year following the date of the damage. Unless an extension for an additional one (1) year is approved by the Zoning Administrator, the failure to complete rebuilding or restoration within one (1) years shall create a rebuttable presumption that the nonconforming structure has been abandoned. Such rebuilding or restoration shall comply with one of the following two provisions:
  - 1. The rebuilding or reconstruction is restricted to no greater than the original size, as defined by the location of the original building footprint and spatial building envelope; or
  - 2. The proposed replacement structure must meet the current zoning ordinance requirements.
- B. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided there is no increase in the nonconformity of the structure.

- C. An existing nonconforming structure may be remodeled within its current building footprint and spatial building envelope.
- D. A nonconforming structure may be expanded or altered, provided the expansion or alteration does not increase the nonconformity subject to the following provision:
  - 1. A nonconforming structure, which predates the original Elmwood Township Zoning Ordinance (May 25, 1969), or a nonconforming structure for which documentation regarding the date when it was substantially completed cannot be provided shall require Zoning Board of Appeals (ZBA) approval for any expansion or alteration. The ZBA approval shall be based on a determination of whether the nonconforming structure is legally-existing and that the proposed expansion will not increase the nonconformity.
- E. A nonconforming structure which is voluntarily or intentionally demolished shall not be replaced unless in full compliance with the provisions of the current Elmwood Township Zoning Ordinance.

**SECTION 10.4 NONCONFORMING LAWFUL LOTS OF RECORD**

- A. Lawful lots of record that do not comply with the lot area and width requirements of this Ordinance are considered buildable provided that:
  - 1. All setback and other dimensional requirements are met.
  - 2. The use is permitted in the zoning district.
  - 3. All outside agency requirements are met, including but not limited to the Health Department, the Leelanau County Road Commission, Michigan Department of Environmental Quality, and the Michigan Department of Transportation.
  - 4. The nonconforming parcel complied with the zoning ordinance in effect at the time of its creation.
  - 5. In cases where setback requirements cannot be met, variances may be granted by the ZBA provided that potable water supply and safe sewage disposal facilities can be provided.
- B. If any nonconforming undeveloped lot or lots are contiguous with other such nonconforming or conforming lots under the same controlling ownership, the owner(s) shall be required to reconfigure or combine such lots to provide parcel(s) which shall meet the minimum requirements for the district in which they are located. In those instances where it is not possible to meet the minimum ordinance requirements, the parcels shall be joined to ensure less nonconformity.

**SECTION 10.5 COMPLETION OF PREVIOUSLY PERMITTED CONSTRUCTION**

Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which has been fully permitted and substantial construction of

which has been completed prior to the effective date of this Ordinance or any applicable amendment of this Ordinance. If a structure complies with the foregoing requirement and this Ordinance or an amendment to this Ordinance makes the structure or intended use nonconforming, then the structure or intended use may continue as a nonconforming structure or nonconforming use.

#### **SECTION 10.6 PRE-EXISTING SPECIAL LAND USES**

Where such uses that were permitted as conditional uses under the previous Elmwood Township Zoning Ordinance of 1969, as amended, and are now considered special land uses in this Ordinance; such special land uses shall not be considered nonconforming and shall not be subject to the provisions of this Article.

#### **SECTION 10.7 CHANGE OF TENANCY OR OWNERSHIP**

Nothing contained in this Ordinance shall be construed to prevent a change of tenancy, ownership, or management of an existing nonconforming use or structure. Any such nonconforming use or structure shall be subject to the requirements of this Ordinance.

#### **SECTION 10.8 CHANGE OF NONCONFORMING USE**

- A. Whenever a zoning district shall be changed, any legally existing nonconforming use or structure may be continued, provided all other regulations governing the use are met. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- B. No nonconforming use in a structure or upon land, or in combination thereof, shall be changed to any other nonconforming use.

#### **SECTION 10.9 ABANDONMENT OF NONCONFORMING USE OR STRUCTURE**

If a property owner intends to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owners to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

- A. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
- B. Whether signs or other indications of the existence of the nonconforming use have been removed.
- C. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
- D. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.



**Article 11**  
**Administration and Enforcement**

**SECTION 11.1 ZONING ADMINISTRATOR**

A Zoning Administrator shall be appointed by the Township Board. The provisions of this Ordinance shall be interpreted, administered, and enforced by the Zoning Administrator. He/she shall perform those duties as the Board may prescribe, in addition to any duties prescribed in this Ordinance.

