Otsego County Zoning Ordinance

2003-02

Updated April 28, 2015

Effective April 2015

THIS PAGE LEFT BLANK INTENTIONALLY

258.00Table of Contents

Title Page I-1
Preamble I-1
Enacting Clause I-1
Article 1 Short Title I-1

Article 2 Construction of Language and Definitions II-1

2.1 Construction of Language II-1
2.2 Definitions II-1

Article 3 Zoning District and Maps III-1

3.1 Districts III-1
3.2 District Boundaries III-1
3.3 District Requirements III-2
3.4 Area and Bulk Requirements for all Districts III-2
3.5 Accessory Uses Assumed III-2
3.6 Other Ordinance Controls III-2
3.7 Structure of Uses and Information III-2

Article 4 R1 Residential Districts IV-1

4.1 Principal Uses Permitted IV-1
4.2 Permitted Uses Subject to Special Conditions IV-1

Article 5 R2 General Residential Districts V-1

5.1 Principal Uses Permitted V-1
5.2 Permitted Uses Subject to Special Conditions V-1

Article 6 R3 Residential Estates VI-1

6.1 Principal Uses Permitted VI-1
6.2 Permitted Uses Subject to Special Conditions VI-1

Article 7 RR Recreation Residential District VII-1

7.1 Principal Uses Permitted VII-1
7.2 Permitted Uses Subject to Special Conditions VII-1

Article 8 FR Forestry Recreation VIII-1

8.1 Principal Uses Permitted VIII-1
8.2 Permitted Uses Subject to Special Conditions VIII-2

Article 9 AR Agricultural Resource District IX-1

9.1 Principal Uses Permitted IX-1
9.2 Permitted Uses Subject to Special Conditions IX-2

Article 10 B1 Local Business District X-1

10.1 Principal Uses Permitted X-1
10.2 Permitted Uses Subject to Special Conditions X-2

Article 11 B2 General Business District XI-1

11.1 Principal Uses Permitted XI-1
11.2 Permitted Uses Subject to Special Conditions XI-2

Article 12 B3 Business, Light Manufacturing District XII-1

12.1 Principal Uses Permitted XII-1
12.2 Permitted Uses Subject to Special Conditions XII-2

Article 13 I Industrial District XIII-1

13.1 Principal Uses Permitted XIII-1
13.2 Permitted Uses Subject to Special Conditions XIII-2

Article 14 HX Highway Interchange District XIV-1

14.1 Principal Uses Permitted XIV-1
14.2 Principal Uses Subject to Special Conditions XIV-2
14.3 Development Requirements XIV-3

Article 15 [Reserved for Future Use] XV-1

Article 16 [Reserved for Future Use] XVI-1

Article 17 Schedule of Dimensions XVII-1

Limiting Height, Bulk, Density, and Area by Zoning Districts XVII-1
Zoning Districts XVII-1
Multiple Dwellings - Bulk, Density and Area XVII-3

Article 18 Lots Near Water XVIII-1

18.1 Shoreland Definition XVIII-1
18.2 Shoreland Building Setbacks XVIII-1
18.3 Maintenance of Shoreland XVIII-1
18.4 Construction Within the Shorelands by Permit XVIII-1
18.5 Tree Cutting Within the Shorelands by Permit XVIII-2
18.6 Excavating, Filling or Grading Shorelands by Permit XVIII-2
18.7 Beach Improvements XVIII-3
18.8 Shoreland Site Plans XVIII-3
18.9 Non-Public Lakefront Access Sites XVIII-3
18.10 Definitions and General Provisions XVIII-4
18.11 Site Design Standards XVIII-4
18.12 Site Plan Review Procedures XVIII-5
Site Plan Requirements XVIII-6

Article 19 Permitted Uses Subject to Special Conditions XIX-1

19.1 Purpose XIX-1
19.2 Application Procedures XIX-1
19.3 Data Required XIX-1
19.4 Zoning Administrator's Review XIX-1
19.5 Public Hearing Requirements XIX-1
19.6 Review and Approval Authority XIX-2
19.7 Standards for Special Land Use Approval XIX-2
19.8 Conditions XIX-3
19.9 Compliance with Approved Special Use Permit Required XIX-3
19.10 Amendment of Special Use Permit XIX-4
19.11 Expiration of Special Use Permit XIX-4
19.12 Reapplication XIX-5
19.13 Jurisdiction of Zoning Board of Appeals XIX-5

Article 20 Access Management Requirements XX-1

20.1 Purpose XX-1
20.2 Definitions XX-1
20.3 Location and Spacing XX-2
20.4 Sight Distance XX-2
20.5 Access XX-2
20.6 Road Standards XX-2

Article 21 Specific Requirements for Certain Uses XXI-1

21.1 Accessory Buildings XXI-1
21.2 Adult Entertainment XXI-1
21.3 Automobile and Scrap Metal Salvage Yards XXI-1
21.4 Cemetery XXI-2
21.5 Cluster Residential Option XXI-2
21.6 Development Regulations XXI-2
21.7 Discretionary Approval Conditions XXI-2
21.8 Drive-Through Facilities XXI-3
21.9 [Reserved for Future Use] XXI-4
21.10 Fences XXI-4
21.11 Golf Course and Country Club XXI-5
21.12 Home Occupation XXI-5
21.13 Hunt Club XXI-6
21.14 Land Division XXI-6
21.15 [Reserved for Future Use] XXI-7
21.16 [Reserved for Future Use] XXI-7
21.17 [Reserved for Future Use] XXI-7
21.18 Landscaping XXI-8
21.19 Lighting, Outdoor XXI-15
21.20 Livestock Auction Yard XXI-15
21.21 Loading and Unloading (Off Street) XXI-16
21.22 Manufactured or Site-Built Dwelling Less Than Sixteen (16) Feet Wide XXI-16
21.23 Manufactured Housing Park (Rental Sites) XXI-17
21.24 [Reserved for Future Use] XXI-17

21.25 Mining, Gravel, Sand, Clay, Top Soil, Marl XXI-17
21.26 Nonconformities XXI-19
21.27 Parking XXI-22
21.28 Performance Standards XXI-26
21.29 Pets and Other Animals XXI-27
21.30 Race Track (Including Auto, Snowmobile, Horse) XXI-27
21.31 Railroad XXI-27
21.32 Recreation Camp and Resort XXI-27
21.33 Recreational Equipment or Trailer XXI-28
21.34 Restricted Uses XXI-29
21.35 Riding Academy or Stable XXI-29
21.36 Recycling facilities, and Solid Waste Haulers XXI-29
21.37 Shooting Range XXI-30
21.38 Signs and Billboards XXI-30
21.39 Slaughter House, Meat or Poultry Packing or Processing XXI-33
21.40 Soil Erosion & Storm Water Management XXI-33
21.41 Speakers and Sound Device, Outdoor XXI-33
21.42 Trash Receptacles/Dumpsters XXI-34
21.43 Underground Utility Wire XXI-34
21.44 Unlisted Property Use XXI-34
21.45 Veterinary Hospital, Kennel XXI-34
21.46 Wireless Communications XXI-35
21.47 Wind Generation XXI-39

Article 22 General Exceptions for Area, Height, and Use XXII-1

22.1 Essential Services XXII-1
22.2 Voting Places XXII-1
22.3 Height Limit XXII-1
22.4 Projections into Required Open Places XXII-1

Article 23 Site Plan Review XXIII-1

23.1 Site Plan Review Required XXIII-1
23.2 Application for Site Plan Review XXIII-1
23.3 Pre-application Conference XXIII-5
23.4 Agency Review XXIII-5
23.5 Approval Authority XXIII-5
23.6 Conditional Approvals XXIII-5
23.7 Distribution of Approved Site Plan XXIII-6
23.8 Conformity to Approved Site Plan Required XXIII-6
23.9 Site Plan Expiration and Revocation XXIII-6
23.10 Performance Guarantee Required XXIII-7
23.11 Minor Amendments to Approved Site Plans XXIII-7

Article 24 Planned Unit Development (PUD) XXIV-1

24.1 General Standards XXIV-1
24.2 Procedure XXIV-4
24.3 Open Space Plan XXIV-5

Article 25 Administration and Enforcement XXV-1

25.1 Administration XXV-1
25.2 Duties of Zoning Administrator XXV-1
25.3 Permit Procedures and Regulations XXV-2
25.4 Violations XXV-5
25.5 Penalties and Remedies XXV-7
25.6 Performance Guarantees and Performance Bonding for Compliance XXV-7
25.7 Changes and Amendments XXV-9

Article 26 Board of Appeals XXVI-1

26.1 Creation and Membership XXVI-1
26.2 Jurisdiction XXVI-2
26.3 Meetings XXVI-2
26.4 Procedures XXVI-2
26.5 Use Variance XXVI-3
26.6 Dimensional or Non-Use Variance XXVI-3
26.7 Time Limits XXVI-4
26.8 Decision as Final-Appeal to Circuit Court XXVI-4

Article 27 Township Participation in County Zoning XXVII-1

Article 28 Severance Clause XXVIII-1

Article 29 Conflicting Regulations and Repeal of Prior Ordinances XXIX-1

Article 30 [Reserved for Future Use] XXX-1

Article 31 Effective Date XXXI-1

THIS PAGE LEFT BLANK INTENTIONALLY

ZONING ORDINANCE
COUNTY OF OTSEGO

STATE OF MICHIGAN

TITLE

AN ORDINANCE enacted under Public Act 110, Public Acts of 2006, as amended, governing the lands and waters lying outside the limits of incorporated cities and villages within Otsego County, Michigan, to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence, and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards and open spaces; to regulate and limit the density of population; to encourage resource protection, farming, and forestry activities; and for said purposes to divide the County into districts and establish the boundaries thereof; providing for changes in this Ordinance; defining certain terms; providing for enforcement; establishing a Board of Appeals; and imposing penalties for the violation of Ordinance.

PREAMBLE

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of Otsego County, by protecting and conserving the character, and social and economic stability of the residential, commercial, industrial, and other use areas; by securing the most appropriate use of land; by providing for the protection of land and water resources; preventing overcrowding of the land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economical provisions of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a Master Plan now therefore:

ENACTING CLAUSE

The County of Otsego Ordains:

ARTICLE 1 SHORT TITLE

SECTION 1.1 SHORT TITLE

This Ordinance shall be known and may be cited as the Otsego County Zoning Ordinance.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTION 2.1 CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this Ordinance:

2.1.1 The particular shall control the general.

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

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

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

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

2.1.6 The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

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

2.1.8 The term "including" means "including but not limited to." It is a term which introduces examples but does not limit the provision to only those examples.

2.1.9 Terms referring to the Michigan Department of Natural Resources (DNR) shall be understood to refer to the Michigan Department of Environmental Quality (DEQ) where appropriate.

2.1.10 Reference to Soil Erosion and Sedimentation Control as Part 91 of PA 451 shall be understood to mean MCLA Sections 324.9101 through 324.9123 of the Natural Resources and Environmental Protection Act of 1994.

SECTION 2.2 DEFINITIONS

ACCESSORY STRUCTURE: A building, the use of which is incidental to that of the main building, or main use, and which is located on the same lot.

ACCESSORY USE: A use incidental to the principal use of a building or property as defined or limited by the provisions of this Ordinance.

ADULT ENTERTAINMENT USE: Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing, or presenting "specified sexual activities: or "specified anatomical areas."

Adult entertainment uses shall include:

Adult book or video establishment: An establishment having a substantial or significant portion of its stock in trade books, magazines or other publications, video recordings and films which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale, rent or display of such material.

Adult cabaret: A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, or similar entertainers, where a significant portion of such performances show, depict, or describe "specified sexual activities" or "specified anatomical areas."

Table of Contents

Adult motel: A motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult motion picture arcade: Any place where the public is invited or permitted wherein coin - or slug/token-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where a significant portion of images so displayed depict, describe or relate to "specified sexual activities" or "specified anatomical areas."

Adult motion picture theater: An enclosed building or open air site with any size seating capacity used for presenting motion pictures distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or" specified anatomical areas" for observation by patrons therein.

Adult sexual encounter center: Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three (3) or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in "specified sexual activities" or conduct involving "specified anatomical areas."

Adult entertainment use is further defined by these terms:

Specified anatomical areas: Less than completely covered human genitals, pubic regions, buttocks, and the areola or nipple of female breasts. Also, human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities: Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

AGRICULTURE OR AGRICULTURAL USE: Cultivating or using land for the production of crops for the use of animals or humans including, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry. An agricultural building does not include a building used for retail trade.

ALTERATIONS: Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

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

ANEMOMETER: An instrument for measuring and recording the speed of the wind.

ANEMOMETER TOWER: A structure, including all accessory facilities, temporarily erected, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

APARTMENTS: [See DWELLING, MULTIPLE FAMILY]

AUTO REPAIR GARAGE: A place where the following auto services may be carried out: general repair, engine rebuilding, collision service, painting, undercoating, and rust proofing. The sale of engine fuels and lubricants may be included.

BASEMENT: That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over five (5) feet, such basement shall be rated as a first story.

Table of Contents

BED AND BREAKFAST: Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family and occupied as a dwelling unit, are rented to the transient public for compensation; this includes establishments that are in compliance with Public or State Statutes. Such a use shall have the appearance of a single family residence and be consistent with surrounding neighborhood character.

BILLBOARDS: A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any sign which does not pertain to the premises, or to the use of premises on which the billboard is located, or to goods sold or services rendered, or activities conducted on such premises.

BUILDING: A structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and the average height between the eaves and ridge for gable, hip, and gambrel roofs. "A" frame structures shall be measured to the highest point of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

BUILDING LINE: A line formed by the face of the building, a building line is not to be used when determining set backs.

BUILDING LENGTH: The greatest overall linear dimension of a building measured at the building footprint.

BUILDING WIDTH: The greatest distance between two (2) sides of a building which extend half or more of its length as measured at the building footprint.

CARE FACILITY, COMMERCIAL DAY: A facility receiving more than twelve (12) minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meeting, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

CARE FACILITY, CONVALESCENT OR NURSING HOME: A facility with sleeping accommodations where persons are housed twenty-four (24) hours a day and furnished with meals, nursing and medical care.

CARE FACILITY, FAMILY: A single family residence in which care or supervision is provided for more than one (1) but less than seven (7) minor children or adults. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

CARE FACILITY, GROUP: A facility in which care or supervision is provided for at least seven (7) but not more than twelve (12) minor children or adults.

CLUB: An organization of persons for the promulgation of sports, arts, sciences, literature, politics, or the like.

CO-LOCATION: The location of two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas with the County.

COMMERCIAL MOTOR VEHICLE: Any self-propelled or towed vehicle designed or used on public highways to transport passengers or property, if the vehicle meets one or more of the following:

Has either a gross vehicle weight rating or actual gross weight or gross combination weight rating or an actual gross combination weight of ten thousand and one (10,001) or more pounds

Is designed for carrying sixteen (16) or more passengers, including the driver

Is used in the transportation of hazardous materials in a quantity that requires the vehicle to be marked or placarded

CONDOMINIUM PROJECT: Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978).

CONDOMINIUM SUBDIVISION: A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended. Any "condominium unit", or portion thereof, consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of a condominium subdivision with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

CONDOMINIUM SUBDIVISION PLAN: The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT: Means that portion of a condominium project or condominium subdivision which is 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. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure.

COUNTY: Where used in this Ordinance, shall mean the County of Otsego, State of Michigan.

DEVELOPMENT: The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISTRICT: A portion of the county lying outside the limits of incorporated cities and villages of the county within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance (also a zone.)

DRIVE-IN: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking area for vehicles, so customers may receive goods or services for use or consumption on the premises while remaining in their vehicles.

DRIVE-THROUGH: A business establishment so developed that it’s retail or service character is dependent on providing a driveway approach and vehicle service window for vehicle access so customers may receive goods or services for use or consumption off the premises.

DRIP LINE: An imaginary line drawn around the base of a tree to connect the points where drips would fall straight down from the outermost tips of the tree's branches. The drip line generally delineates the ground area containing the root system near the surface which is most sensitive to disturbance.

DWELLING UNIT: A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, ONE-FAMILY: A building containing not more than one (1) dwelling unit designed for residential use

DWELLING, TWO-FAMILY (DUPLEX): Dwelling, Two-Family. A building containing two (2) separate dwelling units designed for residential use.

Table of Contents

DWELLING, MULTIPLE-FAMILY: A building containing three or more dwelling units designed for residential use and including a rooming house, bed and breakfast, tourist home, apartment house, group quarters, or extended care facility for seven or more persons, such as adult foster care or alternative institutional setting home. State-licensed residential facilities shall be considered as single-family dwellings when questions of overcrowding and safety are addressed by the state agency issuing the license.

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance of underground, surface, or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety, and general welfare. Provided, however, that wireless telecommunication towers and facilities, alternative tower structures, antennas, wind turbine generators and anemometer towers shall not be considered essential services.

EXCAVATION: Any breaking of ground, except common household gardening and ground care.

FAMILY: One (1) or two (2) related persons or parents with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than three (3) persons not so related, living together as a single housekeeping unit.

FARM: Structures, facilities and lands of twenty (20) acres or more for carrying on of any agricultural use or the raising of livestock or small animals as a source of income. [See also AGRICULTURE.]

FENCE: Any permanent or temporary, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure and not part of a structure requiring a building permit.

FLOOR AREA, USABLE (FOR COMPUTING PARKING): That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area used, or intended to be used, for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

FLOWAGE: Body of water impounded by a dam, used interchangeably with reservoir, impoundment, and flood water.

GARAGE, PRIVATE: A building used for the non-commercial storage of property owned by the owners of the parcel on which the building is located.

GASOLINE SERVICE STATION: A place primarily operated and designed for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories.

GOLF COURSE POLICY GUIDELINES: Policy Guidelines for Minimizing Environmental Impacts from Golf Course Development in Otsego County, published by the Otsego County Water Quality Committee and the Northeast Michigan Council of Governments, as adopted by resolution of the Otsego County Planning Commission.

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

GUEST HOUSE: A building accessory to the main dwelling, lacking at least one (1) facility for

independent living, such as kitchen or bathroom; used for housing guests. A shared septic system does not by itself qualify the building as a guest house.

HAZARDOUS SUBSTANCES: Substances which are toxic, corrosive, flammable, combustible, radioactive, or capable of producing substantial injury through handling, use, or ingestion.

HOME OCCUPATION: An occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the building for dwelling purposes, and in no way operates in conflict with the character and uses of adjacent premises in terms of noise, traffic, displays, signs, mechanical devices, parking, and related features.

IMPERVIOUS SURFACE: A material incapable of being penetrated by water and other liquids. Under conditions where spills are to be retained, retention capability must be sufficient to contain one hundred twenty-five percent (125%) of any reasonably foreseeable spill for any reasonably foreseeable period necessary and have sufficient strength and durability to remain intact under reasonably foreseeable conditions. For the purpose of calculating storm water runoff, impervious surfaces shall include all roofs, slabs, pavements and gravel drives and parking lots.

JUNK YARD: An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including scrap iron and other metals, paper, rags, rubber tires, and bottles. Junkyard also includes any area of more than two hundred (200) square feet used for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

JUNK YARD - AUTOMOTIVE: An area or facility for the storage, wrecking, or salvage of parts from inoperable motorized vehicles including cars, trucks, tractors, buses, etc., containing more than four (4) vehicles, or occupying an area of two hundred (200) or more square feet.

KENNEL: A kennel is a use that includes indoor or outdoor facilities for the boarding, for profit, of dogs or other household pets which are owned by others as a commercial business.

LIGHTS: Flashing, intermittent or moving – a light that blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color except as provided for in 21.38.2.1.

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

LOT: Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage, open spaces and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on a private road approved by the County.

LOT AREA: The total horizontal area within the lot lines of the lot, excluding public or private streets, roads, right of ways or easements dedicated for the purpose of vehicle access or transit.

LOT - CORNER: A lot which occupies the interior angle at the intersection of two (2) streets, which make an angle of less than one hundred thirty-five degrees (135°).

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

LOT - THROUGH: Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required (also a double frontage lot).
LOT COVERAGE: That portion of the lot occupied by main and accessory buildings.

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

Table of Contents

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

LOT LINE - FRONT: In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot, the front lot line is that line separating said lot from the street which is designated.

LOT LINE - REAR: That lot line opposite the front lot line. In the case of a lot pointed at the rear (pie-shaped), the rear lot line shall be an imaginary line at least ten (10) feet long, parallel to the front lot line, but inside the side lot lines.