**SECTION 11.2 DUTIES OF THE ZONING ADMINISTRATOR**

- A. The Zoning Administrator shall have the authority to issue land use permits in accordance with the requirements of Section 11.4.
- B. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in the Ordinance.
- C. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to enforce this Ordinance.
- D. The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance.
- E. If the proposed application for a land use permit is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a land use permit, provided that all other permits or approvals have been obtained as required by 11.5. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on the land use application.
- F. Consistent with this subsection, the Zoning Administrator shall interpret this Ordinance in the performance of the duties of the Zoning Administrator. When no prior precedent exists regarding the interpretation of one or more sections of this Ordinance, the Zoning Administrator shall use the guidance provided by this Ordinance and applicable Michigan law to determine the intent of the provision or provisions in question. The Zoning Administrator may seek opinions from the Township Attorney to assist in such interpretations. When sections of this Ordinance have been consistently interpreted by the Zoning Administrator, Planning Commission or Zoning Board of Appeals in a certain way (called historical precedent), then the Zoning Administrator shall follow such historical precedent unless either a written opinion from the Township Attorney or Court decisions conclude that the historical interpretation was incorrect.

**SECTION 11.3 NOTICING REQUIREMENTS**

- A. Public Notification. All applications requiring a public hearing or a public notice shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) and the other provisions of this Section with regards to public notification.

- B. Responsibility. When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice.
- C. Content. All mail, personal, and newspaper notices for public hearings shall be in accordance with the Michigan Zoning Enabling Act, as amended.
- D. Personal and Mailed Notice.
  - 1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to those parties as required by the Michigan Zoning Enabling Act, as amended, and all those entities which have requested to be notified in the manner specified in the Act.
  - 2. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered. This shall be included with an Affidavit of Mailing, or Affidavit of Service in the case of personal delivery, to be filed with Planning Commission minutes.
- E. Timing of Notice- Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, or this Ordinance where applicable, notice of a public hearing shall be provided on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation not less than fifteen (15) days before the date of the public hearing.

#### **SECTION 11.4 LAND USE PERMITS**

No structure or part thereof shall be constructed, reconstructed, erected, moved, enlarged, or altered, no use on any property shall be changed to another use and no excavation shall take place for any of the foregoing activities, until a land use permit for zoning compliance has been issued by the Zoning Administrator. Any person planning to alter any existing structure to the extent of more than two hundred (200) square feet of floor area for a residential structure or one hundred twenty (120) square feet for a commercial structure and accessory building, or replace a home used as a dwelling by another home, shall file an application in writing with the Zoning Administrator for a land use permit. Uses approved by the Planning Commission or variances granted by the Zoning Board of Appeals shall not eliminate the requirement to obtain a land use permit.

- A. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, until the Zoning Administrator has determined that the change complies with applicable provisions of this Ordinance and issues a land use permit.
- B. The issuance of a land use permit does not waive any provisions of this Ordinance.
- C. Violations to existing covenants and private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- D. When the Zoning Administrator receives an application for a land use permit which requires Planning Commission, Township Board, or Zoning Board of Appeal approvals, the Zoning Administrator shall inform the applicant of that fact.



- E. A land use permit shall not be issued until all applicable fees, charges and expenses are paid in full.

## SECTION 11.5 APPLICATION

- A. Application for a land use permit shall be submitted to the Zoning Administrator by the property owner or agent stating the intended use of the structure and of the land. A site plan meeting the requirements of this Ordinance and evidence of other permits as required below shall be required as part of the application.
- B. Plans shall be drawn to scale. Plans shall be signed by the person preparing them and by the owner of the property or building involved. In some cases, a simple sketch may be acceptable as determined by the Zoning Administrator.
- C. A fee established by the Township Board to defray the costs of administration and inspections shall accompany any plans or application of a Land Use Permit. In some instances, an escrow fund may be required.
- D. Incomplete applications will not be reviewed. If an application is incomplete it shall be returned to the applicant. Permits shall not be issued for an incomplete application.
- E. Other Permits. The following permits, as needed, must be obtained by the applicant before a land use permit can be issued by the Zoning Administrator:
  - 1. A Health Department permit if the proposed development requires a new or review of an existing well or sewage disposal system.
  - 2. A soil erosion and sedimentation control permit, if required.
  - 3. A Leelanau County Road Commission driveway permit, if required.
  - 4. A Michigan Department of Transportation driveway permit, if required.
  - 5. A Michigan Department of Environmental Quality permit, if required.
  - 6. An Elmwood Township special land use permit, site plan approval, variance approval, or other approvals required by this Ordinance.
- F. Distribution of Land Use Permits. Each land use permit shall be issued and copies shall be distributed as follows: one (1) to the applicant which is to be retained until construction is completed and one (1) to be retained by the Zoning Administrator as part of the permanent records of the Township.
- G. Expired Permits. A expired land use permit shall no longer be in effect and all work or use authorized by the permit shall cease. A land use permit has expired if:
  - 1. the land use involves construction and there has not been substantial construction or if the land use involves no construction within twelve (12) months after the permit is issued, or

2. the land use does not involve construction and the permitted use has not been meaningfully commenced within twelve (12) months after the permit is issued.
- H. Renewal of Land Use Permits. A renewal of up to another twelve (12) months may be granted by the Zoning Administrator after a re-evaluation of the approved application provided that the applicant continues to meet all requirements for a permit and all necessary extensions from the Planning Commission are obtained, in the case of site plan and special use permit approvals.

### **SECTION 11.6 REQUIRED FEES**

The fees for land use permits and other applications shall be established by the Township Board. Any required fee shall be paid to the Township Treasurer before any application is considered complete.

### **SECTION 11.7 ESCROW FUNDS**

In connection with any application, potential application, or any other time when outside assistance is required or anticipated to be need for a specific person, property, or project, the Township shall require the applicant to pay in advance into an escrow fund established to cover reasonable costs. These costs may include staff costs or consultant fees for professional and technical services required for a proper and thorough review of the application.

The Zoning Administrator may waive the requirement of establishing an escrow account when the matter to be considered does not contain issues regarding which the use of one or more consultants will be reasonably required before, during or after a final decision. However, if issues arise at any time regarding which the use of one or more consultants will be reasonably required before, during or after a final decision, the Zoning Administrator shall require that an escrow fund be established.

No application shall be considered complete until all costs have been paid and/or the escrow fund has been replenished as outlined below. The Township Clerk shall refund any unexpended funds within sixty (60) days of final action.

Should the escrow fund ever dip below fifty (50) percent of the original fund amount, the applicant shall be advised and required to replenish said escrow fund to the full original amount within five (5) business days of having been so notified by the Township Clerk. If it determined that more money than the initial deposit in necessary, the Township Clerk shall notify the applicant and the applicant shall deposit within five (5) business days. The failure of the applicant to either initially fund or replenish the escrow fund shall render the application incomplete and ineligible for further consideration until the escrow fund is replenished as required.

The applicant may seek an accounting from the Township Clerk of expenditures from the escrow fund when a request is made by the Township to replenish the fund and after a final decision on the application has been made. The applicant has no authority to approve or deny expenditures.

### **SECTION 11.8 PERFORMANCE GUARANTEES**

- A. A performance guarantee shall be required for any projects where the cost of the improvements to the site exceed \$10,000 as determined by the Township Engineer except for the construction of single family and two family dwellings. The performance guarantee

shall be provided in a form acceptable to the Township prior to the issuance of a land use permit.

- B. The amount of the performance guarantee will be determined by an estimate of costs submitted by the applicant and reviewed by the Township, subject to review and approval by the Township Engineer. A ten (10) percent contingency will be included in the estimated cost.
- C. Upon satisfactory completion of the improvements, the performance guarantee and any accrued interest will be returned to the applicant. Partial payments of the guarantee shall be returned to the applicant, if the project is developed in phases.
- D. In the event the applicant does not complete the improvements as required, the Township shall have the right to use the performance guarantee provided or deposited and any interest earned to complete the improvements. Any additional costs over the performance guarantee incurred by the Township in completing the improvements will be the responsibility of the applicant and may be added as a lien against the property.

#### **SECTION 11.9 REHEARINGS.**

- 1. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
  - a. The applicant, who brought the matter before the Planning Commission or Zoning Board of Appeals, made misrepresentations or provided inaccurate information concerning a material issue which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
  - b. After the original public hearing, there has been a material change in circumstances regarding the findings of facts which were made by the Planning Commission or Zoning Board of Appeals.
  - c. The township attorney by a written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- 2. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
  - a. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
  - b. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.

- c. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
  - d. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.
3. At a rehearing, the Planning Commission or Zoning Board of Appeals shall make a new decision on the merits following the same standards or applicable law as was used or should have been used to reach the original decision. The decision made at the rehearing preempts and replaces the original decision.

This section does not alter the expiration or termination of land use permits or approvals provided elsewhere in this Ordinance.