LOT LINE - SIDE: Any lot line other than the front lot line or rear lot line.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by County Officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two (2) points where the building line or setback line intersects the side lot lines.

LOT - ZONING: A contiguous tract of land which at the time of filing for a Zoning Permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A Zoning Lot may or may not coincide with a lot of record as filed with the County Register of Deeds, and may include one (1) or more lots of record.

MAIN BUILDING: A building in which is conducted the principal use of the lot upon which it is situated.

MAIN USE: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MANUFACTURED HOME: [See MOBILE HOME]

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

MARINA: A facility which is owned or operated by a person, extends into or over an inland lake or stream and offers service to the public or members of the marina for docking, loading or other servicing of recreational watercraft.

MASTER PLAN: The County Comprehensive Plan as may be amended or updated, including graphic and written proposals indicating general locations for roads, streets, parking, schools, public buildings, and other physical development features, including resource conservation objectives.

MOBILE HOME: Means a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MUNICIPAL CIVIL INFRACTION: The words “municipal civil infraction” means an act or omission that is prohibited by the Otsego County Zoning Ordinance or the Otsego County Municipal Civil Infractions Ordinance, and for which civil sanctions, including fines, damages, expenses and costs, may be ordered. A municipal civil infraction is not a lesser included offense of a violation of the Otsego County Zoning Ordinance that is a criminal offense.

NONCONFORMING BUILDING: A building or portion thereof lawfully existing at the effective date

of this Ordinance, or amendments thereto, that does not conform to the provisions of the Ordinance in the district in which it is located.

NONCONFORMING USE: A use which has lawfully occupied a building or land at the time this Ordinance, or amendments thereto, became effective, that does not conform to the use regulations of the district in which it is located. (Commonly referred to as "grandfathered.")

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

NUISANCE FACTORS: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, and passenger traffic.

OFF-STREET PARKING LOT: A parking area off the street, which may require drives and aisles for maneuvering, for the parking of four (4) or more vehicles.

ORDINARY HIGH WATER LINE: On an inland lake which has a level established by law, it means the high established level. Otsego Lake has a High Water Line established by law which is 1273.5 elevation. The elevation is maintained by the County Road Commission. For other lakes in the County it means the line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

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

PLANNING COMMISSION: Shall mean the Otsego County Planning Commission.

POLLUTING MATERIALS: Materials which are capable of adversely affecting air or water resources by altering odor, taste, color, or physical or chemical composition to a degree that public health or biological communities are threatened. Examples of Polluting Materials include fertilizers and pesticides.

PRACTICAL DIFFICULTY: A situation whereby a property owner cannot establish a "minimum practical" legal use of a legal lot or parcel, while meeting all of the dimensional standards of the zoning district within which the lot is located. Situations occurring due to the property owner's desire to establish a use greater than the "minimum practical" use or created by an owner subsequent to the adoption date of this Ordinance is not a practical difficulty.

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

RACE TRACK: A way improved, designed, constructed, excavated or ordinarily used for traffic in racing, or training or testing for racing. It includes all racing by motorized vehicles and all racing activities accompanied by spectators but does not include walking or hiking trails used exclusively by humans. Racing means a competitive event in which time is a determining factor.

RESORT: A recreational camp or facility operated for gain, and which provides overnight lodging and one or more of the following activities: golf, skiing, dude ranching, recreational farming,

snowmobiling, pack trains, non-motorized bicycle trails, boating, swimming and related or similar uses normally associated with recreational resorts.

ROADSIDE STAND: An accessory and temporary farm structure operated for the purpose of selling local agricultural products.

ROADSIDE STAND: An accessory and temporary farm structure operated for the purpose of selling local agricultural products.

SERVICE ROADS: Local roads that parallel an expressway or through street and that provide access to property near the expressway or through street.

SETBACK: The distance required to meet the front, side and rear yard open space requirements of this ordinance as measured from the lot lines or Road Right of Way to the fascia of the roof overhang or to the closest point of a deck or porch, not including steps, whichever is less.

SHOOTING RANGE: An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting at targets.

SHORELAND: Land paralleling the lake shoreline, fifty (50) feet wide as measured from the ordinary high water level. And the land paralleling the banks of all rivers, streams and flowages of water in the County that appear on the most recent U.S. Geological Survey Quadrangle maps, one hundred fifty (150) feet wide, measured from the ordinary high water level, landward, at right angles or radial to the shoreline or bank, on a horizontal plane.

SIGN: The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public. Accessory signs pertain to uses, activities or services conducted on the premises where located.

SETBACK: The distance required to meet the front, side and rear yard open space requirements of this ordinance as measured from the lot lines or Road Right of Way to the fascia of the roof overhang or to the closest point of a deck or porch, not including steps, whichever is less.

SHOOTING RANGE: An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting at targets.

SHORELAND: Land paralleling the lake shoreline, fifty (50) feet wide as measured from the ordinary high water level. And the land paralleling the banks of all rivers, streams and flowages of water in the County that appear on the most recent U.S. Geological Survey Quadrangle maps, one hundred fifty (150) feet wide, measured from the ordinary high water level, landward, at right angles or radial to the shoreline or bank, on a horizontal plane.

SIGN: The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public. Accessory signs pertain to uses, activities or services conducted on the premises where located.

SIGN FACE: The part of a sign structure which is used to graphically communicate a message or announcement including a border space of not less than three (3) inches outside of any lettering or other graphic symbols or depictions.

STORY: That part of a building, except a mezzanine and/or basement, between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

STREET OR ROAD: A right-of-way, affording the principal means of access to abutting property. Alleys differ in that they offer a secondary means of access to abutting property.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TEMPORARY BUILDING OR USE: A use of a building or premises permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.

TOURIST HOME: [See BED & BREAKFAST.]

TRAVEL TRAILER AND/OR CAMPER: Any trailer, trailer coach, motor home, tent camper, truck-mountable camper, or other unit designed as a vacation or traveling unit for short term occupancy, and which unit is legally licensed or licensable for towing or travel over public highways by ordinary domestic vehicle.

UNNECESSARY HARDSHIP: A situation whereby a property owner, due to the unique or unusual conditions of a lot or parcel, cannot meet specific standards set by the Ordinance within the subject zoning district. Situations created by an owner subsequent to the enactment of this Ordinance shall not be deemed an unnecessary hardship.

USE: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied. An accessory use is subordinate and clearly incidental to the principal use.

USES SUBJECT TO SPECIAL CONDITIONS: Refers to special land uses pursuant to PA 110 of 2006, as amended and also pursuant to uses referred to in this Ordinance as special approvals, special uses, special land uses, or conditional uses authorized by special permit.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause practical difficulties or unnecessary hardship for the property owner.

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in Section 2 of Act No. 419 of the Public Acts of 1976, being section 125.1102 of the Michigan Compiled Laws.

VEHICLE REPAIR: Any major activity involving the general repair, rebuilding or reconditioning of vehicles, engines or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SERVICE STATION: A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for vehicles, and including customary space and facilities for the installation of such commodities on or in such vehicles and including space for vehicle storage, minor repair and servicing.

WETLANDS: Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, marsh, or other areas such as flood plains or environmental areas designated as such in the County Comprehensive Plan or other county, state, or federal documents.

WIND TURBINE GENERATOR (WTG): A tower, pylon, or other structure, and any, all, or some combination of the following:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.

2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy producing device.

3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Table of Contents

WIND TURBINE GENERATOR HEIGHT: The distance between the ground and the highest point of the wind turbine generator, regardless whether that point is on a fixed or mobile part of the wind turbine generator.

WIND TURBINE GENERATOR- BUILDING-MOUNTED: An on-site Wind Turbine Generator (WTG) used to generate electricity or produce mechanical energy for use on the property where it is located and attached to the building's roof, walls, or other elevated surface.

WIND TURBINE GENERATOR - LARGE: A commercial Wind Turbine Generator (WTG) used to generate and provide electricity to the electric utility grid. It may include nearby accessory facilities necessary to supply and transfer the electricity to the utility grid. These WTGs are greater than one hundred twenty (120) feet in height and shall not exceed four hundred (400) feet.

WIND TURBINE GENERATOR - MEDIUM: An on-site Wind Turbine Generator (WTG) used to

generate electricity or produce mechanical energy for use on the property where it is located having a height of greater than sixty (60) feet but less than or equal to one hundred twenty (120) feet.

WIND TURBINE GENERATOR - SMALL: An on-site Wind Turbine Generator (WTG) used to generate electricity or produce mechanical energy for use on the property where it is located having a height of sixty (60) feet or less.

YARDS: The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

YARD - FRONT: An open space extending the full width of the lot the depth of which meets the setback requirements of the zoning district. [See SETBACK.]

> Corner Lots: Shall provide front yard setbacks on all streets, frontages, or future road easements that have or may potentially have adjacent lots fronting on the same street (or across there from).

YARD - REAR: An open space extending the full width of the lot, the depth of which meets the setback requirements of the zoning district. In the case of a corner lot, the rear yard may be opposite either street frontage. [See SETBACK.]

YARD - SIDE: An open space which meets the setback requirements of the zoning district, extending from the front yard to the rear yard. [See SETBACK.]

ZONING ADMINISTRATOR: The official designated by the County Board of Commissioners to administer and enforce the provisions of the Ordinance. The Zoning Administrator may be the Building Official, Building Inspector, or other person charged with the responsibility of administering building, land use, and/or other codes in Otsego County.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 3 ZONING DISTRICTS AND MAPS

SECTION 3.1 DISTRICTS

For the purpose of this Ordinance, the County of Otsego is hereby divided into the following districts:

RESIDENTIAL DISTRICTS	OTHER DISTRICTS
R1 Residential	FR Forestry Recreation
R2 General Residential	AR Agricultural Resource
R3 Residential Estates	
RR Recreation Residential	

NON-RESIDENTIAL

B1 Local Business

B2 General Business

B3 Business & Light Manufacturing

I Industrial

HX Highway Interchange

SECTION 3.2 DISTRICT BOUNDARIES

The boundaries of these districts are hereby established as shown on the County Zoning Map, which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. If there are any questions as to the interpretation of District Boundaries the Zoning Board of Appeals shall determine same. District Boundaries as interpreted by the Zoning Board of Appeals may be illustrated on Atlas type zoning maps on file with the Zoning Administrator. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

3.2.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.

3.2.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3.2.3 Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.

3.2.4 Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks. Where an abandoned rail line is developed as a parcel, the more restrictive zoning shall apply to the entire parcel.

3.2.5 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

3.2.6 Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.

Table of Contents

3.2.7 Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Zoning Board of Appeals shall interpret the district boundaries.

3.2.8 Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

3.2.9 All property identified on the County Zoning Map as state land is zoned FR Forest Recreation.

SECTION 3.3 DISTRICT REQUIREMENTS

All buildings, structures and uses shall be subject to the specific requirements of the District in which the property they are on or are proposed to be placed upon is located, as well as to all other requirements of this Ordinance. In particular, the provisions of Article 21 SPECIFIC REQUIREMENTS FOR CERTAIN USES and Article 22 GENERAL EXCEPTIONS may have particular significance to certain properties and uses. Article 23 SITE PLAN REVIEW

SECTION 3.4 AREA AND BULK REQUIREMENTS FOR ALL DISTRICTS

For each district in this Ordinance, the requirements of Article 17 SCHEDULE OF DIMENSIONS establish the minimum lot area, minimum front, side and rear setbacks, minimum lot width, maximum lot coverage, maximum height of buildings, minimum ground floor area of a principal structures, minimum width of principal structures, and Multiple Dwellings minimum floor area per unit and lot size requirements.

SECTION 3.5 ACCESSORY USES ASSUMED

For each district established in this Ordinance, customary accessory buildings and uses which are incidental to any Principal Uses or Permitted Uses Subject to Special Conditions are permitted provided the maximum bulk coverage of the lot is not exceeded, all setbacks are adhered to, and any accessory building or use is not otherwise prohibited or restricted by this Ordinance.

SECTION 3.6 OTHER ORDINANCE CONTROLS

The provisions of the Zoning Ordinance are complimented, supported and/or supplemented by other development control ordinances that include the following: Airport Zoning, Building Code, Health Code, Soil Erosion and Sedimentation Control, and such other ordinances as may be enacted or amended from time to time. [See Article 29 CONFLICTING REGULATIONS.]

SECTION 3.7 STRUCTURE OF USES AND INFORMATION

3.7.1 The structure of uses in this Ordinance is as follows:

Uses are allowed only in specified zoning districts. Where allowed, uses are either by right or they are special land uses.

Uses by right often have specific requirements which must be met, as spelled out in various local, state and federal laws and the provisions of this Ordinance, principally Article 21 but also including the definitions section of Article 2 and the zoning district articles themselves.

Special land uses shall be permitted in a zoning district only after review and approval. Such decisions are considered discretionary under the state enabling legislation (MCLA 125.3502). All discretionary decisions are governed by Article 19, which spells out criteria and procedures, including giving notice to property owners.

Table of Contents

3.7.2 This Ordinance has a structure for the information which must be presented for zoning approval, including the following:

Uses require either a site plan or a plot plan.

Site plan procedures and criteria are spelled out principally in Article 23, but also in language associated with certain specific uses, including Article 18, for LOTS NEAR WATER, Article 19, for SPECIAL LAND USE, and Article 24, for PUDs.

Plot plan procedures and criteria are spelled out in Article 25.3.3.1.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 4 R1 RESIDENTIAL DISTRICT

INTENT

These districts are designed to provide for one (1) and two (2) family (duplex) dwelling sites and residential related uses. The uses permitted are intended to promote a compatible arrangement of land uses for homes, keeping housing areas free of unrelated traffic, nuisance land uses, and other negative influences on the residential environment.

SECTION 4.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

4.1.1 One (1) family dwellings.

4.1.2 Two (2) family dwellings (duplex) subject to the density standards for one (1) family dwellings and a minimum lot width of one hundred fifty (150) feet.

4.1.3 Publicly owned and operated parks, parkways, and outdoor recreational facilities.

4.1.4 Existing farms and agricultural uses.

4.1.5 Family Care Facilities

4.1.6 Cemeteries when developed on sites of ten (10) acres or more. Permit criteria include Article 21.4.

4.1.7 The raising of nursery field stock, on sites of two (2) acres or more, but excluding storage buildings, greenhouses, offices or other structural facilities, and excluding any outdoor storage of materials; the intent being to limit the use of land to raising plant materials.

4.1.8 The following in-home uses provided no more than twenty-five percent (25%) of floor area may be used for such a purpose:

4.1.8.1 Offices and home occupations when operated within the confines of a one (1) family dwelling as an accessory to living quarters. Permit criteria for these uses include Article 21.12.

4.1.9 Structure for storage of the owner's personal possessions and non-commercial activities. These structures shall not be used as residences. Structures shall meet the size requirements of Article 21.1.3.

4.1.10 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

SECTION 4.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any, and/or Article 23 for Site Plan Requirements.]

4.2.1 Churches, public libraries, public buildings (excluding public works garages and storage yards) and uses normally incidental thereto.

4.2.2 Public, parochial, and other private elementary, middle, and/or secondary schools; and all accessory school bus parking lots.

Table of Contents

4.2.3 Colleges, and other institutions of higher learning, public or private, offering courses in general, technical, or religious education, all are subject to the following conditions:

4.2.3.1 Any use permitted herein shall be developed only on sites of at least five (5) acres in area.

4.2.3.2 No building other than a structure for residential purpose shall be closer than fifty (50) feet to any property line.

4.2.4 Private, Non-commercial recreational areas and recreational facilities.

4.2.5 Golf courses, or miniature golf courses, providing that:

4.2.5.1 Accessory restaurant and bar uses shall be housed within the club house. Uses strictly related to operation of the golf course itself, such as maintenance garage, or pro shop, may be located in separate structures. No structure, except minor rain shelters, shall be located closer than seventy (70) feet from the lot - line of any adjacent residential land and from any public right-of-way.

4.2.5.2 All parking areas shall be surfaced or so treated as to prevent any dust nuisance;

4.2.5.3 Refer to Article 21.11 for additional conditions pertaining to golf courses.

4.2.6 Group care facilities meeting applicable state licensing requirements.

4.2.7 Utility and essential service structures when their operating requirements necessitate locating the facilities within the district in order to serve the immediate vicinity (storage yards excluded). Permit criteria include Article 21.10 regarding screening fence.

4.2.8 Wireless Telecommunications Towers and Facilities one hundred (100) feet or less in height. Permit criteria include Article 21.46.

4.2.9 WTG Small: Permitted as an accessory use to an allowed Principal Use.

4.2.10 Unlisted property uses if authorized under Article 21.44.

Table of Contents

ARTICLE 5 R2 GENERAL RESIDENTIAL DISTRICT

INTENT

The R2 General Residential District is designed to provide for multiple-family structures. This district is further intended to be a transitional use district, such as a location between residential districts and non-residential districts.

SECTION 5.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

5.1.1 All principal uses permitted in the R1 District [See Article 4.1].

5.1.2 Multiple family dwellings including rooming houses, bed and breakfast homes, tourist homes, apartment houses, group quarters, housing for the elderly, subject to the requirements of Article 17 SCHEDULE OF DIMENSIONS, and approval of the County Health Department.

5.1.3 Group care facilities, meeting applicable state licensing requirements.

5.1.4 The following uses provided there is direct access to a county primary or state trunkline highway, as defined by the County Road Commission:

5.1.4.1 Retail specialty stores when operated by the property owner within a completely enclosed building with no outdoor storage or display; to include: apparel, antiques, ceramics, florists, food stores, fruit markets, gifts hobby shops. Permit criteria include Article 21.12.2, 21.12.3 and 21.12.5 through 21.12.7.

5.1.5 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

SECTION 5.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

5.2.1 All uses subject to special conditions in the R1 District.

5.2.2 The following uses provided there is direct access to a County primary or State trunkline highway, as defined by the County Road Commission:

5.2.2.1 Motels and hotels provided there is a minimum lot width of one hundred fifty (150) feet.

5.2.2.2 Fraternal halls, sportsmen associations, and athletic clubs within completely enclosed buildings with a minimum lot of five (5) acres with a road frontage of two hundred (200) feet.

5.2.2.3 Professional offices for medical, dental, legal, engineering, architectural, or accounting services.

5.2.2.4 Convenience retail establishments.

5.2.3 Churches.

5.2.4 Manufactured Housing Parks.

5.2.5 Hospitals Convalescent or Nursing Home Care Facilities.

Table of Contents

5.2.6 Commercial day care facilities.

5.2.7 Wireless Telecommunications Towers and Facilities one hundred (100) feet or less in height. Permit criteria include Article 21.46.

5.2.8 WTG Small: Permitted as an accessory use to an allowed Principal Use.

5.2.9 Unlisted property uses if authorized under Article 21.44.

ARTICLE 6 R3 RESIDENTIAL ESTATES DISTRICT

INTENT

The R3 Residential Estates District is established to provide for areas topographically and locationally well suited to meet an increasing market for ten (10) acre lots and larger, which can potentially be resubdivided into smaller lots. This district is to encourage the orderly transition of land to low density residential use.

SECTION 6.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

6.1.1 All principal uses permitted in the R1 District [See Article 4.1].

6.1.2 Fraternal lodges.

6.1.3 Wildlife, plant and habitat preservation areas.

6.1.4 Group care facilities meeting applicable state licensing requirements.

6.1.5 Retail specialty store as permitted in Article 5.1.4.

6.1.6 Roadside stands (agricultural-temporary) off the road right-of-way, provided that the stand be operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked at the site, and that the parking requirements of Article 21.27 be observed.

6.1.7 Temporary Recreation Housing/Travel trailers. Permit criteria include Article 21.33.

6.1.8 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

6.1.9 WTG Small: Permitted as an accessory use to an allowed Principal Use.

SECTION 6.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any, and Article 23 Site Plan Requirements.]

6.2.1 All principal uses permitted in the R2 District, and all permitted uses subject to special conditions in the R1 District [See Article 4.2] and R2 District [See Article 5.2].

6.2.2 Gasoline stations with store.

6.2.3 Driving range.

6.2.4 Campgrounds (Commercial or Non-commercial)

6.2.5 Manufactured Housing Parks.

6.2.6 Wireless Telecommunications Towers and Facilities one hundred (100) feet or less in height. Permit criteria include Article 21.46.

6.2.7 Unlisted property uses if authorized under Article 21.44.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 7 RR RECREATION RESIDENTIAL DISTRICT

INTENT

The Recreation Residential District is designed to accommodate cottage and vacation home developments. It is intended that the vacation home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services, and major institutional or community services.