#### **SECTION 11.10 STOP WORK ORDERS**

- A. **Notice to Owner.** Upon notice from the Zoning Administrator that any use is being conducted, or that any work on any building or structure is being executed contrary to the provisions of this Ordinance, that work or use and any other activities associated with the construction shall be immediately stopped. The Stop Work Order shall be issued in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work, and shall state the conditions, if any, under which work or the use will be permitted to resume. The Zoning Administrator shall provide the Leelanau County Construction Codes office with a copy of the Stop Work Order within twenty-four (24) hours of the date of its issuance.
- B. **Unlawful Continuance.** Any person who continues to work in or about the structure, land or building, or use after having been served with a Stop Work Order, except any work as that person is directed to perform to remove a violation or correct an unsafe condition, shall be in violation of this Ordinance.

#### **SECTION 11.11 VIOLATIONS AND PENALTIES**

- A. Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense, and not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the Court and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance

committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one (1) week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

- B. The Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance.
- C. Any structure, land division, activity, or use which is in violation of this Ordinance except a legal non-conforming use or structure shall be deemed a nuisance per se.
- D. The Township Supervisor, Township Zoning Administrator or other persons designated by the Township Board are authorized to issue municipal civil infraction citations.

#### **SECTION 11.12 ZONING ORDINANCE AMENDMENTS**

- A. The Township Board shall be the approving body of all Zoning Ordinance Amendments.
- B. Amendments to this Ordinance may be initiated by the Township Board on its own motion, or in the manner and pursuant to, the procedure hereinafter set forth, or may be initiated by any person, firm or corporation filing an application therefore with the Planning Commission or its designated representative.
- C. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance and also recommend Ordinance amendments to the Township Board for adoption.
- D. The following guidelines shall be used by the Planning Commission, and may be used by the Township Board in consideration of amendments to the Zoning Ordinance:
  - 1. **Text Amendment.**
    - a. The proposed text amendment would clarify the intent of the Ordinance.
    - b. The proposed text amendment would correct an error in the Ordinance.
    - c. The proposed text amendment would address changes to State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d. The proposed text amendment would promote compliance with changes in other county, state or federal regulations.
    - e. The proposed text amendment would be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan, or if conditions have changed significantly since the Master Plan was adopted, consistent with recent development trends in the area.

- f. In the event the amendment will add a use to a district, that use shall be consistent with the character of the range of uses provided within the district.
- g. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
- h. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
- i. As applicable, the proposed text amendment shall be consistent with the Township's ability to provide adequate public facilities and services.
- j. The proposed text amendment shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community.

2. **Map Amendment (Rezoning).**

- a. The proposed map amendment shall be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan.
- b. The proposed district and the uses allowed shall be compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, and potential influence on property values and traffic impacts.
- c. If rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewers, water, sidewalks, and road lighting.
- d. Other factors authorized by law.

3. **Consideration of Amendment by Township Board.** Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the Township Board may modify the proposed amendment or adopt it as presented by the Planning Commission. The modified language may be referred by the Township Board back to the Planning Commission for additional comment.

E. **Zoning Ordinance Amendment Procedure.**

- 1. Filing of Applications. All petitions for amendments to this Ordinance, along with the appropriate fee, shall be in writing, signed, and filed with twelve (12) copies provided to the Zoning Administrator, who will forward them to the Planning Commission.

2. All petitions for amendments to this Ordinance shall contain at a minimum the following:
  - a. The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person, firm or corporation having a legal or equitable interest in the land.
  - b. The nature and effect of the proposed amendment.
  - c. If an individual property or several adjacent properties are proposed for rezoning, a location map showing the location of the properties generally in the township, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting parcels, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
  - d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
  - e. All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.
3. Incomplete applications will not be reviewed and will be returned to the applicant.
4. The Zoning Administrator, after examining the submitted materials and approving the application as to form and content, shall refer the request to the Planning Commission for formal review.
5. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one (1) public hearing, notice of which shall be given in accordance with the requirements of the Michigan Zoning Enabling Act. All notices of public hearing shall state the time, date, place, and purpose of the public hearing.
6. Following the public hearing, the Planning Commission shall submit the proposed amendment with its recommendation and public hearing summary to the County Planning Commission for advisory review and recommendation. The County Planning Commission has up to thirty (30) days to respond unless the County Board of Commissioners has passed a resolution waiving County right of review.
7. The Planning Commission shall then refer the proposed amendment to the Township Board, along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefor, along with any response by the County Planning Commission on the proposed amendment.
8. The Township Board may adopt the ordinance or amendment by a majority vote of its membership, or refer it back to the Planning Commission with comments for further review and consideration.

9. Upon enactment, the Zoning Ordinance, as well as subsequent amendments, shall be filed with the Township Clerk, and a notice of Ordinance adoption shall be published in accordance with the requirements of the Zoning Act.

### SECTION 11.13 CONDITIONAL REZONINGS

An applicant for a rezoning may voluntarily offer a conditional rezoning agreement along with an application for rezoning before or during the public hearing for a proposed rezoning. Any submittal of a conditional rezoning agreement shall be pursuant to the Zoning Act and this Article.

- A. The conditional rezoning agreement shall be in writing, executed by the applicant and the Township, prepared in a format in accordance with the Leelanau County Register of Deeds, and recorded with the Leelanau County Register of Deeds.
- B. The conditional rezoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, or may impose more restrictions on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.
- C. The conditional rezoning agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The conditional rezoning agreement may include conditions related to the use and development of the property that are necessary to:
  1. Serve the property with improvements, including but not limited to, the extension, widening, or realignment of streets; construction or extension of utilities; or other infrastructure improvements serving the site or the construction of recreational facilities.
  2. Minimize the impact of the development on surrounding properties and the township overall.
  3. Preserve natural features and open space beyond what is normally required.
- D. **Content of Agreement.** In addition to any limitations on use or development of the site, and preservation of site features or improvements described above, the conditional rezoning agreement shall also include the following:
  1. An acknowledgement that the conditional rezoning agreement was proposed voluntarily by the applicant.
  2. A statement that the property shall not be developed or used in any manner that is not consistent with the conditional rezoning agreement.
  3. A statement that the approval of the rezoning and the conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and the Township, and also their respective heirs, successors, assigns, receivers, or transferees. Where the applicant for rezoning is acting on behalf of the landowner through some form of purchase agreement or other mechanism, then the landowner must also consent and sign the agreement.



4. A provision that, if the conditions contained in the agreement are not met, as required by the agreement, then no further development shall take place, no further permits shall be issued, and the property shall revert back to the prior zoning district classification. The agreement may contain a time period by which the conditions must be met, a time period during which the conditions apply or both.
  5. A statement that no part of the conditional rezoning agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
  6. A legal description of the land to which the agreement pertains.
  7. Any other provisions as are agreed upon by the parties.
- E. **Process.** The conditional rezoning agreement shall be reviewed concurrently with the petition for rezoning following the process in this Section.
1. The conditional rezoning agreement must be submitted with the rezoning application pursuant to Section 11.12.
  2. The conditional rezoning agreement shall be reviewed by the Township Attorney to determine that the conditional rezoning agreement conforms to the requirements of this Section and the Michigan Zoning Enabling Act, as amended, and shall confirm that the conditional rezoning agreement is in a form acceptable for recording with the Leelanau County Register of Deeds.
  3. Following the public hearing for a proposed conditional rezoning amendment, the Planning Commission shall make a recommendation to the Township Board based upon the criteria listed in Section 11.12 of this Ordinance. In addition, the Planning Commission shall consider whether the proposed conditional rezoning agreement:
    1. Is consistent with the intent and uses permitted in the zoning district.
    2. Bears a reasonable and rational connection or benefit to the property being proposed for rezoning.
    3. Is necessary to insure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential effects on adjacent properties.
    4. Is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed conditional rezoning agreement.
    5. Leads to a development that is more compatible with abutting or surrounding uses than would have been likely if the property had been rezoned without a conditional rezoning agreement, or if the property were left to develop under the existing zoning classification.

6. Is in the public interest and consistent with the recommendations of the Township Master Plan.
4. If a conditional rezoning agreement has been offered by the applicant and recommended for approval by the Planning Commission, the Township Board may approve the conditional rezoning agreement as a condition to the rezoning if it meets all of the requirements of this subsection. The conditional rezoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
  5. If the rezoning and conditional rezoning agreements are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, and a reference to the conditional rezoning agreement placed on the Zoning Map. The Zoning Map shall show the property in the new district, plus a code to indicate that the property is subject to a conditional rezoning agreement (i.e., "R-2"). The Township Clerk shall maintain a listing of all properties subject to conditional rezoning agreements and shall provide copies of the agreements upon request.
  6. The approved conditional rezoning agreement shall be recorded with the Leelanau County Register of Deeds.
  7. Any uses proposed as part of a conditional rezoning agreement that would otherwise require approval of a conditional land use or site plan approval shall be subject to the applicable review and approval requirements of this Ordinance.
- F. **Continuation.** Provided that all development and/or use of the property in question is in compliance with the conditional rezoning agreement, a use or development authorized may continue indefinitely, provided that all terms of the conditional rezoning agreement continue to be met.
- G. **Amendment.** During the initial one (1) year period, or during any extension granted by the Township Planning Commission as permitted above, the conditional rezoning agreement may be amended in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.
- H. **Violation of Agreement.** Failure to comply with the conditional rezoning agreement at any time after approval will constitute a breach of the agreement and also a violation of this Ordinance, and further use of the property may be subject to legal remedies available to the Township.
- I. **Subsequent Rezoning of Land.** Nothing in the conditional rezoning agreement, nor any statement or other provision, shall prohibit the Township from later rezoning all or any portion of the property that is the subject of the conditional rezoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Act.
- J. **Failure to Offer Conditions.** The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this Ordinance.