SECTION 7.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

7.1.1 One (1) family dwellings.

7.1.2 Accessory boat launching ramps, minor docks and accessory facilities provided they are developed as part of a residential lot. Permit criteria include Article 18 LOTS NEAR WATER.

7.1.3 Public parks, parkways, scenic trails, playgrounds, recreation lands and forests, including accessory shelters and apparatus, and historical structures or display areas.

7.1.4 Existing farms and agricultural uses.

7.1.5 Home businesses or occupations and personal services as permitted in Article 4.1.8 and 5.1.4.

7.1.6 Family Care Facilities.

7.1.7 Bed and Breakfast/Tourist Homes.

7.1.8 Travel trailers. Permit criteria include Article 21.33.

7.1.9 Structure for storage of the owner's possessions and non-commercial activities. These structures shall not be used as residences. Structures shall meet the size requirements of 21.1.3.

7.1.10 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

SECTION 7.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

7.2.1 Community boat launching ramps, docks and accessory facilities.

7.2.2 Golf courses as regulated in the R1 District [See Articles 4.2.5 and 21.11].

7.2.3 Private recreational areas and facilities.

7.2.4 Marinas.

7.2.5 Restaurants without drive-through service, which are of an appearance and character consistent with permitted uses.

7.2.6 Recreation camps or resorts.

7.2.7 One detached guest house may be permitted, provided the use is accessory to the main dwelling, there is double the minimum required land area for the district, and the Health Department approves the sanitary system.

Table of Contents

7.2.8 Utility and essential service structures when their operating requirements necessitate locating the facilities within the district in order to serve the immediate vicinity (storage yards excluded). Permit criteria include Article 21.10 regarding screening fences.

7.2.9 Wireless Telecommunications Towers and Facilities one hundred (100) feet or less in height. Permit criteria include Article 21.46.

7.2.10 Churches.

7.2.11 WTG Small: Permitted as an accessory use to an allowed Principal Use.

7.2.12 Unlisted property uses if authorized under Article 21.44.

ARTICLE 8 FR FORESTRY RECREATION DISTRICT

INTENT

The FR Forestry Recreation District is designed to promote the use of rural areas in a manner that will retain the basic attractiveness and inherent values of natural resources. The intent of the District is to retain rural areas for resource purposes, but recognizing the need to allow multiple uses considered acceptable in a rural environment.

SECTION 8.1 PRINCIPAL USES PERMITTED

8.1.1 One (1) family dwellings.

8.1.2 Growing and harvesting of nursery field stock.

8.1.3 Farms and agricultural operations of all kinds, including temporary agricultural roadside stands, provided the stands are off the road right-of-way, operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked on site, and that the parking requirements of Article 21.27 be observed.

8.1.4 Tree farms, forest production and forest harvesting operations including temporary sawmills, temporary log storage yards and related facilities.

8.1.5 Public and private parks, playgrounds, passive recreational areas, camping grounds, hunting grounds, fishing sites and wildlife preserves.

8.1.6 Bed and breakfast/tourist homes.

8.1.7 Family and group care facilities.

8.1.8 Duplex dwellings.

8.1.9 Fraternal lodges.

8.1.10 Landing strips.

8.1.11 Wildlife, plant, and habitat preservation areas.

8.1.12 Cemeteries. Permit criteria include Article 21.4.

8.1.13 Riding academies or stables. Permit criteria include Article 21.35.

8.1.14 Travel trailers (on private property). Permit criteria include Article 21.33.

8.1.15 Home occupation.

8.1.16 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height, without lights. Permit criteria include Article 21.46.

8.1.17 Structures for storage of the owner's personal non-farm possessions and non-commercial activities. These structures shall not be used as dwellings. Structures shall meet the size requirements of Section 21.1.3.

8.1.18 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

8.1.19 WTG Small: Permitted as an accessory use to an allowed Principal Use.

8.1.20 WTG Medium: Permitted as an Accessory Use to an allowed Principal Use.

Table of Contents

SECTION 8.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

8.2.1 All permitted uses subject to special conditions, as permitted and regulated in the R1 District.

8.2.2 Sportsmen associations or clubs, including shooting ranges

8.2.3 Active recreation areas, stadiums and race tracks

8.2.4 Veterinary hospitals, clinics with indoor kennels [Permit criteria include Article 21.45].

8.2.5 Driving ranges

8.2.6 Game preserves

8.2.7 Gasoline stations with or without store

8.2.8 Detention facilities

8.2.9 Recreation farms (dude ranches)

8.2.10 Restaurants and/or taverns (without drive-through service)

8.2.11 Campgrounds (commercial)

8.2.12 Dog grooming and kennel facilities [Permit criteria include Article 21.45]

8.2.13 Golf courses and country clubs [Refer to Articles 4.2.5 and 21.11]

8.2.14 Hunt clubs (commercial)

8.2.15 Recreation camps or resorts

8.2.16 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

8.2.17 Travel trailer courts

8.2.18 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height, or with lights.

8.2.19 WTG Large

8.2.20 Anemometer Tower

8.2.21 Unlisted property uses if authorized under Article 21.44

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

INTENT

The Agricultural Resource District is intended to encourage the maintenance of productive farm and agricultural land for growing, raising or production of food stuffs. It is further intended that the productive agricultural land base of the County be maintained in agricultural activities. Other land uses and activities may be permitted if they meet the objective of retaining farmlands in an open land character.

SECTION 9.1 PRINCIPAL USES PERMITTED

No buildings or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

9.1.1 One (1) family dwelling unit

9.1.2 Two (2) family (duplex) dwellings subject to the one (1) family density requirements with a minimum lot width of three hundred (300) feet.

9.1.3 Two (2) detached single-family dwelling units may be permitted, subject to the following conditions:

9.1.3.1 There is a separation between the two (2) dwellings so the lot may be divided into two (2) legal lots with each lot having a lawful minimum width and area, with each dwelling still maintaining the front, side and rear setback as regulated in the District.

9.1.3.2 The County Health Department approves the sanitary system.

9.1.4 Growing, raising, and harvesting of agricultural products and farm livestock.

9.1.5 Woodlots, tree farms, nursery field stock, and harvesting activities

9.1.6 Buildings for storing or housing machinery, equipment, and/or livestock, including repair operations when accessory to agricultural and farm operations.

9.1.7 Experimental agricultural activities and uses related to farm research

9.1.8 Wildlife habitat and plant species preservation areas

9.1.9 Farm industries may include saw mills of a permanent or temporary nature, with assembly of green or untreated wood to a usable item for marketing, provided the operation is conducted as an accessory to a farm and that the use is two hundred (200) feet from property lines.

9.1.10 Bed and breakfast/tourist homes

9.1.11 Family and group care facilities

9.1.12 Forest production and forest harvesting operations including temporary sawmills, temporary log storage yards and related facilities.

9.1.13 Fraternal lodges

9.1.14 Aircraft Landing Strips

9.1.15 Churches

9.1.16 Cemeteries [Permit criteria include Article 21.4]

9.1.17 Dwellings less than sixteen (16) feet wide [Permit criteria include Article 21.22]

Table of Contents

9.1.18 Riding academies or stables [Permit criteria include Article 21.35]

9.1.19 Roadside stands (agricultural-temporary) off the road right-of-way, provided that the stand be operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked at the site, and that the parking requirements of Article 21.27 be observed.

9.1.20 Veterinary hospitals, clinics with indoor kennel [Permit criteria include Article 21.45]

9.1.21 Travel trailers (on private property) [Permit criteria include Article 21.33]

9.1.22 Home occupation

9.1.23 Farm buildings, in existence at the time of the adoption of this amendment and no longer used in support of agricultural interests, may be used as rental property for storage of individually owned items.

9.1.23.1 So as to alleviate noise and traffic associated with commercial activities and thus maintain the rural, open space, character of the area, the rental shall not be made into commercial enterprises.

9.1.23.2 All applicable sections of the zoning Ordinance apply.

9.1.23.3 The Zoning Administrator may opt to refer the application to the Planning Commission if there are unusual circumstances.

9.1.24 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria include Article 21.46]

9.1.25 Structures for storage of the owner's personal non-farm possessions and non-commercial activities. These structures shall not be used as dwellings. Structures shall meet the size requirements of Section 21.1.3.

9.1.26 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

9.1.27 WTG Small: Permitted as an accessory use to an allowed Principal Use.

9.1.28 WTG Medium: Permitted as an Accessory Use to an allowed Principal Use.

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

9.2.1 Public and private parks, recreational facilities, and public or private non-profit schools offering courses in general education when the use is not, to the extent practical, placed on soils predominantly rated as having high agricultural productivity in comparison with other farm land in Otsego County.

9.2.2 Recreation farms, dude ranches (so called), and sportsmen's clubs provided the farm land base remains essentially intact, that the number of new and/or expanded buildings be limited in scale, in so far as is practical, to that typical of a farm, and further, no activities shall cause the depletion or erosion of agricultural soils (dust, vehicle tracks, stream bank breakdown, etc.).

9.2.3 Permanent forest industries, including permanent sawmills, planing mills, veneer mills and related operations, provided:

9.2.3.1 There is a complete clean-up of discarded wastes following the cessation of activity.

9.2.3.2 There are no nuisances imposed upon tourist service facilities or outdoor recreation uses in the immediate vicinity.

9.2.3.3 The site of the proposed use encompasses an area of at least five (5) acres.

9.2.4 Livestock auction yards with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings.

9.2.5 Commercial outdoor sport and recreational facilities, outdoor musical entertainment

9.2.6 Driving ranges

9.2.7 Game preserves

9.2.8 Gasoline stations with or without store

9.2.9 Detention facilities

9.2.10 Shooting ranges (outdoor)

9.2.11 Recreation camps, resorts or housekeeping units

9.2.12 Restaurants and/or taverns (without drive-through service)

9.2.13 Dog grooming and kennel facilities [Permit criteria include Article 21.45]

9.2.14 Golf courses and country clubs [Refer to Articles 4.2.5 and 21.11]

9.2.15 Hunt clubs (commercial)

9.2.16 Airport with appurtenant facilities, when approved by the Planning Commission after a hearing, provided the operating characteristics are deemed not to conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.).

9.2.17 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

9.2.18 Travel trailer courts

9.2.19 Campgrounds (commercial)

9.2.20 Race tracks

9.2.21 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height, or with lights [See Article 21.46]

9.2.22 WTG Large

9.2.23 Anemometer Tower [See Article 21.47]

9.2.24 Unlisted property uses if authorized under Article 21.44.

Table of Contents

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 10 B1 LOCAL BUSINESS DISTRICT

INTENT

The B1 Local Business District establishes a Business District that is more selective than a General Business District. It provides for the establishment of neighborhood shopping areas, personal services, and professional office areas that are compatible with and of service to residential uses, provided the uses are within a completely enclosed building.

SECTION 10.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

10.1.1 Office buildings for administrative, professional, governmental and sales offices

10.1.2 Medical and dental offices, including clinics

10.1.3 Banks and financial institutions, without drive through

10.1.4 Any generally recognized retail business within an enclosed building less than one hundred thousand (100,000) square feet, excluding bars and restaurants serving alcoholic beverages.

10.1.5 Any personal service establishment which performs such services as, but not limited to: barber, beauty salon, shoe repair, tailor shops, interior decorators and photographers.

10.1.6 Offices and showrooms of plumbers, electricians, decorators or similar trades, without outdoor storage.

10.1.7 Rental shops with no outdoor storage

10.1.8 Printing establishments, newspaper offices, publishers, and copying services

10.1.9 Existing residences

10.1.10 Athletic or sports facilities and health clubs, indoor only

10.1.11 Churches

10.1.12 Convalescent or nursing home care facility

10.1.13 Community service facilities (public library, offices operated through public funds, etc)

10.1.14 Educational institutions

10.1.15 Commercial Day Care

10.1.16 Funeral home and mortuary

10.1.17 Family Care Facility

10.1.18 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use. [See Article 21.46]

Table of Contents

SECTION 10.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

10.2.1 Motels, hotels, motor inns, cabin courts, bed and breakfast facilities, tourist lodging facilities and museums

10.2.2 Gasoline service stations for sale of motor fuels, oil and minor accessories

10.2.3 Retail uses over one hundred thousand (100,000) square feet

10.2.4 Dry cleaners, laundry

10.2.5 Utility and essential service buildings when operating requirements necessitate the locating of said facilities within the District in order to serve the immediate vicinity.

10.2.6 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height Permit criteria include Article 21.46

10.2.7 Nursery sales, garden supply centers, and greenhouses with outdoor display areas

10.2.8 Recycling Facility

10.2.9 WTG Small: Permitted as an accessory use to an allowed Principal Use.

10.2.10 Unlisted property uses if authorized under Article 21.44.

ARTICLE 11 B2 GENERAL BUSINESS DISTRICT

INTENT

The B2 General Business District is designed to provide sites for more diversified business types than the B1 Local Business District and often located so as to serve passer-by-traffic. Tourist services are included as being in character with the District.

SECTION 11.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

11.1.1 All principal uses permitted in the B1 Local Business District

11.1.2 Theaters, halls, and similar places of assembly

11.1.3 Laundromats and dry cleaners

11.1.4 Bowling alleys, pool or billiard parlors or clubs

11.1.5 Equipment rental shops with outside storage

11.1.6 Indoor archery range

11.1.7 Lumber yards and building material suppliers-within enclosed building

11.1.8 Tavern/night clubs

11.1.9 Restaurants serving alcoholic beverages

11.1.10 Public parking garages

11.1.11 Bus stations and passenger terminals

11.1.12 Businesses and restaurants with drive-through service

11.1.13 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights Permit criteria includes Article 21.46

11.1.14 Transient Merchants-Tent and open air merchants, for periods of up to ninety (90) days per year, housing retail uses otherwise allowed by the Zoning Ordinance in this district. A single thirty (30) day extension may be applied for. Three (3) or more merchants on a parcel simultaneously must be permitted as a "Flea market".

11.1.15 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use. [See Article 21.46]

Table of Contents

SECTION 11.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

11.2.1 All uses subject to special conditions in the B1 Local Business District

11.2.2 Lumber yards, building material suppliers, and home improvement centers, with outdoor storage

11.2.3 Rifle or pistol ranges when within a completely enclosed building

11.2.4 Auto repair garages or auto body shop, including wrecker service, provided that outdoor storage of vehicles under repair be confined to the rear yard and screened from view.

11.2.5 Car wash

11.2.6 Sales, rental, and service centers for vehicles, watercraft, and/or mobile homes, including new or used automobiles, motor bikes, bicycles, boats, ATV's, campers, snowmobiles, trailers, and motor, mobile, modular, manufactured homes, or farm equipment, provided:

11.2.6.1 Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two (2) streets.

11.2.6.2 The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off-street parking lots.

11.2.6.3 No sales or display shall occupy any public street or road right-of-way; and further, must be set back at least twenty (20) feet from the front property line.

11.2.6.4 The use of a display model for a business office is permissible provided it is connected to sanitary and water facilities and approved by the County Health Department.

11.2.7 Hospitals

11.2.8 Commercial outdoor sport and recreational facilities

11.2.9 Flea markets

11.2.10 Mini-storage buildings consisting of separate storage rooms rented or leased by the month.

11.2.11 Wireless Telecommunication Towers and Facilities one hundred ninety (190) feet or more in height Permit criteria includes Article 21.46

11.2.12 Solid Waste Hauler

11.2.13 WTG Small: Permitted as an accessory use to an allowed Principal Use.

11.2.14 Unlisted property uses if authorized under Article 21.44.

ARTICLE 12 B3 BUSINESS, LIGHT MANUFACTURING DISTRICT

INTENT

The B3 District is designed to provide sites for light manufacturing and wholesale storage and as a distribution area to retail stores or industrial users. These sites do not necessarily have to abut or be adjacent to a primary or secondary County road but must have access to these roads without passing through a residential district, provided that the entrance and exit is approved in written form by the County Road Commission.

SECTION 12.1 PRINCIPAL USES PERMITTED

12.1.1 Wholesale sales, storage and distribution facilities including accessory retail sales, but excluding storage of flammable or hazardous materials

12.1.2 Truck and rail freight terminals, including warehousing

12.1.3 Vehicle service and storage centers for trucks, watercraft, truck trailers, and miscellaneous motorized vehicles

12.1.4 Outside storage yards, provided proper fencing is provided per Article 21.10

12.1.5 Lumber yards, building and construction material suppliers

12.1.6 Bottling works, food packaging and freezer plants

12.1.7 Welding, jobbing, plastic, wood, machine and fabrication shops

12.1.8 Community service facilities (public library, offices operated through public funds, etc)

12.1.9 Equipment reconditioning indoors on an impervious surface

12.1.10 Essential services buildings

12.1.11 Flea markets

12.1.12 Sawmills and forest product processing

12.1.13 Fuel storage and wholesale uses with underground storage tanks

12.1.14 Monument and art stone product operations

12.1.15Nursery sales and greenhouses

12.1.16 Public works garages

12.1.17 Indoor archery range

12.1.18 Indoor rifle or pistol ranges

12.1.19 Construction and utility service contractors storing heavy equipment

12.1.20 Storage buildings consisting of building(s) with the purpose of commercial and/or private storage (A storage building shall not be used in any form as a residence.)

12.1.21 Agricultural chemicals and supplies in an enclosed building

12.1.22 Veterinary hospitals, clinics with indoor kennels Permit criteria includes Article 21.45

12.1.23 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height Permit criteria includes Article 21.46

12.1.24 Recycling Facility

Table of Contents

12.1.25 Solid Waste Hauler

12.1.26 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use.

SECTION 12.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

12.2.1 All permitted use or uses subject to special conditions in the B2 General Business District.

12.2.2 Auto repair garages or auto body shops, including wrecker service

12.2.3 Above-ground storage of flammable and combustible liquids, chemicals and hazardous liquids

12.2.4 Concrete and asphalt manufacturing and distribution

12.2.5 Detention Facilities

12.2.6 Power generation plants

12.2.7 Research, experimental, and development establishments

12.2.8 Adult Entertainment

12.2.9 Industrial Laundries

12.2.10 Medical Laboratories

12.2.11 Dirt and aggregate storage, sales and processing

12.2.12 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height

12.2.13 WTG Small: Permitted as an accessory use to an allowed Principal Use.

12.2.14 Unlisted property uses if authorized under Article 21.44.

ARTICLE 13 I INDUSTRIAL DISTRICT

INTENT AND REQUIRED CONDITIONS

The I Industrial District is designed to accommodate wholesale activities, warehouses, major repair operations, manufacturing and other industrial operations, subject to certain performance requirements relative to their impact on the community and adjacent non-industrial districts.

Whenever an industrial use permitted in this Article requires the use of a storage area or operational activity which is not within the confines of an enclosed building, then adequate greenbelt, screening devices, and/or buffer walls are required. [See Article 21.10 and 21.18]

The height of industrial structures and uses shall be related to building setbacks. For each foot of building height above twenty (20) feet, the minimum yard setbacks shall be increased by one (1) foot when adjacent to non-industrial districts. Building height shall not exceed thirty-five (35) feet.

Any industrial activity which produces glare, noise, vibrations, smoke, dust, odors and similar or related nuisances, shall confine these nuisances to the industrial district and must conform to State and Federal environmental regulations. Industrial operations involving the manufacture, processing, or packaging of materials which are inherently dangerous or hazardous due to flammability, toxicity, radioactivity, explosiveness, shall require special review by the Planning Commission after a hearing, and any approval shall be contingent upon a showing by the applicant industry that no dangerous, noxious or nuisance conditions will impact any adjacent premises. Whenever there is evidence that municipal treatment plants, or any river, wetland, or groundwater, lake, or other water in the County may be damaged, polluted, or otherwise adversely affected by industrial chemicals, environmental contamination prevention measures, spill containment procedures, surety bonds and other financial guarantees to correct damages, may be required by the County.