- K. **Township Not Obligated.** The Township is not required to accept any or all conditions offered by a developer on a rezoning application. An offer of a conditional rezoning agreement does not require the Township to approve a rezoning application.



**Article 12**  
**Zoning Board of Appeals**

**SECTION 12.1 CREATION**

There is hereby established a Zoning Board of Appeals (ZBA) which shall perform its duties, and exercise its powers, as provided in the Zoning Act in such a way that the objectives of this Ordinance shall be enforced; the health, safety, and welfare of the public shall be promoted; and substantial justice shall be secured.

**SECTION 12.2 MEMBERSHIP**

- A. Membership. The ZBA shall consist of five (5) members:
1. One (1) regular member shall be a member of the Planning Commission.
  2. One (1) regular member may be a member of the Township Board.
  3. The remaining regular members shall be selected from the electors residing in the township and must be representative of the population and interests present in the township.
  4. The ZBA shall not conduct business unless a majority of the members are present.
- B. Appointment.
1. Members shall be appointed by a majority of the members of the Township Board.
  2. The term of each member of the ZBA is three (3) years, except for the first members appointed. Of the first members appointed, two (2) shall serve for two (2) years, and the remaining members for three (3) years. A successor must be appointed within one (1) month after the expiration of the term of the preceding member. Vacancies for unexpired terms shall be filled for the remainder of the term.
- C. Alternates.
1. The Township Board, upon recommendation from the Township Supervisor, may appoint up to two (2) alternate members, each to serve a term of three (3) years.
  2. An alternate shall be called when a regular member of the ZBA cannot hear a request due to a conflict of interest or absence.
  3. An alternate member who first hears a request shall serve on that case until a final decision has been rendered by the ZBA, even if the regular member is available.
  4. An alternate member shall have the same powers as a regular member when serving on a case.
- D. The ZBA shall choose one (1) of its members to be chairman, one (1) to be vice-chairman, and one (1) to be secretary, and it shall establish rules and regulations to govern its

procedure when acting upon any issue or request brought before it. A member of the Township Board shall not serve as chairman of the ZBA.

- E. An employee or contractor of the Township shall not serve as a member of the ZBA.
- F. Members of the ZBA may receive per diem in such sums as the Township Board shall establish by resolution.
- G. A member of the ZBA may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon the submission of written charges and only after a public hearing on said charges has been held by the Township Board.
- H. A member shall disqualify himself/herself from a vote in which he/she has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

### **SECTION 12.3 REGULAR MEETINGS, PUBLIC HEARINGS, AND VOTING**

- A. Meetings may be held at the call of the Chairperson and at other times as allowed in the ZBA Rules of Procedure. All meetings and public hearings shall be open to the public and shall comply with the Open Meetings Act and all notification procedures shall comply with Michigan Zoning Enabling Act.
- B. The presence of three (3) voting members shall constitute a quorum.
- C. The ZBA shall keep minutes of its proceedings, all of which shall be filed promptly with the Township Clerk, and shall be a public record showing:
  - 1. The action taken, and the reasons for the action taken.
  - 2. The vote of each member upon each question, or if not voting because of an absence or conflict of interest, indicating that fact.
  - 3. The conclusions based upon Findings of Fact that specify the basis for the decision and conditions of approval, if any.
  - 4. The decision and conditions of approval, if any.
- D. Public Hearings.
  - 1. When a complete application for an appeal of an administrative decision or an interpretation of this Ordinance in proper form has been filed with the Zoning Administrator, the application shall be placed on the ZBA calendar for a properly noticed public hearing.
  - 2. Notice of a hearing by the ZBA shall be given as required by the Michigan Zoning Enabling Act .
  - 3. At the hearing, any party or parties may appear in person, by agent, or may be represented by an attorney.