SECTION 13.1 PRINCIPAL USES PERMITTED

13.1.1 All principal uses permitted in the B3 Business, Light Manufacturing District

13.1.2 Contractors' yards, equipment storage, and materials handling operations

13.1.3 Major utility service yards and buildings, either public or private

13.1.4 Repair operations and/or maintenance activities for vehicles of any kind, including farm implements, conveyors, and other equipment or machinery

13.1.5 Concrete and asphalt manufacturing and distribution

13.1.6 Grain elevators (commercial)

13.1.7 Meat and poultry processing plants

13.1.8 Manufacturing facilities within an enclosed building, and excluding uses listed in Section 13.2.

13.1.9 Auto body shop including wrecker service

13.1.10 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights Permit criteria includes Article 21.46

13.1.11 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use. [See Article 21.46]

13.1.12 WTG Small: Permitted as an accessory use to an allowed Principal Use.

13.1.13 WTG Medium: Permitted as an Accessory Use to an allowed Principal Use.

Table of Contents

SECTION 13.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

Under such conditions as the Planning Commission finds the use as not being injurious to the I Industrial District and environs and not contrary to the spirit and purpose of this Ordinance, and subject further to the conditions herein imposed as well as the conditional use standards of Article 19, the following uses may be permitted:

13.2.1 All uses subject to special conditions in the B3 Business, Light Manufacturing District.

13.2.2 Metal plating, buffing and polishing subject to appropriate measures to control any type of process to prevent noxious results, particularly potential acid spills and waste from plating operations.

13.2.3 Manufactured gas, bottled gas and related fuel services or fuel production activities, except the uses specifically exempted by the Michigan Zoning Enabling Act (Public Act 110 of 2006). Petroleum storage tanks, bottled gas, or storage tanks for any flammable liquid, and production or refining plants for petroleum products when not closer than one thousand (1000) feet from any residential district or residence and three hundred (300) feet from any other district, unless exempt under Act 110 of 2006.

13.2.4 Junk yards and places so called for the storage, dismantling, wrecking, and disposing of junk, and for refuse material, or industrial, agricultural and automotive vehicles, upon findings that the use will operate in a reasonable manner and all harmful effects of open storage, smoke, dust, glare, noise, fire and explosive hazards are confined to the premises and are in accord with all other local and state laws. There shall be provided a completely obscuring wall not to be less than eight (8) feet in height as measured from the grade at the property line. Junk yards shall not be located closer than two hundred (200) feet from the boundary of any other zoning district. [Permit criteria includes Article 21.3]

Such use shall not be closer than forty (40) feet from any lot line. There shall be no outdoor storage of materials, equipment, structures, or debris of any kind anywhere outside the designated storage area.

13.2.5 Painting, varnishing and undercoating shops when set back at least seventy-five (75) feet from any adjacent residential district and when conducted within a completely enclosed building.

13.2.6 Heavy manufacturing (assembly, processing or cleaning of heavy bulky durable goods requiring heavy trucks or rail transport; drop forging, heavy stamping, punch pressing, plating, hammering or other similar processing activities).

13.2.7 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

13.2.8 Manufacturing of explosives, corrosive and other dangerous chemical substances

13.2.9 Metal and wood-stripping establishments

13.2.10 Airports and landing strips

13.2.11 Detention Facilities

13.2.12 Power company generation plants

13.2.13 Printing and publishing plants

13.2.14 Research and development laboratories

13.2.15 Chemical processing and metallurgic manufacturing

13.2.16 Industrial Laundries

13.2.17 Medical Laboratories

13.2.18 Wireless Telecommunications Towers and Facilities over one hundred ninety (190) feet in height Permit criteria includes Article 21.46.

13.2.19 Unlisted property uses if authorized under Article 21.44.

Table of Contents

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 14 HIGHWAY INTERCHANGE COMMERCIAL DISTRICT

INTENT:
The Highway Interchange Commercial land use category includes areas designated for commercial development, which are primarily Interstate access dependent. This district primarily serves thru traffic and tourist needs. Uses that are consistent with these areas include, but are not limited to, gasoline stations, lodging facilities, entertainment facilities, restaurant facilities and similar tourist related developments, as well as warehouses, storage buildings, wholesale facilities and other similar uses. This district is intended to serve traffic entering or leaving the Interstate. These areas may require municipal water and sewer services and/or other comparable forms of water and sewer services with approval by the municipality and District Health Department.

SECTION 14.1 PRINCIPAL USES PERMITTED anywhere in the zoning district.
No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

14.1.1 Existing residences
14.1.2 Banks and financial institutions, except those with drive-through service
14.1.3 Office buildings for administrative, professional, governmental and sales offices
14.1.4 Medical and dental offices, including clinics
14.1.5 Public Schools under the jurisdiction of the Michigan superintendent of public instruction
14.1.6 Indoor theaters, halls and similar places of assembly
14.1.7 Bowling alleys, pool parlors or billiard parlors
14.1.8 Indoor archery range
14.1.9 Tavern/night clubs
14.1.10 Restaurants, except those with drive-through service
14.1.11 Bus stations and passenger terminals

PRINCIPAL USES PERMITTED in the zoning district only when access is from a service road. Access shall not be off Marlette Road in Otsego Lake Township and Mills Street in Corwith Township.

141.12 Any generally recognized retail business within an enclosed building under one hundred thousand (100,000) square feet
14.1.13 Offices and showrooms of plumbers, electricians, decorators or similar trades, without outdoor storage
14.1.14 Rental shops without outdoor storage
14.1.15 Athletic or sports facilities and health clubs, indoor only
14.1.16 Places of worship
14.1.17 Lumber yards and building material suppliers within enclosed building(s)
14.1.18 Businesses including those with drive-through service
14.1.19 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights Permit criteria include Article 21.46.2
14.1.20 Wholesale sales, storage and distribution facilities including accessory retail sales but excluding storage of flammable or hazardous materials Outside storage shall be fenced and screened.
14.1.21 Truck and rail freight terminals, including warehousing
14.1.22 Vehicle service and storage centers for trucks, watercraft, truck trailers and miscellaneous motorized vehicles Outside storage shall be fenced and screened.

Table of Contents

14.1.23 Lumber yards, building, construction material suppliers and home improvement centers without outside storage

14.1.24 Bottling works, food packaging and freezer plants

14.1.25 Equipment reconditioning indoors on an impervious surface

14.1.26 Nursery sales and garden supply centers within enclosed building and without outside clay area(s)

14.1.27 Construction and utility service contractors storing heavy equipment with inside storage only

14.1.28 Storage buildings consisting of building(s) with the purpose of commercial and/or private storage A storage building shall not be used in any form as a residence.

14.1.29 Mini-storage buildings consisting of separate storage rooms rented or leased by the month

14.1.30 Utilities - All utilities and service structures when their operating requirements necessitate locating the facilities within the district in order to serve the immediate vicinity (storage yards excluded) shall be located underground, except where above ground equipment such as transformers, control panels, services connections and meters are required. All above ground equipment shall be located at the rear of the building. Permitted criteria includes Article 21.10 regarding screening and fences

SECTION 14.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS anywhere in the zoning district.

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. (See Article 21 for applicable specific Requirements for Certain Uses, if any and Article 23 for site plan requirements.)

14.2.1 Motels, hotels, motor inns, cabin courts, bed and breakfast facilities, tourist lodging facilities and museums

14.2.2 Gasoline service stations for sale of motor fuels, oil and minor accessories

14.2.3 Car wash subject to waste water treatment conditions

14.2.4 Sales, rental, and service centers for vehicles, watercraft, and/or motor homes and travel trailers, including new or used automobiles, motor bikes, bicycles, watercraft, ATV's, campers, snowmobiles, utility trailers provided:

14.2.4.1 Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two streets.

14.2.4.2 The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off-street parking lots.

14.2.4.3 No sales or display shall occupy any public street or road right-of-way and further, must be set back at least twenty (20) feet from the front property line.

14.2.4.4 The use of a display model for a business office is permissible provided it is connected to sanitary and water facilities and approved by the County Health Department.

14.2.4.5 Emergency access routes must be maintained in the display area.

PERMITTED USES SUBJECT TO SPECIAL CONDITIONS in the zoning district only when access is from a service road. Access shall not be off Marlette Road in Otsego Lake Township and Mill Street in Corwith Township.

Table of Contents

14.2.5 Retail uses over one hundred thousand (100,000) square feet
14.2.6 Offices and showrooms of plumbers, electricians, decorators or similar trades, with outdoor storage
14.2.7 Rental shops with outdoor storage
14.2.5 Retail uses over one hundred thousand (100,000) square feet
14.2.6 Offices and showrooms of plumbers, electricians, decorators or similar trades, with outdoor storage
14.2.7 Rental shops with outdoor storage
14.2.8 Nursery sales and garden supply centers with outdoor display areas
14.2.9 Lumber yards, building material suppliers, and home improvement centers, with outdoor storage
14.2.10 Rifle or pistol ranges when within a completely enclosed building as an accessory use
14.2.11 Auto repair garages or auto body shop, including wrecker service, provided that outdoor storage of vehicles under repair be confined to the rear yard and screened from view
14.2.12 Sales, rental, and service centers for mobile home, modular home, manufactured homes, or farm equipment provided:

14.2.12.1 Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two streets.
14.2.12.2 The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off street parking lots.
14.2.12.3 No sales or display shall occupy any public street or road right-of-way; and, further, must be set back at least twenty (20) feet from the front property

SECTION 14.3 DEVELOPMENT REQUIREMENTS

14.3.1 Mechanical Equipment. All units and appliances for air conditioning, HVAC systems, high voltage electrical systems, exhaust pipes or stacks, elevator housing and satellite dishes or telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by using walls, fences, roofline elements, penthouse-type screening devices or landscaping. Outdoor wood burning equipment (stoves/furnaces) is prohibited.
14.3.2 Services Access. A designated loading space shall be reserved at the rear of the building. The Planning Commission may permit loading from secondary streets if applicant demonstrates that traffic flow and access to neighboring uses will not be disrupted.
14.3.3 Landscaping. Landscaping is an integral part of this district and shall complement the district and surrounding uses. Landscaping shall comply with the provisions elsewhere in this ordinance.
14.3.4 Sidewalks. The property owners shall provide sidewalks. Sidewalks shall conform to placement and level of adjacent neighborhood sidewalks or be located one (1) foot inside the street right- of-way along all streets abutting the property. Sidewalks shall be a minimum of sixty (60) inches wide, or the width of adjoining sidewalks as approved during site plan review. Greater width may be required during site plan review.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 15 RESERVED FOR FUTURE USE

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 16 RESERVED FOR FUTURE USE

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 17 SCHEDULE OF DIMENSIONS

17.1 Table 1 - LIMITING HEIGHT, DENSITY, AND AREA BY ZONING DISTRICTS (See also Article 21.1 Accessory Buildings and Article 22 General Exceptions for Area, Height, and Use)

Zoning District	**R1 & R2**	**R3**	**RR**	**FR & AR**	**Reserved for future use**	**Reserved for future use**
Min. Lot Area (Sq. feet)	20,000 .46 acre	40,000 .92 acre	20,000 .46 acre	88,000 2.02 acre		
Min. Front Setback *(b)(j)*	25 ft	25 ft	25 ft	50 ft		
Max. Front Setback	NA	NA	NA	NA		
Min. Side Setback	10 ft	10 ft	10 ft	20 ft		
Min. Rear Setback	30 ft (a, h)	30ft (a, h)	30 ft (a, h)	40 ft (a)		
Min. Lot width (k)	100 ft 150 ft Duplex	100 ft	100 ft	150 ft AR 300 ft Duplex		
Max. % lot coverage	25%	25%	25%	30%		
Max. Building height (l)	35 ft (g)	35 ft (g)	35 ft (g)	35 ft (g)		
Min. Ground Floor area of principal structure (Square feet)	720 (i)	720 (i)	720 (i)	720 (i)		
Min. Width of principal structure	20 ft (i)	11ft (i)	20 ft (i)	11 ft (i)		

Zoning District	**B1**	**B2**	**B3**	**I**	**HX**	**Reserved for future use**
Min. Lot Area (Square feet)	10,000	10,000	20,000	40,000	10,000	
Min. Front Setback	30 ft (e)	30 ft (e)	30 ft (e)	30 ft (e)	30 ft (e)	
Max. Front Setback	NA	NA	NA	NA	NA	
Min. Side Setback	10 ft (c)	10 ft (c)	10 ft (c)	10 ft (c)	10 ft (c)	
Min. Rear Setback	20 ft (a, d, f)	20 ft (a, d, f)	20 ft (a, d, f)	20 ft (a, d, f)	20 ft (a, d, f)	
Min. Lot width (k)	100 ft	100 ft	100 ft	150 ft	150 ft	
Max. % lot coverage	NA	NA	NA	NA	NA	
Max. Building height (l)	35 ft (g)	35 ft (g)	35 ft (g)	35 ft (g)	35 ft (g)	
Min. Ground Floor area principal structure (Square feet)	NA	NA	NA	NA	NA	
Min. Width of principal structure	NA	NA	NA	NA	NA	

Minimum front, side and rear setbacks, and maximum lot coverage modifications of up to twenty-five percent (25%) may be approved by the Zoning Administrator for nonconforming lots, as described in Article 21.26.1 and 21.26.2.

Table of Contents

Note a: Lots within five hundred (500) feet of lakes, ponds, flowages, rivers, streams: see Article 18, LOTS NEAR WATER.

Note b: Where the front yards of two (2) or more principal buildings in any block, or within five hundred (500) feet in existence at the time of the passage of this Ordinance (or amendment thereto), in the same zoned district or the same side of the road are less than the minimum front yard setback, then any principal building subsequently erected on the same side of the road shall not be required to provide a greater setback than the average for the existing two (2) or more principal buildings.

Note c: On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the residential side in B1, B2, B3 and HX.

Note d: Loading and unloading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear foot of front building wall. Loading space shall not be counted as required off-street parking. Loading zones may be located in other non-required yards if screened or obscured from view from public streets and residential districts.

Note e: Off-street parking may be permitted in the front yard, except that a ten (10) foot wide landscaped buffer is maintained between the front lot line (or right-of-way line) and the parking area.

Note f: No building shall be placed closer than forty (40) feet to the outer perimeter of such district or property line when said use abuts a residential district boundary.

Note g: Subject to approval by the Planning Commission, the maximum height of buildings may be permitted to exceed the maximum stated in the Schedule by up to fifty percent (50%) in R1, R2, R3, RR, B1 and B2 Districts, and up to one hundred percent (100%) in all other districts, provided that the applicant can demonstrate that no good purpose would be served by compliance with maximums stated, (as in the case of steep topography, a Planned Unit Development (PUD), or larger site); and further, there is no conflict with airport zoning height restrictions; fire safety is maintained subject to local fire authority approval; and the light, air and/or scenic views of adjoining property is not impaired. The Planning Commission and or Zoning Board of Appeals cannot allow a WTG height greater than allowed in Section 21.47 or a Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS. Also see Article 22 GENERAL EXCEPTIONS FOR AREA, HEIGHT AND USE .

Note h: Section 21.1 allows a rear setback of ten (10) feet for accessory buildings.

Note i: The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

Note j: In instances where the property is adjacent to a public right of way or ingress egress easement dedicated as permanent adequate access to one (1) or more lots, the setback shall be measured from that right of way or ingress egress easement.

Note k: Specific allowable uses have greater minimum lot widths as required in the Zoning District allowable use lists.

Note l: Specific allowable uses have greater allowable heights as stated in the Zoning District allowable use lists, Article 21 and Article 22, Section 22.3 Height Limits, of this ordinance

Table of Contents

17.2 MULTIPLE DWELLINGS - BULK, DENSITY AND AREA

Minimum floor area per each unit	Lot size
	Minimum width 200 feet at front building line
Efficiency 250 square feet	Minimum 40,000 square feet for any combination of six (6) bedrooms
One (1) bedroom 400 square feet	
Two (2) bedroom 500 square feet	For every bedroom over six (6), add 1,000 square feet to the minimum lot size
Three (3) bedroom 600 square feet	

Multiple Dwellings require a County Health Department written approval and/or permit for all proposed or installed septic tanks and wells. For the purpose of applying yard regulation, multiple-family dwellings shall be considered as one (1) building occupying one (1) lot. When more than one (1) multiple-dwelling building occupies one (1) lot, the structures must be separated by at least thirty (30) feet when end to end, sixty (60) feet when back to back or face to face, and forty (40) feet when end to face or back.

Table of Contents

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 18 LOTS NEAR WATER

INTENT:

For the purpose of preventing and controlling water pollution, preserving shoreland cover, natural beauty, and to further the maintenance of safe and healthy conditions on shorelands of streams, rivers, lakes, and flowages of water that appears on the U.S. Geological Survey Quadrangle maps of Otsego County.

SECTION 18.1 SHORELAND DEFINITION

Shoreland shall be considered in this Ordinance as the land paralleling the lake shoreline, fifty (50) feet wide as measured from the ordinary high water level, and the land paralleling the banks of all rivers, streams and flowages of water in the County that appear on the most Geological Survey Quadrangle maps, one hundred fifty (150) feet wide, measured at right angles to the shoreline or bank, on a horizontal plane.

SECTION 18.2 SHORELAND BUILDING SETBACKS

Buildings and structures, excepting satellite dishes, shall not be constructed or placed within the shoreland.

SECTION 18.3 MAINTENANCE OF SHORELAND

18.3.1 At the discretion of the landowner, dead, diseased, or dying trees within the shoreland area may be removed and/or the trimming and pruning of live trees and shrubs may be undertaken to improve the view and aesthetic appearance of the shoreline. Such trimming or pruning may not remove so much of the tree or shrub that the life of the plant is endangered. Provided further, that if a tree must be removed because it is dead or diseased, the stump may be cut flush with the ground, but the roots shall not be removed.

18.3.2 Natural shrubbery and ground cover vegetation shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that does not require fertilization and is equally effective in retarding run off, preventing erosion and preserving natural beauty. Lawn grasses are not a suitable substitute for natural ground cover vegetation in the shoreland zone. It is recommended that the property owner seek advice on pruning and plantings from the Cooperative Extension Service, Soil Conservation Service, or professional nursery personnel.

SECTION 18.4 CONSTRUCTION WITHIN SHORELANDS BY PERMIT

Construction within the Shoreland shall be limited to minimal landscaping features necessary to enable use and enjoyment of the Shoreland and/or access walkways. No structures, other than decks or walkways or landscape features as noted in this section, shall be constructed within the Shoreland. Construction may be permitted only following site plan review by the Zoning Administrator under the following conditions:

Site plan application procedures as provided in Section 18.8 must be followed.

To minimize erosion, construction must be the minimum required. No steps or walkway within the shoreland area shall have a clear width of more than five (5) feet or an overall width of more than six (6) feet, including handrails if required by the building code. Landscape features must be the minimum necessary to permit use and enjoyment of the Shoreland. Retaining walls necessary as a result of step slopes shall not exceed thirty percent (30%) of the lot width; patios shall not exceed sixty-four (64) square feet in area.

On lots without suitable beach front, a raised platform not larger than sixty-four (64) square feet

Table of Contents

may be constructed. In addition to the raised platform steps or a walkway may be constructed. The platform shall be constructed of wood or other suitable material approved by the Zoning Administrator. This platform shall have a length not more than one and one-half (1½) times its width, except that where slopes are greater than one (1) foot vertical on three (3) feet horizontal, more length may be allowed to offset the shallow width, so long as the overall square footage is not increased. On slopes greater than one (1) foot on three (3) feet, dry-stacked platforms and retaining walls of earth-colored stones, brick or other suitable material approved by the Zoning Administrator, may be substituted for raised wooden platforms.

Erosion control measures shall be incorporated into any design, including permanent stabilization of soils beneath the platform, which will no longer support vegetation due to lack of natural light. Where slopes are greater than one (1) foot on three (3) feet, stone riprap placed over a geotextile fabric or other permanent stabilization shall be required. The maximum allowable total area of all walks and stairs within the shoreland shall not exceed four hundred fifty (450) square feet on lakes and one thousand fifty (1,050) square feet on rivers and streams.

No part of any improvement in the shoreland shall extend more than eighteen (18) inches above any part of the surrounding terrain, except hand rails as required by the Building Department and water pump enclosures which may be a maximum of thirty (30) inches tall and forty-eight (48) inches wide. Boardwalks, decks, and pathways through regulated wetlands will require a permit from the DNR.

SECTION 18.5 TREE CUTTING WITHIN THE SHORELANDS BY PERMIT

In order to protect the natural character, environment, and ecology of the waters of Otsego County, the shorelands shall be maintained in a natural condition. Vegetation shall be retained and tree cutting shall only be permitted following site plan approval by the Zoning Administrator as noted in Section 18.8.

Clear cutting of trees shall not create a clear cut swathe wider than thirty percent (30%) of the lot width, and in no case shall clear cutting exceed a total width of thirty (30) feet for each one hundred (100) feet of shoreline. Provided further, that the stumps may be cut flush with the ground, but the roots shall not be removed. Any soil disturbance associated with the clearing of vegetation must be adequately protected from erosion and sedimentation in accordance with the standards of the Soil Erosion and Sediment Control Act.

SECTION 18.6 EXCAVATING, FILLING OR GRADING OF SHORELANDS

Excavation, filling or grading of shorelands shall only be permitted following site plan approval by the Zoning Administrator as noted in Section 18.8 and as guided by regulations set forth in Section 18.4.

The purpose of the Shoreland area is to prevent and control water pollution, preserve shoreland cover, natural beauty and to further the maintenance of safe and healthy bodies of water within Otsego County therefore, Excavation must be the minimum required for use of the shoreland. Landscaping and Lawns are not considered natural vegetation and shall not be permitted within fifty (50) feet of a Lake or one hundred fifty (150) feet of a lake or stream.

Unless due to step slopes which make use of the Shoreland impossible, retaining walls shall not be permitted within the Shoreland. In the event of step slopes, a retaining wall shall not exceed thirty percent (30%) of the lot width and shall be the minimum height possible to permit use of the Shoreland.

In addition to County Zoning Administrator approval, appropriate permits from the County Soil Conservation Office and from the Department of Natural Resources shall be obtained.

SECTION 18.7 BEACH IMPROVEMENTS

Improvements and/or maintenance of existing beaches that do not require any excavation or removal of soil is permitted.

Any improvements and/or maintenance of existing beaches involving excavation or removal of soil shall be permitted only following site plan approval by the Zoning Administrator as noted in Section 18.8 and as regulated by Sections 18.4, 18.5, and 18.6.

The depth of the beach area shall not exceed fifteen (15) feet from the normal high water level inland and the beach area shall not exceed six percent (6%) slope. In developing a new beach area, the procedures in this section and Section 18.5 shall be followed.

SECTION 18.8 SHORELAND SITE PLAN APPLICATION PROCEDURES

A Site Plan Review application must be completed and a site plan meeting all of the provisions of Article 23 and this Section shall be provided.

In addition to a Site Plan that complies with Article 23, Shoreland site plans shall show the following additional information:

18.8.1 Property lines at the waterline back to a depth of at least sixty (60) feet for lakes and one hundred sixty (160) feet for rivers.

18.8.2 Existing vegetation and trees within the shoreline area.

18.8.3 Existing grade elevations represented by contour lines at five (5) foot intervals from the normal high water level inland to a depth of ten (10) feet beyond the landward extent of the Shoreland Zone.

18.8.4 Existing structures, docks, walls, steps or any man-made improvements.

18.8.5 Complete the plan by showing the proposed change that would be made if the application is accepted and approval granted by the Planning Commission.

SECTION 18.9 NON-PUBLIC LAKEFRONT ACCESS SITES

INTENT:

This Article establishes development standards for "Non-Public Lakefront Access Sites" to inland lakes. Non-Public Lakefront Access Sites are a Permitted Use Subject To Special Conditions on riparian shoreland of inland lakes.

The intent of this Article is to protect the property values, riparian rights and recreational qualities of lakefront property in Otsego County. The regulations guide the development and reasonable use of shoreland areas adjacent to inland lakes while seeking to prevent water pollution, retain vegetative cover, preserve the natural aesthetics of waterfront properties and prevent the recreational overuse and abuse of inland lakes in the County.

The following standards are applicable to "Non-Public Lakefront Access Sites" located on shorelands of inland lakes and are not applicable to rivers, streams, creeks or other surface waters not classified as an inland lake.

The standards do pertain to the development of a "Non-Public Lakefront Access Site" for the common use of person(s) (family) who own, rent or lease residential lots, dwellings(s) and room(s).

Further, the design standards of the open land area and shoreline length of the lakefront access site, Section 18.11, are based on the number of lots and/or dwellings and/or rooms having access

Table of Contents

rights to the lakefront site. A marina shall follow applicable state law, including the Inland Lakes and Streams Act of 1972, as amended.

SECTION 18.10 DEFINITIONS AND GENERAL PROVISIONS

For the purpose of administering this Article, the following definitions of terms and provisions are provided:

18.10.1 Dwelling Unit as defined in this Ordinance.

18.10.2 Room(s): a dwelling unit primarily for transient use and/or as is usually associated with motels, hotels and motor lodges.

18.10.3 Nonpublic Lakefront Access Site is a private waterfront facility with water-related recreational areas, co-owned and/or caused by a selected group of persons owning, renting or leasing residential and/or commercial real estate which may be used in conjunction with the private waterfront facility.

18.10.4 Recreational area such as parks, beaches, camping facilities, parkways and similar activities operated by any governmental agencies, and located in lakefront property with riparian rights, are not subject to the standards set forth in this Article, provided they are intended for the use of the general public.

No riparian property providing non-public lakefront access to a commonly owned riparian parcel of land shall have these rights only by deeded conveyance assigned to the non-riparian property. These riparian rights to the waterfront property shall not be sold, rented or leased to others unless such rights are conveyed by the selling, leasing or renting of the non-riparian property.

18.10.5 A private parking area for vehicles and/or boat trailers shall be permitted provided: these areas must be at least one hundred sixty (160) feet from the ordinary high water mark, and used only by those having privileges to the lake access.

18.10.6 Camping by tents, motor homes, trailers or other means, shall not be permitted within the boundaries of the "Non-Public Lakefront Access Sites," nor shall private property, whether owned, leased, rented or borrowed, be stored overnight or kept on the site when the user is not present. Neither shall vehicles be parked on the access site except for those areas more than one hundred sixty (160) feet from the ordinary high water mark as outlined in 18.11 S-2.

SECTION 18.11 SITE DESIGN STANDARDS

The following standards shall be used for development and use of non-public lakefront access sites. These standards do not preclude, and are in addition to, standards set forth by the zoning districts established and other Articles contained within this ordinance.

S-1 There shall be a minimum setback line of two hundred thirty-five (235) feet, as measured from the ordinary high water mark, landward, at ninety degrees (90°) and/or radial to the shoreline, to any property line, dwelling unit or room. [Refer to Rule 3 for increase of setback line.]

S-2 There shall be a minimum of one hundred sixty (160) feet, as measured from the ordinary high water mark, landward, at ninety degrees (90°) and/or radial to the shoreline. This shall be the minimum depth of open land.

S-3 The area between number one (1) and two (2) of this section, may be used as a parking area, as required in Section 18.10.6.

S-4 The following components, equations and rules shall be used in determining the minimum open land area in square feet, minimum lake frontage in lineal feet, and maximum number of dwelling units or rooms to utilize the non-public lakefront access site.

FORMULA COMPONENTS

A. Number of dwelling units, condominium dwelling units and motel/hotel rooms

B. Eight thousand (8,000) square feet (8,000 sq. ft. is the minimum amount of open land area per dwelling unit or room)

C. Fifty (50) feet (required amount of lake shoreline per dwelling unit or room)

D. Total amount required of lake shoreline in linear feet

E. Total amount required of open land area in square feet

Rule 1 In instances where the number of dwelling units or rooms is known, the following equations shall be used to determine minimum amount of open land area in square footage (E), and the minimum amount of lake shoreline in linear feet (D).

Equations: A x B = (E) A x C = (D)

Rule 2 In instances where the amount of open land area (square footage) and lake shoreline (linear feet) is known, the following equations shall be used to determine the maximum number of dwelling units or rooms (A) permitted to use the open land area. The lesser of either equation shall be used as the maximum number of dwelling units or rooms permitted.

$$\text{Equation:} \quad \frac{D}{C} = (A) \qquad \frac{E}{B} = (A)$$

Rule 3 In instances where a lakefront access site is a combination of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7); the setback line as in (S-1) shall be increased in the following manner:

$$\text{Equation} \frac{(A \times 11{,}750 \text{ sq. ft.}) + (\text{Wetland sq. ft.})}{(A \times C)} = \text{Setback line (ft.)}$$

S-5 When determining the minimum square footage of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7) (Refer to Rule 3).

S-6 OPEN LAND AREA shall be defined as land which is not identified as Wetlands and may be graded and/or filled and maintained in accordance with provisions set forth in "Soil Erosion and Sedimentation Control Part 91 of PA 451, as amended". Such grading and filling shall not commence prior to approval of the Otsego County Enforcing Agency (Otsego County Zoning Administrator). Furthermore, the open land area shall be unobstructed by structures/buildings, unless permitted by the Planning Commission by the review procedures set forth in Article 18.12.

S-7 WETLANDS are defined in Article 2. Wetlands shall not be disturbed for any purpose, unless prior approval is granted by the State Enforcing Agency (DNR) of Public Act 203, of 1979, known as the Goemaere-Anderson Wetland Protection Act.

Table of Contents

S-4 The following components, equations and rules shall be used in determining the minimum open land area in square feet, minimum lake frontage in lineal feet, and maximum number of dwelling units or rooms to utilize the non-public lakefront access site.

FORMULA COMPONENTS

A. Number of dwelling units, condominium dwelling units and motel/hotel rooms

B. Eight thousand (8,000) square feet (8,000 sq. ft. is the minimum amount of open land area per dwelling unit or room)

C. Fifty (50) feet (required amount of lake shoreline per dwelling unit or room)

D. Total amount required of lake shoreline in linear feet

E. Total amount required of open land area in square feet

Rule 1 In instances where the number of dwelling units or rooms is known, the following equations shall be used to determine minimum amount of open land area in square footage (E), and the minimum amount of lake shoreline in linear feet (D).

Equations: A x B = (E) A x C = (D)

Rule 2 In instances where the amount of open land area (square footage) and lake shoreline (linear feet) is known, the following equations shall be used to determine the maximum number of dwelling units or rooms (A) permitted to use the open land area. The lesser of either equation shall be used as the maximum number of dwelling units or rooms permitted.

$$\text{Equation:} \quad \frac{D}{C} = (A) \qquad \frac{E}{B} = (A)$$

Rule 3 In instances where a lakefront access site is a combination of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7); the setback line as in (S-1) shall be increased in the following manner:

$$\text{Equation} \frac{(A \times 11{,}750 \text{ sq. ft.}) + (\text{Wetland sq. ft.})}{(A \times C)} = \text{Setback line (ft.)}$$

S-5 When determining the minimum square footage of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7) (Refer to Rule 3).

S-6 OPEN LAND AREA shall be defined as land which is not identified as Wetlands and may be graded and/or filled and maintained in accordance with provisions set forth in "Soil Erosion and Sedimentation Control Part 91 of PA 451, as amended". Such grading and filling shall not commence prior to approval of the Otsego County Enforcing Agency (Otsego County Zoning Administrator). Furthermore, the open land area shall be unobstructed by structures/buildings, unless permitted by the Planning Commission by the review procedures set forth in Article 18.12.

S-7 WETLANDS are defined in Article 2. Wetlands shall not be disturbed for any purpose, unless prior approval is granted by the State Enforcing Agency (DNR) of Public Act 203, of 1979, known as the Goemaere-Anderson Wetland Protection Act.

Table of Contents

ARTICLE 19 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

SECTION 19.1 PURPOSE

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the County.

SECTION 19.2 APPLICATION AND FEES

An application for a special use permit shall be made by filing with the zoning administrator one (1) paper copy and one (1) PDF electronic copy (or similar file format) of a completed application form, including all required information and the fees established by the County Board of Commissioners to cover the costs of processing the application. No part of any fee shall be refundable.

SECTION 19.3 DATA REQUIRED

This application for a special land-use permit shall include all the following information:

19.3.1 The Applicant's name, address, and telephone number.

19.3.2 The legal description, addresses, and taxes identification number of the proposed site.

19.3.3 A signed statement that the Applicant is the owner of the proposed site, or is acting as the owner's representative.

19.3.4 A site plan meeting all of the requirements of Section 23.2 of this Ordinance.

19.3.5 A detailed written description of the proposed special land use.

19.3.6 A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the standards for special land use approval specified in Section 19.8 of this Ordinance.

19.3.7 Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for special land use approval specified in Section 19.8 of this Ordinance and the impact of the proposed special land use on adjacent properties, public infrastructure, and the County as a whole. This information may take the form of, but is not limited to, traffic impact analysis, environmental impact assessments, market studies (to determine demand and/or use saturation), fiscal impact analysis or reports and/or information from officials representing state, county, or local police, fire, or health departments, the county road commission or Michigan Department of Transportation and/or state, county, or local environmental regulatory agencies.

SECTION 19.4 ZONING ADMINISTRATOR'S REVIEW

19.4.1 The zoning administrators shall review the application and information submitted under Section 19.3 of this Ordinance to determine if all required information was supplied. If the zoning administrator determines that all required information was not supplied, he/she shall send written notification to the Applicant of the deficiencies. The application for the special use permit cannot proceed until all required information has been supplied.

19.4.2 Once all required information is submitted, the zoning administrator shall forward the application to the Planning Commission for its review under the procedures of this Article, and will notify the township in which the property is located of the application.

SECTION 19.5 PUBLIC HEARING REQUIREMENTS

Following receipt of a complete special use permit application, the Planning Commission shall hold a public hearing. The notices for all public hearings before the planning commission concerning requests for special use permits and planned unit developments shall comply with all of the following:

A. The content of the notice shall include all of the following information:

1. A description of the nature of the proposed special use or planned unit development request.
2. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
3. The time, date, and place the proposed special use or planned unit development request will be considered.
4. The address where and the deadline when written comments will be received concerning the proposed special use or planned unit development request.

B. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.

C. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for Special Use or Planned Unit Development not less than fifteen (15) days before the scheduled public hearing.

D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within three hundred (300) feet of the property on which the proposed special use or planned unit development will be located not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the County. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

SECTION 19.6 REVIEW AND APPROVAL AUTHORITY

Following the public hearing the Planning Commission shall review the special land use request and shall approve, deny, or approve with conditions the special use permit based on the standards for special land use approval specified in Section 19.8 of this Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence represented at the public hearing, on each standard.

SECTION 19.7 STANDARDS FOR SPECIAL LAND USE APPROVAL

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following standards:

Table of Contents

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

19.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

19.7.3 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

19.7.4 The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

19.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on twenty-five (25) year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

SECTION 19.8 CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.

19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.

Table of Contents

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

SECTION 19.9 COMPLIANCE WITH APPROVED SPECIAL USE PERMT REQUIRED

Unless amended pursuant to Section 19.12 of this Ordinance, an approved special land use shall be developed, constructed, maintained, and operated in strict compliance with the approved special use permit and any conditions of approval. In the event public or site improvements were designed by an architect or engineer, the Applicant shall, following completion of construction, providing a statement prepared by his or her architect or engineer certifying that all public and and/or site improvements were constructed in compliance with the approved special land use permit and any conditions of approval.

SECTION 19.10 AMENDMENT OF SPECIAL USE PERMIT

Amendments to an approved special use permit shall be permitted only under the following circumstances:

19.10.1 The owner of property for which a special land use has been approved shall notify the zoning administrator of any desired change to the approved special use permit. 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 special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

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

19.10.1.2 Movement of buildings and/or signs by no more than ten (10) feet.

19.10.1.3 Landscaping approved in the special use permit that is replaced by similar landscaping to an equal or greater extent.

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

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

19.10.1.6 Changes related to items 19.10.1.1 through 19.10.1.5 above, required by Otsego County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic and character of the special land use, nor any specified conditions imposed as part of the original approval.

19.10.1.7 All amendments to a special land use permit approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

19.10.2 An amendment to an approved special use permit that cannot be processed by the zoning administrator under Section 19.10 above shall be processed in the same manner as the original special use permit application.

SECTION 19.11 EXPIRATION OF SPECIAL USE PERMIT

19.11.1 An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning commission for an extension prior to the expiration of the special use permit. The Planning Commission may grant one (1) extension of an approved special use permit for an additional one (1) year period if it finds:

19.11.1.1 The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and

19.11.1.2 The requirements and standards for special use permit approval that are reasonably related to the development have not changed.

19.11.2 If the special use permit expires pursuant to subsection (a) above, no work pursuant to the special use permit may be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for the new special use permit.

SECTION 19.12 REAPPLICATION

No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid or if the county attorney by a written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or the procedure used in the matter was clearly erroneous. A reapplication shall be processed in the same manner as the original application.

SECTION 19.13 JURISDICTION OF ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

Table of Contents

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 20 ACCESS MANAGEMENT REQUIREMENTS

SECTION 20.1 PURPOSE

The purpose of this section is to provide reasonable access to the property owner to all roads within Otsego County while protecting the public health, welfare, safety and aesthetics of the County. All Land in a parcel having a single tax code number or contiguous parcels owned by a person as of the effective date of this Ordinance shall meet the requirements of this Ordinance. The intent of this ordinance is to provide standards, which will preserve the traffic capacity, and enhance the safety of the highway by regulating safe and reasonable access, though not always direct access, between public roadways and adjacent land. Access controls provide for orderly growth and development. This in turn will protect the long term viability of existing and new businesses in addition to protecting property values of commercial and residential development along the corridor. It is recognized that existing development may not be able to meet all of the standards contained in this ordinance; Upon expansion or redevelopment, the standards' contained herein shall be applied to the maximum extent possible in conformance with the Otsego County Access Management Map.

The standards of this section are further intended to:

- Minimize traffic conflicts, in order to reduce the frequency of fatal injury and property damage crashes;
- Separate traffic conflict areas by reducing the number of direct access points,
- Provide efficient spacing and size standards between access points and between access points and intersections;
- Establish uniform access standards to ensure fair and equal application;
- Protect the substantial public investment in the roadway system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business;
- Require coordinated access among several landowners;
- Ensure reasonable access to properties, though the access may not always be direct access;
- Coordinate local management decisions on development proposals with access permit decisions by the Michigan Department of Transportation (MDOT) and the Otsego County Road Commission, (OCRC).

SECTION 20.2 DEFINITIONS

Road ways are defined according to the following categories:

20.2.1 Local Roads -- Provide direct property access, do not serve through traffic.

20.2.2 Major Collectors -- Serve traffic traveling from Local Roads or Minor Collectors to Arterials; are public thoroughfares with a lesser degree of traffic than Arterials.

20.2.3 Minor Arterials -- Serve as primary routes for travel within and between community sub-- areas and augment the Major Arterial system; accessed primarily from the Collector system.

20.2.4 Major Arterials -- Serve as primary routes for travel between areas of principal traffic generation and major urban activity centers, and for trips between non-adjacent areas.

20.2.5 Regional Arterials -- Freeways and principal routes that move traffic and do not provide direct access to land use activities.

20.2.6 Service Roads -- Local roads that parallel an expressway or through street and that provide access to property near the expressway or through street.

Table of Contents

SECTION 20.3 LOCATION AND SPACING

20.3.1 All State and County public roads shall be subject to and regulated by the standards of this ordinance.

20.3.2 In order to minimize left turn conflicts, new access points shall be aligned with those across the roadway where possible. If alignment is not possible, access points shall be offset a minimum of two hundred fifty-five (255) feet from those on the opposite side of the roadway, measured centerline of access point to centerline of access point. Longer offsets may be required by the Michigan Department of Transportation (MDOT) in accordance with the MDOT Access Management Guidebook.

20.3.3 Where spacing requirements cannot be met for parcels, lots, or building sites having frontage or access on more than one roadway, access shall be provided from the lesser traveled roadway.

20.3.4 In the case of expansion, alteration, change of use or redesign of an existing development where existing access points do not comply with the guidelines set forth herein, the closing, relocation, or redesign of the access point may he required.

20.3.5 Driveway profile shall be designed and constructed according to Michigan Department of Transportation (MDOT) and Otsego County Road Commission (OCRC) standards.

20.3.6 Land access is permitted based on driveway spacing, stopping distance, and land use type.

Driveway Spacing and corner clearance requirements shall be PER MDOT MANUAL

SECTION 20.4 SIGHT DISTANCE

Minimum intersection sight distance shall be ten (10) times the vehicular speed of the road PERMDOT MANUAL

SECTION 20.5 ACCESS

All developments shall have reasonable access to a county or public roadway. Access onto any roadway shall be permitted only upon issuance of an access permit by the MDOT or OCRC in compliance with the site review planning process.

20.5.1 Interconnections of Parking Areas

20.5.1.1 Parking areas shall be designed to facilitate interconnection of parking lots

20.5.1.2 Shared parking is encouraged. Shared parking shall he permitted a reduction in required parking spaces if peak parking demand periods at interconnected developments do not occur at the same time.

20.5.1.3 Shared driveways, cross access driveways, interconnected parking, and private roads constructed to provide access to properties internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land; Operating and maintenance agreements for these facilities shall be recorded with the deed.