E. Voting.

1. For administrative matters (approval of minutes, agendas, etc), a majority of the quorum shall be sufficient for approval. For all other non-administrative decisions, the concurring vote of a majority of the membership of the ZBA (at least three [3] members) shall be necessary to decide on variance requests, interpretations, or appeals of Zoning Administrator administrative decisions or Planning Commission decisions.
2. A member of the ZBA who is also a member of the Planning Commission or legislative body shall not participate in a public hearing or vote on the same matter on which the member voted as a member of the Planning Commission or legislative body. However, the member may consider and vote on any other unrelated matters involving the same property.

**SECTION 12.4 POWERS**

The ZBA shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The ZBA shall also hear and decide on matters referred to it or upon which the ZBA is required to pass under this ordinance. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by the Zoning Administrator or body charged with enforcement of a zoning ordinance.

**SECTION 12.5 APPEAL AND VARIANCE REVIEW PROCEDURES**

- A. An appeal may be taken from any aggrieved person or by an officer, department, board, or bureau of this state or the local unit of government regarding any order, requirement, decision, or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator or other administrative official or body charged with the enforcement of this Ordinance.
- B. An appeal shall be filed with the ZBA and the Zoning Administrator or the body from whom the appeal is taken within sixty (60) days of the final decision being appealed. The filing shall specify the grounds of the appeal. The appeal shall be transmitted to the ZBA together with all the papers constituting the record upon which the action being appealed is taken.
- C. Except as provided below, an escrow fund shall be required to review any application submitted to the ZBA as required in Section 11.7. The Zoning Administrator may waive this requirement when the matter to be considered by the ZBA does not contain issues regarding which the use of one or more consultants will be reasonably required before, during or after a final decision by the ZBA.
- D. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ZBA, after notice of appeal has been filed, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.

- E. The ZBA shall select a reasonable time and place for hearing the appeal, give notice thereof to the parties as required by the Zoning Act, and render a decision on the appeal without unreasonable delay.
- F. In deciding the appeal, the ZBA shall be limited to determining whether or not the decision that was made was done so using the proper requirements and standards in the Ordinance. The decision of the ZBA is limited to the information that was available to the administrative official or body who made the decision initially. Additional testimony is not appropriate. Regardless of the wording contained in the grounds for the appeal, if the substance of the basis for the appeal is that the decision incorrectly evaluated the facts related to the land use application under the standards or requirements of this Ordinance, then the ZBA shall determine whether the decision was supported by competent, material and substantial evidence based on the evidence presented to or known by the decision maker. The ZBA shall not consider evidence which was not presented to or known by the decision maker.
- G. If a determination is made that the administrative official or body making the decision did so improperly, the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make an order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.
- H. Applications shall consist of the following:
  - 1. A completed and signed application form.
  - 2. A scaled drawing, if applicable, with sufficient detail to indicate the nature and necessity of the request.
  - 3. Payment of a fee, as may be prescribed from time to time by the Township Board by resolution. The fee shall be paid to the Township Treasurer at the time of the filing of the application.
  - 4. No application shall be accepted for a use variance, or any other request that would effectively grant a use variance, as consideration of such a variance is not permitted under the Elmwood Township Zoning Ordinance.

## **SECTION 12.6 DIMENSIONAL VARIANCES**

- A. The Board of Appeals may authorize specific variances from requirements of the Ordinance, with the exception of a use variance, provided all of the basic conditions listed herein and any one of the special conditions listed thereafter shall be satisfied.
  - 1. Basic Conditions: A variance from this Ordinance:
    - a. Will not be contrary to the intent and purpose of this Ordinance.
    - b. Shall not permit the establishment within a district of any use unless such use is authorized by this Ordinance.



- c. Will not cause a substantial adverse effect upon property, which includes, but is not limited to property values, in the immediate vicinity or in the district in which the property of the applicant is located.
  - d. Is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
  - e. Will relate only to property that is owned or occupied, or where the applicant has equitable interest.
  - f. Shall not be the result of a condition created by the applicant.
  - g. Shall be assessed for the possible precedents of affects, which might result from the approval or denial of the appeal and which would be contrary to the intent and purpose of this Ordinance.
2. When all of the foregoing basic conditions can be satisfied, a variance may be granted when one of the following special conditions can be clearly demonstrated:
- a. Where there are practical difficulties, which prevent carrying out the strict letter of this Ordinance. These difficulties shall not only be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
  - b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall have not resulted from any act of the appelland subsequent to the adoption of this Ordinance.
  - c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- B. Each variance granted under the provisions of this ordinance shall become null and void unless:
- 1. The construction authorized by such variance or permit has begun within one (1) year after the granting of such variance, and pursued diligently to completion; or
  - 2. The occupancy and operation of land or buildings authorized by such variance has taken place within one (1) year after the granting of such variance.