SECTION 20.6 ROAD STANDARDS

20.6.1 All roads proposed to be of public ownership shall conform to the county road standards

20.6.2 All proposed curve radii shall be designed to county road standards for truck turning requirements.

Table of Contents

ARTICLE 21 SPECIFIC REQUIREMENTS FOR CERTAIN USES

SECTION 21.1 ACCESSORY BUILDINGS

21.1.1 Accessory buildings in the R1, R2, R3 & RR Districts shall be subject to the side and front yard setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS, but need not be farther than ten (10) feet from the rear property line.

21.1.2 In Residential Districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS.

21.1.3 Detached accessory buildings for residential use in any district shall not exceed a total ground floor area of: twelve hundred (1,200) square feet in R1, R2 and RR, and two thousand (2,000) square feet in R3, FR and AR, except:

21.1.3.1 Where the lot is larger than the minimum size for that zoning district, the total accessory building square footage may be increased proportionally to the lot size in the following manner: twenty-five (25) square feet increase in allowable accessory buildings for every one thousand (1,000) square feet that the lot exceeds minimum lot size, up to a maximum of four thousand (4,000) square feet.

21.1.4 Agricultural buildings and structures incident to use for agricultural purposes are exempt from accessory building requirements.

21.1.5 Accessory buildings shall not be used for residences.

21.1.6 Accessory building may not be used for commercial storage.

SECTION 21.2 ADULT ENTERTAINMENT

Special Use Permit may be granted by the Planning Commission in a B3 district subject to the following conditions:

21.2.1 Location: Use shall be located at least five hundred (500) feet from any residential zoning district boundary, at least two hundred (200) feet from any other district boundary, and at least one thousand (1,000) feet from any other Adult Entertainment use.

21.2.2 Structure: All Adult Entertainment Uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures and multi-uses within the same structure do not constitute a freestanding building.

21.2.3 Visible display: No Adult Entertainment Use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any property not regulated as an Adult Entertainment Use. This provision shall apply to any display, decoration, sign, show window or other opening.

SECTION 21.3 AUTOMOBILE AND SCRAP METAL SALVAGE YARDS

Such use shall not be closer than forty (40) feet from any lot line. There shall be no outdoor storage of materials, equipment, structures, or debris of any kind anywhere outside the designated storage area.

Such a yard may be approved by the Planning Commission when in accordance with the following:

21.3.1 The uses and activities conducted on the premises are in character with the surrounding area in terms of overall appearance and protection of environmental amenities. There shall be

provided a completely obscuring wall not to be less than eight (8) feet in height as measured from the grade at the property line.

21.3.2 The use shall operate in a reasonable manner and all harmful effects of storage, smoke, dust, glare, noise, fire and explosive hazards shall be confined to the premises and shall be in accord with all other local and state laws.

21.3.3 In addition to being at least forty (40) feet from any lot line, the yard must be located not closer than two hundred (200) feet from the boundary of any other zoning district. The use, including access road, must be not closer than five hundred (500) feet from a lake, stream, pond, river, or wetland and must maintain a minimum of ten (10) feet of soil between the soil surface and the water table at all times of the year.

21.3.4 A building with an impervious floor must be designed to contain spills. All crushing, draining of fluids and similar activities shall take place only on the impervious floor.

21.3.5 Operator must present in writing a plan which specifies procedures for transporting, handling and disposal of vehicles, their fluids and parts, including tires. The plan may be modified by the Planning Commission. Upon approval of a special use permit, this plan, along with documentation, shall be maintained on site and accessible during business hours for inspection by the Zoning Administrator; documentation shall include proper licensing by the Michigan Department of State. Procedures may later be modified under provisions of Article 23.11.

SECTION 21.4 CEMETERY

21.4.1 Requires a minimum site size of ten (10) acres.

21.4.2 Shall comply with Michigan Department of Public Health requirements and regulations.

21.4.3 Shall be in rectangular shape with a maximum of one (1) to four (4) width to depth ratio.

SECTION 21.5 CLUSTER RESIDENTIALOPTION

Otsego County recognizes the potential benefit of encouraging the clustering of residential dwelling units, to allow for the preservation of open space and environmental amenities. Therefore, the Otsego County Planning Commission will consider the approval of residential cluster developments, providing that such developments incorporate the following design standards.

21.5.1 The cluster option is available for residential development only, where project size is at least ten (10) acres, and the total number of residential units to be constructed does not exceed forty (40) units. All projects with a cluster approach shall conform under the PUD provisions of Article 24.3.

21.5.2 The land in question is zoned for R1, R2, R3, RR, FR or AR.

21.5.3 Clustered residential structures are set back a minimum of seventy (70) feet from the development parcel perimeter.

21.5.4 A minimum of fifty (50) percent of the land area is maintained as permanent, contiguous open space. The open space portion shall be reserved in perpetuity by an enforceable legal instrument. This instrument shall be submitted in writing for Planning Commission review, along with other required site plan materials. The legal instrument shall also provide for perpetual maintenance of the open space property, and adequate financing for such maintenance. The instrument shall be recorded prior to property sale.

21.5.5 The Planning Commission may waive enforcement of the respective zoning district lot area, yard setbacks, lot width and lot coverage requirements, if such waiver is determined appropriate to promote and establish clustered residential developments. However, residential unit density in a cluster residential development shall not exceed one hundred fifty percent (150%) of the gross residential unit density allowed by the respective zoning district regulations. Land areas defined by state or federal law as regulated wetlands or with a slope of twenty percent (20%) or more, shall not be considered buildable area, and shall not be part of the density or open space calculation.

21.5.6 Residential units constructed under the residential cluster option may be attached or detached, as approved by the Planning Commission. Further, real estate interests may be transferred by means of lot splits, platting or condominium agreement, or a combination thereof.

21.5.7 A residential cluster option shall be considered a Permitted Use Subject to Special Conditions, and shall be reviewed according to the requirements of Article 19 of this Ordinance. Further, a residential cluster option development shall be subject to the site plan submittal and review requirements of Article 23.

21.5.8 A cluster residential development is subject to all applicable state and county health codes pertaining to drinking water supply and sewage disposal. Proof of Health Department consent to water supply and sewage management for the cluster development shall be presented to the Planning Commission prior to and as a condition of special condition use and site plan approval.

SECTION 21.6 DEVELOPMENT REGULATIONS

21.6.1 Definition

For purposes of this section and as used in the Otsego County Zoning Ordinance a Development shall be defined as Platted Subdivisions, Condominium Developments or any division of land that creates more lots or parcels on a parent parcel than is permitted under the Land Division Act.

21.6.2 Regulations

A development shall be reviewed pursuant to the Special Land Use regulations of Article 19 and shall conform to the following provisions in addition to all other applicable district provisions, except that the Planning Commission may waive the requirements of this Section for developments with fewer than ten (10) lots, parcels or units provided the Planning Commission makes a finding that doing so will not cause any significant public harm or harm to adjacent properties.

21.6.3 A development, shall comply with the applicable site development standards contained in Article 17 SCHEDULE OF DIMENSIONS, unless developed as a Planned Unit Development (PUD) subject to all regulations of Article 24.

21.6.4 Developments shall comply with all federal, state and county regulations regarding the provision of a potable water supply and waste disposal facilities.

21.6.5 Developments shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar

character for the purpose of providing public utility services, including Conveyance of sewage, potable water and Storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

21.6.6 In addition to the materials required by Article 19 and Article 23 or Article 24 for PUDs if applicable, an application for a development shall include a development plan containing the following information:

21.8.6.1 Proposed use and occupancy restrictions as will be contained in the Deed Restrictions or the Master Deed.

21.8.6.2 All proposed deed restrictions which are conditions of the special use permit.

21.6.7 All provisions of the approved development plan shall be incorporated in the Deed Restrictions or in the Master Deed for the development, unless exceptions are permitted by the Planning Commission. Any proposed changes to the approved development plan shall be subject to review and approval by the County Planning Commission as a major amendment to a permit, subject to the procedures of Article 19 and Article 23 or Article 24 for PUDs if applicable.

21.6.8 All lots, parcels or units within a development project shall be marked with monuments as provided by State and County regulations.

21.6.8.1 The County Board of Commissioners may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the County Clerk cash or a certified check, or irrevocable bank letter of credit naming to the municipality, whichever the proprietor selects, in an amount not less than one hundred dollars ($100.00) per monument and not less than five hundred dollars ($500.00) in total, except that lot corner markers shall be at the rate of not less than fifty dollars ($50.00) per marker. The performance guarantee shall be returned to the proprietor pursuant to the provisions of Section 25.6 upon receipt of a certificate by a licensed professional surveyor that the monuments and markers have been placed as required within the time specified.

SECTION 21.7 DISCRETIONARY APPROVAL CONDITIONS

Whenever the Planning Commission, Zoning Board of Appeals, Zoning Administrator, or other official or body with authority to make a discretionary decision as provided for in the Michigan Zoning Enabling Act (PA 110 of 2006 as amended) determines that a fence, greenbelt, berm, landscaping or other buffering or screening device or land use arrangement shall be necessary, said body or official may require such condition per the requirements of the applicable section of this Ordinance. This includes the lighting requirements of Section 21.19, the outdoor speaker requirements of Section 21.41, and the fencing requirements of Section 21.10.

SECTION 21.8 DRIVE-THROUGH FACILITIES

For every building or use having a drive through facility, the parking lot and driveways provided for such building shall comply with the following requirements:

21.8.1 Sufficient stacking capacity for the drive through facility shall be provided to ensure that queuing of vehicles does not extend into a street or alley. A stacking space shall be defined as a paved surface having dimensions of at least ten (10) feet in width by twenty (20) feet in length.

Table of Contents

21.8.2 Stacking spaces shall be located so as to minimize conflicts with pedestrians and required parking areas.

21.8.3 The minimum number of required stacking spaces for specified uses shall be as follows:

Restaurant	**Five (5) stacking spaces per servicing station**
Financial institutions such as: **Bank, Credit Union, Savings and Loan**	**Five (5) stacking spaces per servicing station**
Laundry or dry cleaning establishment	**Three (3) stacking spaces per servicing station**
Carwashes, Automatic	**Five (5) stacking spaces per washing bay**
Carwashes, Self-service	**Two (2) stacking spaces per washing bay**
All Other Uses	**Five (5) stacking spaces per servicing station**

21.8.4 The Planning Commission may require additional stacking spaces if it believes the required number would result in stacking occurring on streets or roadways**.**

SECTION 21.9 [RESERVED FOR FUTURE USE]

SECTION 21.10 FENCES

21.10.1 Fences designed to enclose property in any district shall be subject to the following conditions:

21.10.1.1 Fences in R1, R2, R3 or RR Districts, or any platted subdivision, site condo or PUD shall not contain barbed wire or be electrified.

21.10.1.2 No fence shall exceed six (6) feet in height in the side or rear yard. No fence in the front yard setback shall exceed four (4) feet in height and shall be of a design and material that does not obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.

21.10.2

Specific Nonresidential Uses Requiring Fences	**Minimum height for fence or wall**	**Function(s)**	
		Screen/protect	**Obscure**
Drive-in restaurants, gasoline stations and vehicle repair	6’0”	X	X
Hospital and funeral home service entrances	6’0”		X
Institutional playgrounds	6’0”	X	X
Parking lots	6’0”		X
Utility buildings and substations	6’0”	X	X
Public swimming pools	6’0”		X
Junk yards	8’0”	X	X
Open storage areas of any use	6’0”		X

Table of Contents

Note: These uses in 21.10.2 are required to be fenced or screened in all cases regardless of the use orientation to residential zoning districts or residential uses.

21.10.3 Protective and adequate fencing shall be required around all outdoor swimming pools, and shall not be less than four (4) feet, six (6) inches above the established grade.

21.10.4 All plans for fences or walls must be approved by the Zoning Administrator for construction specifications designed to fulfill the primary function of protection and/or screening. All fences shall be maintained in a pleasing appearance.

21.10.5 The Planning Commission shall be empowered to modify fence and wall requirements as deemed necessary by conditions affecting a particular development, or to waive requirements where general welfare concerns are not served by compliance with these standards, such as the existence of permanent natural features, where there is sufficient visual or protective separation, or where there is nothing to separate. Waivers shall not be granted where such characteristics are of a temporary nature or because the adjacent area is not yet developed.

SECTION 21.11 GOLF COURSE AND COUNTRY CLUB

May be granted a Special Use Permit by the Planning Commission in AR and FR Districts subject to following conditions:

21.11.1 All main and accessory use areas managed as Golf Course, including fairway and green, shall be set back one hundred fifty (150) feet from lakes, rivers, streams and wetlands. Main and accessory use area may be brought closer to lakes, rivers, streams and wetlands under a plan following the Golf Course Policy Guidelines.

21.11.2 A buffer zone one hundred fifty (150) feet wide, devoid of all chemical treatment, shall be maintained between Golf Course and adjoining property lines.

All development shall be subject to compliance with Part 91, 1994, of PA 451 as amended, DNR Best Management Guidelines, and Golf Course Policy Guidelines.

SECTION 21.12 HOME OCCUPATION

The Zoning Administrator shall provide home occupation applicant with a checklist showing which plot plan specifications of Section 25.3.3 need to be provided. Based on that application, the Zoning Administrator shall determine whether the home occupation meets the criteria of this Zoning Ordinance and if so, issue a permit.

The following standards shall govern any home occupation:

21.12.1 Only those persons residing on the premises along with one outside employee shall engage in the occupation, which may be operated for gain.

21.12.2 Signs should be avoided, but if deemed necessary, one (1) non illuminated sign not to exceed two (2) square feet in area may be approved and permitted if it is attached to, and is parallel with the wall of the dwelling unit.

21.12.3 All of the operational nuisances such as noise, vibration, fumes, smoke, odors, lighting, and related shall be strictly confined to the premises, and no activity shall be visible or discernible from any adjoining street or property line.

21.12.4 Structural alterations which are architecturally at variance with the residential unit or which cannot be readily and simply returned to residential use shall be prohibited. Exterior

alterations shall not be of a design to indicate or characterize the presence of a home occupation.

21.12.5 The use does not take on the operational character of a business, industrial, or institutional use in terms of parking, traffic (vehicular or pedestrian) loading and unloading, and related features.

21.12.5.1 No traffic generated by such home occupation shall be in greater volumes than normally expected in a residential neighborhood, and any need for parking shall be met off the street and other than in a required front yard, although vehicles may be parked in an existing driveway if it is of sufficient size. No additional on street parking demand shall be generated.

21.12.6 Major activity shall be carried on indoors. There shall be no visible outdoor storage.

21.12.7 Business by customers shall be limited to the hours of eight (8) a.m. to eight (8) p.m.

SECTION 21.13 HUNT CLUB

Special Use Permit may be granted by Planning Commission in AR and FR Zones.

21.13.1 Minimum Site Size – one hundred sixty (160) acres.

21.13.2 Mark perimeter by posting.

SECTION 21.14 LAND DIVISION

21.14.1 Approval Required. For the purposes of this Ordinance, the County shall not recognize any lot which was not either a lot of record as of the effective date of this Amendment or which has not been subsequently approved by the Approving Authority as designated by the municipality in accordance with the provisions of the Land Division Act, P.A. 288 of 1967, as amended.

21.14.2 Application for Lot Split. If the County is the Approving Authority for the municipality in which the lot split is proposed, an application shall be processed in accordance with Section 21.14.3 and 21.14.4 of this Ordinance and fees shall be paid within a fee schedule established by the County Board of Commissioners.

21.14.3 Required Information. The following required information shall be included on all applications for lot splits:

21.14.3.1 Property survey signed and sealed by a professional surveyor registered in the State of Michigan, including the following:

21.14.3.1.1 North arrow, date, and scale.

21.14.3.1.2 Existing and proposed lot lines and dimensions.

21.14.3.1.3 Location and dimensions of existing and proposed easements, lot numbers, roadways and lot irons.

21.14.3.1.4 Existing structures on the proposed lot(s).

21.14.3.1.5 Zoning classification of the lot(s) to be split and all abutting lots.

21.14.3.1.6 All required front, rear and side yard setbacks resulting from the requested split.

21.14.3.1.7 At the discretion of the County, the owner shall provide a preliminary plan for the feasible planned development, division and access to any remaining or abutting lands affected by the proposed splits.

21.14.3.2 A written instrument fully executed in a form legally sufficient for recording with the Otsego County Register of Deeds, including a legal description of the requested parcels. Area shall be shown to the square foot on parcels of less than one acre and acres to the one-hundredth of an acre on parcels larger than one (1) acre.

21.14.3.3 Name, address and phone number of the property owner(s) and all others holding interest in the property. Satisfactory evidence of ownership or interest shall be presented to the County.

21.14.3.4 If the division or partition of the parcel will result in a minimum lot size less than the requirements of Act 288 of the Michigan Public Acts of 1967, as amended, and/or the applicable provisions of this Ordinance, if any, then the applicant shall submit in addition a fully executed affidavit in form legally sufficient for recording with the Otsego County Register of Deeds and signed by all persons who have any legal or equitable interest in the parcel acknowledging that they understand the partitioned or divided parcel or parcels may not thereafter be developed or used separately but only in conjunction with the adjoining parcel or parcels of land.

21.14.4 Criteria for Approval or Denial of Lot Splits. The following criteria shall be used as a basis upon which lot splits will be reviewed by the Zoning Administrator and Register of Deeds.

21.14.4.1 No lot splits shall be approved if the proposed resultant parcels contain less area than required by the minimum standards of this Ordinance except where resultant abutting parcels combined together exceed the minimum size.

21.14.4.2 The ratio of lot depth to width shall not exceed four (4) to one (1).

21.14.4.3 All lots shall be provided with a satisfactory means of access to a public road. Property lines shall be laid out to promote efficient development with shared access to roads available for future development.

21.14.4.4 No lot splits shall be granted which are contrary to, or in violation of, the State of Michigan P.A. 288 of 1967, as amended, the Land Division Act.

21.14.4.5 No lot split shall be approved if the division would reduce any required yard space or off-street parking space below the minimums required by the Zoning Ordinance or if the division would effectively allow the avoidance of the requirements of this Ordinance.

21.14.5 Review of Lot Splits. The lot split application shall be reviewed by the local assessor.

21.14.6 Approval of Lot Splits. When all Ordinance requirements have been met, a certificate of Lot Split Approval shall be issued by the Zoning Administrator.

SECTION 21.15 [FOR FUTURE USE]

SECTION 21.16 [FOR FUTURE USE]

SECTION 21.17 [FOR FUTURE USE]

Table of Contents

SECTION 21.18 LANDSCAPING

21.18.1 PURPOSE

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another through buffering; to facilitate preservation of existing valuable trees and other vegetative cover; to provide wildlife habitat and environmental standards within developed areas; to protect privacy.

21.18.2 General Performance Standards:

This, Section 21.18 Landscaping, requirements shall not apply to single family residences located on individual lots. The Section shall apply to residential plats and site condominiums.

All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and groundcovers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers so arranged to present an aesthetically pleasing whole.

21.18.2.1 Landscape Materials:

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage, and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five (5) gallon container.

All planting beds constructed pursuant to Sections 21.18.2, 21.18.5 and 21.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

21.18.2.2 Irrigation & Maintenance Performance Standards:

All uses with the exception of single family residential, which are landscaped with live plants, pursuant to this Section shall be equipped with a watering system which will provide sufficient water to maintain plants in a healthy condition.

21.18.2.2.1 Whenever the landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 is two thousand (2,000) square feet or more of living plants whether or not the plants are contiguous, the site shall have a permanent irrigation system capable of meeting the typical watering requirements of all the plant materials on site.

Table of Contents

21.18.2.2.2 Whenever there is less than two thousand (2,000) square feet of landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 on a site, there should be at least one reliable water source available during the growing season. The hose bib or other water source shall be within fifty (50) feet from a border of the plants.

21.18.2.2.3 All irrigation systems shall be maintained in good working condition.

21.18.2.2.4 Irrigation requirements may be adjusted in part or in whole by the Zoning Administrator for landscape areas having established healthy plant material, or where irrigation is deemed unnecessary for plant health and survival.

All plants required by this Section shall be maintained in a live and healthy state. Dead or unsalvageable unhealthy plants shall be replaced with the size and type of plants required on the site development plan and by this Section. Plant materials including grasses and herbaceous plants uses on berms, along road sides, etc. shall be routinely maintained during growing seasons. When growing in close proximity to residential land uses, grasses and common weeds shall be maintained at a height of ten (10) inches or less.

All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired.

Replacement of plants may be delayed whenever the Zoning Administrator determines that extenuating circumstances beyond the owner's control prevent the immediate replacement of the dead or unhealthy plants within a time established by the Zoning Administrator. In any event, the dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

21.18.2.3 Existing Vegetation:

If there is no practical alternative in terms of sighting buildings and other development, trees and other plants may be removed.

Significant shrubs, grasses and trees are to be preserved within areas not required for development.

Healthy, younger mature plants shall be preserved which would normally succeed older plants.

Natural vegetation shall be preserved within areas below an ordinary high water mark of a lake, stream or other water body.

Existing vegetation to be preserved shall be protected during construction with barriers as required and approved by the Zoning Administrator.

The application of landscape standards within this Ordinance may be adjusted in part or in whole by the Zoning Administrator to allow credit for established healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this Ordinance.

21.18.2.4 Berms constructed pursuant to Section 21.18.3 shall be constructed with slopes not to exceed one to three (1:3) gradient with side slopes designed and planted to prevent

erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

21.18.3 Buffer Yards:

Buffer yards shall be constructed to mitigate problems associated with traffic, noise, vibration, odor, glare, dust, smoke, pollution, water vapor, conflicting land uses and density, height, mass, layout of adjacent uses, loss of privacy, unsightly views and other potentially negative effects of development. Buffering may be achieved using landscape, building fences and berm or a combination of the above techniques.

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or Private Street or right-of-way.

Tables I and II shall be used to determine buffer yard dimensions and plant materials specifications. Table I is used to determine the type of Buffer yard (A, B, C, D, E, EX, or NA) which will be required between districts or users. Once the type of Buffer yard is obtained, Table II outlines the plant material specifications for alternative widths and specifications and treatments (walls, berms, etc.) of buffer yard. Each property line should be analyzed independently to determine the appropriate buffer yard required.

The buffer yard tables are to be considered minimum standards. Increased landscaping requirements may be imposed by the Zoning Administrator or the Planning Commission if it is determined any of the following conditions exist.

The type of required buffer yard will not sufficiently mitigate noise, glare, fumes, smoke, dust or unsightly views within the site.

The scale of the project in regard to mass and height indicates the need for a buffer yard developed specifically for the project.

The proposed use is next to an existing sensitive use such as a school, church or residential area.

21.18.4 Roadside Greenbelt Buffers:

Unless as otherwise required by Section 21.18.3, required front yards shall be landscaped with a minimum of one (1) tree, not less than one and one-half (1½) inches in diameter for single family residential uses and two and one half (2½) inches in diameter of other use, for each one thousand (1000) square feet, or major portion thereof, of front yard abutting a road right-of-way. The remainder of the greenbelt shall be landscaped provided however, rock or other inorganic ground cover shall not exceed twenty (20) percent of the yard area.

Access ways from public rights-of-way through required landscaped strips shall be permitted, but such access ways shall not be subtracted from the square foot dimension used to determine the minimum number of trees required.

21.18.5 Screening of Unsightly Areas:

Unsightly areas, including but not limited to outside storage areas, utility boxes and open areas where machinery or vehicles are stored or repaired, shall be screened from public sidewalks, streets and other areas from which the property is visible. Such screening shall not be located as to interfere with required maintenance activities of utility boxes.

Table of Contents

Whenever plants are used as a screen, they should provide an effective opaque screen within three (3) years of the time they are planted.

The materials and colors of the screen should blend with the site and the surroundings.

21.18.6 Parking Lot Screening:

Unless otherwise required by Section 21.18.3 or 21.18.4, a no-building buffer strip not less than ten (10) feet wide shall be required on the perimeter of all parking lots containing twenty-seven hundred (2,700) square feet or more of parking area where not adjacent to buildings. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

Landscaping design standards:

21.18.6.1 Any required planting strip shall be a minimum of ten (10) feet in width.

21.18.6.2 One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage. (This requirement shall not duplicate the requirements of Sections 21.18.4 or 21.18.3.)

21.18.6.3 Where screens of non-living material are used, at least one (1) shrub or vine shall be planted on the right-of-way or property line side for each ten (10) lineal feet of screen or fraction thereof.

21.18.6.4 Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

21.18.6.4.1 Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

21.18 TABLE I : Planting Buffer yard

Boundary Zoning District →		R-1	R-2	R-3		RR	FR	AR		B-1	B-2	B-3		MUZ MAIN STREET	MUZ TOWN CENTER		HIGHWAY INTERCHANGE	I INDUSTRIAL
Proposed Development Zoning District																		
R-1		N																
R-2		B	N															
R-3		C	B	N														
RR		C	C	B		N												
FR		C	C	B		B	N											
AR		C	C	C		C	C	N										
B-1		B	B	B		B	B	B		N								
B-2		C	C	B		C	C	C		B	N							
B-3		C	C	C		C	C	C		B	B	N						
MUZ – MAIN STREET		A	A	A		B	C	C		A	A	B		N				
MUZ – TOWN CENTER		A	A	A		B	C	C		A	A	C		A	N			
HIGHWAY INTERCHANGE		C	C	C		C	C	C		B	B	B		B	C		N	
I - INDUSTRIAL		E	E	E		E	D	D		D	C	C		E	E		C	N

Key: N= No buffer yard required /See TABLE II

Proposed

TABLE II STANDARD PLANT MATERIAL REQUIREMENTS							
Plant Material Requirements				Vegetation Types			
Type	Plant Material Reductions with: 6' Wall	3' Berm	Buffer Width	Canopy Trees	Flowering Trees or Large Shrubs	Shrubs	Evergreens & Conifers
A	.50	.75					
			10'	1	1	4	
			15' or more	1	1	3	
B	.50	.75					
			10'	3	3	6	2
			15' or more	2	2	5	1
C	.65	.80					
			10'	4	3	19	4
			15'	3	2	15	3
			20'	2	2	15	1
			25'	3	2	15	1
			30'	3	2	15	2
			35'	3	2	15	2
			40'	3	2	15	3
D	.75	.85					
			15'	1	4	32	1
			20'	2	4	30	1
			25'	3	4	30	1
			30'	3	5	30	2
			35'	3	5	30	2
			40'	3	5	30	3
			45'	4	6	30	4
E	NA	NA					
			20'	2	4	38	1
			25'	3	4	38	1
			30'	3	5	38	2
			35'	3	5	38	2
			40'	3	5	38	3
			45' or more	5	6	30	4

Minimum width of buffer with masonry wall = ten (10') feet

ALL PLANT QUANTITIES ARE PER ONE HUNDRED (100) LINEAR FEET, less the distance required for vehicle access to the property.

Table of Contents

SECTION 21.19 LIGHTING, OUTDOOR

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

21.19.1 Lighting shall be designed and constructed in such a manner:

21.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property,

21.19.1.2 That all light sources and light lenses are shielded,

21.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site,

21.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

21.19.2 Lighting fixtures shall be a down-type having one hundred (100) percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test. A United States flag, Michigan flag or a flag of a veteran's organization chartered by the United States Government shall be allowed to have light illuminating them from below

21.19.3 There shall be no blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color, except that lights may be controlled by a dimmer which can be periodically adjusted for conditions and signs as allowed in 21.38.2.1. Beacon lights are not permitted except where required by law.

21.19.4 No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

21.19.5 Decorative lights during holiday seasons shall be allowed.

21.19.6 Modification of these outdoor lighting standards may be permitted by the Zoning Board of Appeals for temporary uses of not more than ten (10) days per year, following these provisions as closely as possible.

SECTION 21.20 LIVESTOCK AUCTION YARD

21.20.1 Special Use Permit may be granted by the Planning Commission in AR Zone.

21.20.2 Minimum forty (40) acres site size.

SECTION 21.21 LOADING AND UNLOADING (OFF-STREET)

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be computed separately from the Off-Street Parking Requirements and shall be provided as follows:

21.21.1 Within a B1 or B2 District, loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building.

21.21.2 Within an I District, loading spaces shall be laid out in the dimensions of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with durable and dustless surface. All spaces in I Districts shall be provided in the following ratio of spaces to floor area:

GROSS FLOOR AREA (In square feet)	LOADING AND UNLOADING SPACE REQUIRED
0 - 1,400	None
1,401 - 20,000	One (1) space
20,001 - 100,000	One (1) space plus one (1) space each 20,000 sq. ft., in excess of 20,000 sq. ft.
100,001 - and over	Five (5) spaces

21.21.3 All loading and unloading in I Districts shall be provided only in the rear yard, interior side yard, or exterior side yards that have a common relationship with an industrial district across a public thoroughfare.

SECTION 21.22 MANUFACTURED OR SITE BUILT DWELLING LESS THAN 16 FEET WIDE

Dwelling units less than sixteen (16) feet wide may be used for a one (1) family dwelling in R3, AR and FR zones and must comply with Article 17 SCHEDULE OF DIMENSIONS.

21.22.1 On-site work requiring a building permit shall be complete before placing a manufactured unit on the individual lot.

21.22.2 On-site construction work shall be in accordance with the State Building Code, in conjunction with the manufacturer's specifications.

21.22.3 The perimeter of a manufactured unit after placement shall be skirted with approved materials and shall be aesthetically comparable to on-site construction.

21.22.4 On-site structural additions to a manufactured unit shall comply with the State Building Code and shall not impose any loads on the unit or nullify any warranties of the unit. No addition shall interfere with the egress, light or ventilation of the unit. Removal of the original manufactured unit for any reason shall be the responsibility of the owner.

21.22.5 Manufactured expandos, add-a-rooms, compatible with the unit are allowed and shall comply with this section. All manufactured additions must have the approval of an inspection agency.

21.22.6 **UNITS MANUFACTURED PRIOR TO 1976 (TITLE DATE) SHALL NOT BE INSTALLED**.

SECTION 21.23 MANUFACTURED HOUSING PARK (RENTAL SITES)

Manufactured Housing Park Rental Sites may be granted a Special Use Permit in R2 and R3 Zones subject to the following conditions. (See 21.22 above for regulations regarding individual manufactured dwelling sixteen (16) feet wide or less.)

Manufactured housing parks may be permitted by the County Planning Commission in R2 and R3 Districts after a hearing, provided:

21.23.1 Manufactured Housing Parks for the parking of three (3) or more mobile homes shall be developed pursuant to the requirements of Act 243 of the Public Acts of the State of Michigan 1959, as amended.

21.23.2 The land parcel being proposed for a manufactured housing park shall be of such area as to provide for a minimum of at least twenty (20) sites and shall not exceed a maximum of one hundred (100) sites.

Table of Contents

21.23.3 Manufactured housing sites shall contain a minimum area of at least five thousand (5,000) square feet, computed exclusive of service drives, or other park facilities. No manufactured home shall be sited nearer than ten (10) feet to the boundary line of any individual site or lot. The minimum lot width shall be fifty (50) feet.

21.23.4 A wall, or greenbelt of dense natural evergreen plantings (minimum twelve (12) feet wide), or obscuring fence four feet and six inches (4'6") in height shall be provided on all sides of the manufactured housing park, with the exception of that portion providing ingress and egress to the site which must be landscaped and kept in a neat and presentable condition at all times. Landscaping details shall be indicated on the site plan.

21.23.5 For each manufactured housing space in the manufactured housing park, there shall be provided an area of not less than two hundred (200) square feet per manufactured home site for outdoor recreation, with a minimum area of not less than five thousand (5,000) square feet, which shall be no longer than two (2) times its width. Such area shall be developed and maintained by the management so as to provide recreation for the children housed in the manufactured housing park.

21.23.6 The front yard and side yard adjacent to a boundary street shall be landscaped with natural plant materials and/or lawns, and the entire manufactured housing park shall be maintained in a clean, presentable condition at all times.

SECTION 21.24 [RESERVED FOR FUTURE USE]

SECTION 21.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, and MARL

Allowed as a use Subject to Special Conditions in the (AR), (FR) and (I) zoning districts:
The Michigan Zoning Enabling Act, Act 110 of 2006, may allow this Use in other Zoning Districts:

21.25.1 Site Development Requirements/Restrictions:

The following Site Development Requirements shall be followed:

21.25.1.1 The site size shall be a minimum of ten (10) acres.

Setback Area: Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

21.25.1.2 The area permitted for mining shall be marked with stakes or other markers as approved by the zoning administrator at all corners before the operation commences, and shall be maintained until the reclamation is approved in writing by the zoning administrator.

21.25.1.3 Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless an alternative or replacement plan is approved by the Planning Commission.

Table of Contents

21.25.1.4 Physical isolation from residential properties shall be considered in locating development facilities. Topography, vegetation, screening devices and earth stockpiles may be used to accomplish this.

21.25.1.5 If necessary to protect the welfare of surrounding properties the access routes serving the site may be specified by the Planning Commission with input from the Otsego County Road Commission.

21.25.1.6 All structures, equipment and machinery shall be considered temporary and shall be removed upon completion of the mining, excavation, extraction or filling. Items not related to the operation shall not be stored at the site.

21.25.1.7 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by windblown dust.

21.25.1.8 The operation of mechanical equipment of any kind may be limited by the day(s) and/or hours by the Planning Commission.

21.25.1.9 Processing may be limited to only the materials extracted from the site. If the Operator intends to bring in off-site materials, Planning Commission approval is required.

21.25.1.10 Air pollution, noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.

21.25.1.11 All required Soil Erosion permit(s) shall be secured prior to the commencement of any operation. The Soil Erosion permit shall be issued for the same period of time as the permit for the operation and reclamation.

21.25.2 Reclamation:

Intent: To prevent negative impacts to soil, water and air resources in and near mined areas. To restore the quality of the soils to their pre-mining level and to maintain or improve landscape visual and functional quality. All reclamation plans shall comply with all applicable Federal, State, Local and Tribal laws related to mining and mined land reclamation.

21.25.2.1 Develop a reclamation plan that is consistent with the site capability, the planned land use and the landowner's conservation objectives. Include the practices necessary to reclaim and stabilize the mined areas to prevent further degradation of soil, water, air, plant and animal resources.

21.25.2.2 Dust control. Control the generation of particulate matter and fugitive dust during removal and replacement of soil and other materials. Detail the practices and activities necessary for dust control in the plans and specifications.

21.25.2.3 Properly identify areas for preservation including those containing trees, vegetation, historic structures, stream corridors, natural springs or other important features.

21.25.2.4 Remove trees, logs, brush, rubbish and other debris from disturbed areas that will interfere with reconstruction and reclamation operations. Dispose of these undesirable materials so they will not create a resource problem or interfere with reclamation activities and the planned land use.

21.25.2.5 Shape the land surface to provide adequate surface drainage and to blend into the surrounding topography. Use erosion control practices to reduce slope lengths where sheet and rill erosion will exceed acceptable levels.

21.25.2.6 Use sediment trapping practices such as filter strips, riparian forest buffers, contour buffer strips, sediment basins or similar practices to trap sediment before it leaves the project site.

Table of Contents

Establish drainage ways with sufficient capacity and stability to carry concentrated runoff from the reclaimed area into receiving streams without causing erosion.

21.25.2.7 Do site preparation, planting and seeding at a time and in a manner to ensure survival and growth of the selected species. In the plans and specifications, identify the criteria for successful establishment of vegetation such as minimum percent ground/canopy cover, percent survival and irrigation for initial establishment or stand density. Apply soil amendments and or plant nutrients as appropriate, according to the requirements of NRCS Conservation Practice Standard Nutrient Management (590). If the recommended fertilizer rate exceeds the criteria in NRCS Conservation Practice Standard Nutrient Management (590), use appropriate mitigating practices to reduce the risk of nutrient losses from the site. Use vegetation adapted to the site that will accomplish the desired purpose. Preference shall be given to native species in order to reduce the introduction of invasive plant species; provide management of existing invasive species; and minimize the economic, ecological, and human health impacts that invasive species may cause. If native plant materials are not adaptable or proven effective for the plant use, then non-native species may be used. Refer to the Field Office Technical Guide, Section II, Invasive Plant Species, for plant materials identified as invasive species.

21.25.2.8 Identify in the plans and specifications the species, rates of seeding or planting, minimum quality of planting stock, such as PLS or stem caliper, and method of establishment. Use only viable, high quality seed or planting stock. Use local NRCS criteria for seedbed preparation, seeding rates, planting dates, depths and methods.

21.25.3 Restore the Quality of Soils to Their Pre-mining Level

21.25.3.1 Complete a detailed soil survey of the proposed mine area if suitable soils information is not available. Use the soil survey information to determine the extent and location of prime farmland soils.

21.25.3.2 Remove all upper soil horizons from the project area that are suitable for reconstruction before operations commence.

21.25.3.3 Separate soils identified with high electrical conductivity, calcium carbonate, sodium or other restrictive properties, and treat if practicable.

21.25.3.4 Removal of overburden material for use as topsoil. Selected overburden materials can be substituted for or added to the A and B horizons if field observations and/or chemical and physical laboratory analyses demonstrate that the material, or a mixture of overburden and original topsoil, is suited to restoring the capability and productivity of the original A and B horizon material. Analyze overburden materials for pH, sulfide content, organic matter, nitrogen, phosphorus, potassium, sodium absorption ratio, electrical conductivity, texture and available water holding capacity. If the overburden material is determined to be suitable for topsoil, remove and separate from other materials and replace according to the requirements for topsoil placement.

21.25.3.5 Storage of soil materials. Stockpile soil materials to be used as topsoil until they are needed for reclamation. Locate stockpiles to protect against wind and water erosion, dust generation, unnecessary compaction and contamination by noxious weeds, invasive species or other undesirable materials.

21.25.3.6 Replacement of soil material. When placing cover materials, treat graded areas to eliminate slippage surfaces and promote root penetration before spreading topsoil. Spread topsoil so the position and thickness of each horizon is equivalent to the undisturbed soil without causing excess compaction the moist bulk density and soil strength of the reconstructed soil must support plant growth at a level equivalent to that of a similar layer in undisturbed soil.

Table of Contents

21.25.3.7 Reclaim the site to maintain or improve visual quality based on the scenic quality of the reclaimed site as well as the function of the site for the end land use. Plan the reclamation to be compatible with the topography and land cover of the adjacent landscape. Focus on areas of high public visibility, and those offering direct or indirect human and wildlife benefits.

21.25.3.8 Grade and shape spoil piles and borrow areas to blend with the adjacent landscape topography to the extent practicable.

21.25.3.9 Develop a planting plan that mimics the species, arrangement, spacing and density of plants growing on adjacent landscapes. Choose native species of erosion control vegetation and other plant materials where practical. Arrange plantings to screen views, delineate open space, act as windbreaks, serve as parkland, wildlife habitat or protect stream corridors.

21.25.4 Plans and Specifications:

21.25.4.1 Plans and specification for Land Reclamation-Currently Mined Land shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose.

21.25.5 Application Procedure:

An application for Mining- Gravel, Sand, Clay, Top Soil or Marl, shall contain all of the following:

21.25.5.1 Name and address of owner(s) of land where mining, excavation, extraction or filling are proposed to take place.

21.25.5.2 Name, address and telephone number of person, firm or corporation who will be conducting the actual operation. This person, firm or corporation shall be referred to as operator.

21.25.5.3 A current Survey and legal description of the site where the proposed operation is to take place.

21.25.5.4 A site plan complying with all requirements of Article 20 of the Otsego County Zoning Ordinance in addition to showing all of the following:

a. The proposed mining area:

Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

b. The placement of all equipment to be used during the operation.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

c. Required screening of the site shall be in compliance with standards of Section 21.18 of the Otsego County Zoning Ordinance.

Table of Contents

If the operator chooses to use a berm to achieve the required screening, the berms shall be placed no closer than twenty (20) feet to any property line.

d. The proposed ingress and egress at the site and route(s) to be used to access the site when not located on a primary road. The route(s) for ingress and egress when not located on a primary road shall have written approval from the Otsego County Road Commission.

The operator shall be responsible for all road damage to public roads caused as a result of the operation.

e. The type and location of any proposed accessory uses. The Planning Commission may approve vehicle maintenance, sorting, crushing, concrete mixing, asphalt batching and other uses as accessory uses subject to conditions placed upon the accessory uses.

21.25.6 Operational Plan including the following:

21.25.6.1 The Operational plan shall be in written form.

21.25.6.2 The written plan shall indicate the proposed size, depths, methods of operation, and type of material(s) to be mined, excavated, extracted or filled.

21.25.6.3 The written plan shall indicate the phases of operation and ending date for each phase.

21.25.6.4 The written plan shall indicate the method by which the operation shall be secured from entry during hours of non-operation.