## **SECTION 12.7 EXTENSION OF APPROVAL**

The ZBA may grant two (2) extensions, for up to one (1) year for each extension, for an approved variance provided that the applicant applies for such an extension prior to the date of the expiration of the variance and provided that:

- A. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant.
- B. The requirements that necessitated the variance and the variance standards have not changed.

#### **SECTION 12.8 RESUBMITTAL OF AN APPLICATION**

No application which has been denied wholly or in part by the ZBA shall be re-submitted for a period of one (1) year after the denial, except on grounds of new evidence or proof of a significant change in conditions that might lead to a different decision by the ZBA.

#### **SECTION 12.9 ZONING ORDINANCE INTERPRETATIONS**

The ZBA may hear and decide upon requests for the interpretation of the text provisions of this Ordinance.

- A. Text interpretations shall be narrow and address only the situation being interpreted, be based on a thorough reading of this Ordinance for the purpose of implementing the intent of this Ordinance, and not have the effect of amending this Ordinance.
- B. Interpretations shall give weight to practical interpretations by the Zoning Administrator and other administrative officials if applied consistently over a long period of time.
- C. Records shall be kept of all interpretations.
- D. Interpretation of the zoning map shall be subject to the provisions of Article 4 of this Ordinance.

#### **SECTION 12.10 USE VARIANCES**

No use variance in the provisions or requirements of this Ordinance shall be authorized by the ZBA.

#### **SECTION 12.11 PLANNED DEVELOPMENT**

No decision regarding a planned development may be appealed to the ZBA.

#### **SECTION 12.12 DECISIONS**

- A. Conditions of Approval. In authorizing a decision, the ZBA may, in addition to the specific requirements called for in this Ordinance, attach thereto any other conditions regarding location, character, or treatment as are reasonably necessary to further the intent and spirit of this Ordinance and to protect the public interest. Violations of any condition, when made a part of the terms under which the variance is granted, shall be a violation of this Ordinance.
- B. After a hearing, the ZBA shall decide and certify its decision upon all matters properly before it within sixty (60) days of the hearing, unless the ZBA determines that additional evidence or hearings are necessary, or if the applicant requests an extension in writing. Decisions shall contain a full record of the findings and the determination of the ZBA in each particular case.

- C. Any decision of the ZBA shall not become final until whichever of the following comes first:(1) the ZBA issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson or (b) upon the ZBA approval of the minutes of its decision.

#### **SECTION 12.13 APPEAL TO CIRCUIT COURT**

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Leelanau County Circuit Court as provided under section 606 of the Michigan Zoning Enabling Act [MCL 125.3606], as amended.



**Article 13**  
**Severability and Effective Date**

**SECTION 13.1 SEVERABILITY CLAUSE**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**SECTION 13.2 EFFECTIVE DATE**

The provisions of this Ordinance are hereby declared to be necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a “Notice of Ordinance Adoption” as required by the Zoning Act. This Zoning Ordinance shall become effective on the



Zoning Ordinance Amendments

<u>Amendment Number</u>	<u>Ordinance Number</u>	<u>Description</u>	<u>Effective Date</u>
2017-04-01	2018-03	Add Utility Solar Energy	September 28,2018
2017-04-02	2018-01	Add Special Event Facilities	June 28, 2018
2017-04-03	2018-04	Add Distillery and Tasting Rooms	November 9, 2018
2017-04-04		Rezoning Request	Withdrawn
2017-04-05	2019-02	Agricultural Commercial Enterprises	September 4, 2019
2017-04-06	2019-04	Remove Special Events	January 3, 2020
2017-04-07		Conditional Rezoning	Denied July 22, 2019
2017-04-08	2021-03	Short Term Rentals	November 6, 2021
2017-04-09	2021-01	Net Density	January 29, 2021
2017-04-10	2020-02	Neighborhood Commercial	October 30, 2020
2017-04-11	2021-04	Rural Resort	November 26, 2021
2017-04-12	2022-01	Wetlands Setback; Special Use Standards	April 29, 2022