21.25.6.5 The written plan shall indicate the proposed hours and days of operation.

21.25.7 Reclamation Plan:

21.25.7.1 A written detailed reclamation plan meeting all of the requirements of 21.25.2, 21.25.3 shall be submitted with the application and operational plan. The submitted reclamation plan shall include photographs of the site prior to commencement of the proposed operation.

21.25.7.2 The written reclamation plan shall be approved by Planning Commission and may have additional conditions placed upon it prior to final approval.

21.25.7.3 The approved site plan and/or reclamation plan may be revised at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. Any costs to amend the plan(s) are to be borne by the initiating party. The Planning Commission may require the modification of the approved Site plan and/or reclamation plan when:

a. Modification of the plan is necessary so that it will conform to existing laws.

b. It is found that the previously approved plan is clearly impractical to implement and maintain.

c. The approved plan is obviously not accomplishing the intent of the Ordinance.

d. Any modification shall be subject to all provisions of Article 19 and Article 23.

21.25.8 Approval Process:

21.25.8.1 All approvals shall be made in accordance with the process prescribed in Article 19 Permitted Uses Subject to Special Conditions.

Table of Contents

21.25.9 Performance Guarantees:

After a special use permit application has been approved, but before the permit is issued, the applicant shall file with the Otsego County Clerk, a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Planning Commission and conditioned on faithful performance of all requirements under Section 21.25 and the permit.

The performance guarantee shall cover that area of land within the permit area on which file applicant will initiate and conduct the mining and rehabilitation operations. The amount of the performance guarantee shall be determined by the Planning Commission and shall reflect the rehabilitation requirements of the permit and the probable difficulty of the rehabilitation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the performance guarantee shall be sufficient to assure the completion of the rehabilitation plan if the rehabilitation had to be performed by the County in the event of non-performance by the applicant. Any cash deposit of certified funds shall be refunded to the applicant in the following manner:

a. One-third (⅓) of the cash deposit after completion of one-third (⅓) of the rehabilitation plan;

b. Two-thirds (⅔) of the cash deposit after completion of two-thirds (⅔) of the rehabilitation plan;

c. The balance at the completion of the rehabilitation plan. Any irrevocable letter of credit or surety bond shall be returned to the applicant upon completion of the rehabilitation plan.

In order to receive a refund of the performance guarantee as provided for in subsections (a) through (c) above, the applicant shall file a written request with the Zoning Administrator. The written request shall include the type and dates of rehabilitation work performed, and a description of the results achieved as they relate to the applicant's rehabilitation plan. Within thirty (30) days after receiving the written request for a refund of the performance guarantee, the Zoning Administrator shall conduct an inspection and evaluation of the rehabilitation work performed. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining rehabilitation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution. Within thirty (30) days after the inspection, the Zoning Administrator shall send written recommendations to the Planning Commission indicating approval, partial approval, rejection, or approval with conditions, of the rehabilitation work performed by the applicant, along with a statement of the reasons for any rejections.

The Planning Commission shall approve, partially approve, or reject the rehabilitation work performed by the applicant with the recommendation of the Zoning Administrator's written statement, and shall notify the applicant in writing of the action of the Planning Commission. Where partial approval is granted the applicant shall be refunded a portion of the performance guarantee that is proportionate to the cost of the rehabilitation work approved. Upon approval or partial approval by the Planning Commission, the County Clerk shall refund the performance guarantee or a portion thereof as specified by the Planning Commission to the applicant.

21.25.10 Inspection:

21.25.10.1 Mining, excavation, extraction or filling permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year during the operation period and a minimum of each one hundred (100) days during restoration, by the Zoning Administrator to insure compliance with the permit and Ordinance. The operator shall pay an inspection fee, as determined by the Otsego County Board of Commissioners, for each inspection to cover the costs of extraction and reclamation inspections required by this section within thirty (30) days of the invoice being sent to them or they will be in violation of the Special Use Permit.

Table of Contents

21.25.11 Certificate of Completion:

21.25.11.1 A certificate of completion shall be issued to the operator when the Zoning Administrator makes the following determination.

21.25.11.2 All evidence of the operation has been removed from the site.

21.25.11.3 All required grading of the site has been completed.

21.25.11.4 All required re-vegetation of the site has been completed and initial growth has begun and there is no erosion present.

21.25.11.5 Completion and approval of the soil erosion permit has been given.

21.25.12 Evidence of Continuing Use:

21.25.12.1When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he/she shall not declare abandonment.

21.25.13 Transference of a Special Use Permit:

21.25.13.1 Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.

21.25.14 Permit Extension:

21.25.14.1 All requests for an extension/renewal of a Special Use Permit shall for mining, excavation, extraction or filling follow the same process as a request for a new permit.

21.25.15 Permit Expiration:

21.25.15.1 If approval for a Special Use Permit for mining, excavation, extraction or filling is granted by the Otsego County Planning Commission, it shall be for a specific period of time not to exceed five (5) years and shall specify the period of restoration which cannot extend more than eighteen (18) months beyond the permitted time for operation.

SECTION 21.26 NONCONFORMITIES

21.26.1 INTENT

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to encourage their survival. Minimum front, side and rear setbacks,

minimum lot width, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.

21.26.2 NONCONFORMING LOT

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet the minimum dimensional requirements of the District in which it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

21.26.3 NONCONFORMING USE OF LAND

Nonconforming uses of land may be continued, so long as they remain otherwise lawful, subject to the following provisions:

21.26.3.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

21.26.4 NONCONFORMING STRUCTURE

Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.4.1 No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

21.26.4.2 Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its volume or floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance.

21.26.4.3 Should such structure be moved for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

21.26.5 NONCONFORMING USES OF STRUCTURES AND LAND

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.5.1 No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions.

21.26.5.2 Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.

21.26.5.3 Any nonconforming use of a structure, land or structure and land, may be changed to another nonconforming use provided that the other use is equally or more appropriate to the district than the existing nonconforming use.

21.26.5.4 Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed. A change in tenancy and ownership of nonconforming premises is permissible.

21.26.5.5 When a nonconforming use of structure, land, or structure and land in combination, is discontinued or ceases to exist for eighteen (18) consecutive months, the use, structure, or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

21.26.5.6 Removal or destruction of the use and/or structure shall eliminate the nonconforming status.

21.26.6 REPAIR AND MAINTENANCE

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 an official charged with protecting the public safety, upon order of such official.

21.26.7 SPECIAL LAND USE IS NOT A NONCONFORMING USE

Any use for which a special use permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

SECTION 21.27 PARKING

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

21.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

21.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

21.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.

21.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.

21.27.5 Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport, or combination thereof.

21.27.6 The parking or storage of any commercial motor vehicle shall be prohibited in any R1, R2 or RR District, or in any residential area with lots of twenty thousand (20,000) square feet or less. (See definition of COMMERCIAL MOTOR VEHICLE.)

Table of Contents

21.27.7 For the purpose of computing the number of parking spaces required, the definition of FLOOR AREA, USABLE shall govern.

21.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.

21.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District. A greater distance may be required by the Planning Commission if the lesser would cause a traffic issue.

21.27.10 Off-street Parking Schedule

The minimum number of off-street parking spaces required by use shall be in accordance with the following schedule:

MINIMUM PARKING SPACES REQUIRED

LAND USE	PER UNIT OF MEASURE
Residential	
Dwellings	2 per dwelling
Multiple-Family Dwelling	2 per dwelling
Elderly Housing	1 per 4
Rooming House, Fraternity, or Sorority	1 per 2 occupants at maximum capacity
Trailer Court	2 per unit
Public and Quasi Public	
Church or Temple	1 per 3 seats
Hospital	1 ½ per bed
Nursing Home	1 per 4 beds
Elementary, Middle School or Junior High	1 per teacher, employee, and administrator, plus the requirements for auditoriums or gyms
Senior High School	1 per teacher, employee, and administrator, plus 1 for each 10 pupils or the requirements for any auditorium or stadium, whichever is greater
Colleges, University Centers or Tech Schools	1 per teacher, employee and administrator on the largest shift, plus 1 per each 2 students not residing on campus
Membership Clubs	1 per 4 members, or 1 per 150 sq. ft. of usable floor area, whichever is greater

Table of Contents

LAND USE	PER UNIT OF MEASURE
Golf, or Swim Club	1 per 4 member families, plus 1 per employee, plus restaurant or bar parking requirements
Public Golf Course	4 per green or golf hole plus one (1) per employee
Par 3 and/or Mini Golf	3 per hole or green
Racquet Club or Tennis House	4 spaces per court, plus 1 per employee
Sport Arena, Gym, or Stadium	1 per 3 seats
Theater or Auditorium	1 per 4 seats
Commercial	
Planned Shopping Center	1 per 200 sq. ft. of usable floor area
Auto Wash-Automatic	5 per wash stall plus 1 per employee
Auto Wash-Automatic-Drive-in	1 for each 2 employees
Auto Wash-Self Service	1 per employee
Barber or Beauty Shop	1 per employee plus 1 per service chair
Dance Hall, Rinks or Assembly Building (no fixed seats)	1 per 3 persons at maximum capacity
Drive-in Business	1 per employee plus drive-in stalls and/or lanes to serve patrons
Banks	1 per 200 sq. ft. of usable floor area
Doctor or Dentist Office	1 per 50 sq. ft. of waiting room plus 1 per service chair
Business Office	1 per 200 sq. ft.
Billiard Hall	2 per game table
Bowling Alley	5 per lane
Taverns	1 per 100 sq. ft. of usable floor area
Restaurants	1 per 3 persons at maximum seating capacity
Drive-up or Drive-through Uses-Restaurant, Banks, Drug Pick-up, Laundries, Payment Windows or other Drive-up Service Windows	In addition to the required parking for the principal use, the Drive-through facilities requirement in Article 18 shall be followed

Table of Contents

LAND USE	PER UNIT OF MEASURE
Furniture, Appliances, Plumbers, Electricians Minor Repair Services	1 per 800 sq. ft. of usable floor area
Vehicle Service Station	2 per service stall, plus 1 per employee
Gasoline Convenience Store	1 per 300 sq. ft. of usable floor area
Laundromat	1 per 3 machines for washing
Funeral Home/Mortuary	1 per 200 sq. ft. of usable floor area
Motels, Hotels, Motor Inns, Cabin Courts, Bed & Breakfast Facilities and Tourist Lodging Facilities	1 per 150 sq. ft. of usable floor area, the Planning Commission may reduce up to half if they reserve land for open space
Vehicle Sales	1 per 200 sq. ft. of showroom usable floor area
Retail Groceries	1 per 150 sq. ft. of usable floor area
Other Retail Stores	1 per 150 sq. ft. of usable floor area
Self-Storage Rental Units	1 per 10 units
Personal Service Establishments	1 per 100 sq. ft. usable floor area not otherwise specified
Museums	1 per 150 sq. ft. of usable floor area
Rental Shops	1 per 200 sq. ft. of usable floor area in addition to a loading and unloading area; and a vehicle turnaround drop-off area
Rifle or Pistol Range	2 per range plus 1 per employee
Industrial	
Manufacturing Shop	5 plus 1 per employee
Industrial Office or Research	1 ½ per employee
Warehouse and Wholesale	1 per employee, plus 1 per 200 sq. ft. of any office space
Industrial Laundries	5 plus 1 per employee
Medical Laboratories	1 per 50 sq. ft. of waiting room plus 1 per employee

Table of Contents

NOTES

a. Sq. ft. refers to square feet of usable floor area unless otherwise noted.

b. 1 unit per measure shall be interpreted to mean 1 per each unit, as 1 per "each" three (3) persons.

c. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.

d. Employees, refers to all permanent staff and part time equivalents in the largest working shift. Maximum capacity is the maximum occupancy permitted by applicable building, fire, or health codes.

21.27.11 Parking Area Design Standards

The layout of off street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane width	Parking Space width	Parking Space length
Parallel	12ft	8ft	23ft
30-53˚	12ft	9ft	20ft
54-74˚	15ft	9ft	20ft
75-90˚	20ft	9ft	20ft

All spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited. Adequate ingress and egress to a 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 residential use shall not be across land zoned for residential use.

Each entrance and exit to and from any off street parking lot located in an area zoned for other than residential use shall be at least twenty-five (25) feet from adjacent property located in any residential district.

Buffer yards shall be required per standards set by Section 21.18. A buffer yard without buildings shall be required not less than ten (10) feet wide on the perimeter of all parking lots. Said buffer yard shall be uses for landscaping, screening and/or drainage as required by this ordinance.

All parking areas containing twenty-seven hundred (2700) square feet or more shall provide snow storage area. Snow storage shall be provided on the ratio of ten (10) square feet per one hundred (100) square feet of parking area. Parking area is calculated at two hundred seventy (270) square feet per parking space. Snow storage areas shall be located in such a manner that they do not interfere with the clear visibility of traffic on adjacent streets and driveways

One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage.

Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

21.27.12 Federal and State requirements regarding handicapped parking and access shall apply.

Table of Contents

21.27.13 Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that the area of sufficient size to meet parking space requirements of this article is retained as open space and the owner agrees to construct the additional parking at the direction of the Planning Commission.

21.27.14 Parking lot cross-connections shall be used in addition to frontage roads or shared driveways, when in the opinion of the Planning Commission, cross-connections do not hinder traffic.

21.27.15 All parking in the Highway Interchange Commercial District shall be in the rear or side yard.

SECTION 21.28 PERFORMANCE STANDARDS

No use otherwise allowed shall be permitted within a Use District which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area:

21.28.1 Smoke, Dust, Dirt, and Fly Ash

It shall be unlawful for any person, firm or corporation to permit the emission or discharge of any smoke, dust, dirt, or fly ash in quantities sufficient to create a nuisance within the unincorporated areas of Otsego County.

21.28.2 Open Storage

The open storage of any equipment, vehicles and all materials including wastes, shall be screened from public view, from public streets, and from adjoining properties. Scrap, junk cars and other junk materials shall not be piled or stacked as open storage to a height in excess of twenty (20) feet, and must meet the requirements of Article 21.3.1 and Article 19.

21.28.3 Glare and Radioactive Materials

Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be permitted in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as x-ray machine operations, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

21.28.4 Fire and Explosive Hazards

The storage, utilization, or manufacture of materials or products ranging from combustible to moderate burning, as determined by the appropriate community fire protection authority, is permitted subject to compliance with all other yard requirements, Article 19, performance standards previously mentioned, and providing that the following conditions are met:

21.28.4.1 Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls.

21.28.4.2 The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941 as amended.

SECTION 21.29 PETS AND OTHER ANIMALS

21.29.1 The keeping of farm animals (horses, mules, cows, goats, chickens, pigs, etc.) for domestic purposes on residential lots or in business districts shall require a permit from the Zoning Administrator. The Zoning Administrator shall provide the applicant with a checklist showing which plot plan specifications of 25.3.3 need to be provided. Based on that application, the Zoning Administrator shall determine whether the keeping of animals meets the criteria of this Zoning Ordinance, and, if so, issue a permit.

Table of Contents

21.29.2 The review requirements of 21.29.1 shall not apply to active farms.

21.29.3 Any structures, pens or containment areas shall be set back at least thirty (30) feet from any property line. Adequate food and water shall be provided.

21.29.4 Domestic household pets, including dogs, cats, birds, and fish, but not including poisonous or dangerous reptiles, wild or dangerous animals, may be kept as an accessory residential use on any premises without a permit.

21.29.5 Subject to a hearing, the Zoning Board of Appeals shall limit, restrict, and if deemed necessary, order a reduction in the number of pets or other animals kept on any premises where it is determined that nuisances exist, the residential environment is impaired, health hazards are involved, or the animals are housed in an improper or unsanitary manner.

SECTION 21.30 RACE TRACK (Including Midget Auto, Snowmobile, and Horse Carting Track)

Special Use Permits may be granted by the Planning Commission in AR, FR, B2 and B3 Districts subject to the following conditions and such other controls as the Planning Commission, after holding a hearing, deems necessary to promote health, safety, and general welfare of the surrounding community area.

21.30.1 All parking shall be provided as off-street parking within the boundaries of the development.

21.30.2 All access to the parking areas shall be provided from major traveled roads. Approval of ingress and egress points shall be granted by the police or sheriff authority having jurisdiction.

21.30.3 All sides of the area devoted to the use except access points shall be provided with a twenty (20) foot wide greenbelt planting so as to screen from view all activities within the development.

SECTION 21.31 RAILROADS

Railroads are permitted by Right in an Industrial (I) Zone. Primary railroad right-of-ways are permitted in an I Zone. Switching yards, terminal buildings, storage facilities, are permitted in Districts B3 & I.

SECTION 21.32 RECREATION CAMP AND RESORT

Recreation camps and resorts including those operated for profit may be permitted to locate in RR, AR and FR Districts by the Planning Commission provided the following conditions are met:

21.32.1 The use is established on a minimum site area of forty (40) acres.

21.32.2 All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least one hundred and fifty (150) feet from the property lines, and any ordinary high waterlines where applicable.

The resulting one hundred and fifty (150) foot yards shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in a healthful growing condition. Planting greenbelt is required where the recreational activity proposed is within a District or abuts a District which allows residential development with a density of one dwelling unit or more per acre.

21.32.3 The use does not locate within the confines of a platted subdivision intended for single residential occupancy, or parcels which are deemed by the Planning Commission to be a logical extension of such platted area.

SECTION 21.33 RECREATIONAL EQUIPMENT OR TRAILER

For the purposes of this section, recreational equipment includes travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers, dune buggies, and other similar equipment meeting the intent of this Ordinance.

Table of Contents

21.33.1 The parking or storage of any recreational equipment or trailers in R1 & R2 Districts and platted subdivisions shall be subject to the following:

21.33.1.1 No recreational equipment or trailers shall be parked or stored on any lot in a residential district except in a rear yard and no such equipment shall be used for living, or housekeeping purposes when parked or stored on a residential lot.

21.33.1.2 Parking in a side yard may be permitted by the Zoning Administrator in those instances where the rear yard is inaccessible, or impractical to use.

21.33.2 Unless otherwise regulated in travel trailer courts in this Ordinance, travel trailers may be stored and/or occupied as temporary recreation housing in R3, RR, FR and AR Districts with a zoning permit granted by the Zoning Administrator, provided:

21.33.2.1 The unit is maintained in safe and ready running condition, has a valid and current trailer license for highway travel, and can be towed from the premises by ordinary domestic vehicle on thirty (30) minutes notice.

21.33.2.2 The unit shall be served by an approved on-site sanitary disposal system, but shall not be attached to the sanitary system (or to a water supply) in such a manner as to preclude the units' mobility as defined under Item 1 above.

21.33.2.3 No travel trailer permitted under this Section shall be occupied for more than forty-five (45) days in any calendar year.

21.33.2.4 The unit shall not be enlarged with any structural annex or addition.

21.33.2.5 Travel trailers may be used as temporary dwellings in any district until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued. Upon application for a temporary dwelling permit from the Zoning Administrator, the applicant may obtain a permit for an initial period not to exceed one hundred eighty (180) days from the effective date of the permit; and upon showing reasonable and diligent progress, may renew the permit. Sanitary facilities are subject to Health Department approval.

21.33.2.6 Subject to review and approval by the County Planning Commission, travel trailers may be used in B3 or I District for the purpose of establishing a watchman or caretaker's office, but only as an accessory use to the main use of the premises. Time limitation on the duration of the use may be set by the Planning Commission.

21.33.3 Campgrounds: Special use permits may be granted by the Planning Commission for private travel trailer courts, tenting areas, and general camping grounds (commercial campgrounds) in R3, FR, AR and B1 Districts when the site plan has been reviewed and approved by the Planning Commission, provided that:

21.33.3.1 The minimum County and/or State of Michigan health requirements governing travel trailer courts and camping areas for public use are complied with.

21.33.3.2 The use is developed on a site of at least twenty (20) acres and is at least six hundred (600) feet in width.

21.33.3.3 No person shall occupy any trailer, tent, or house car unit for more than six (6) months in any one (1) year.

21.33.3.4 The use is effectively screened from public streets and thoroughfares, and adjacent R1, R2 or RR Districts.

Table of Contents

21.33.3.5 Minimum dimensions shall be forty (40) feet by forty (40) feet for each site in a trailer court.

21.33.3.6 Site Plan is required. (See Article 23)

SECTION 21.34 RESTRICTED USES

No parcel shall be used for the open or unenclosed storage, disposition, wrecking, dismantling, baling, salvaging, location, accumulation or abandonment, either temporarily or otherwise, of any discarded, disused or dismantled vehicles, machinery, junk, or junked articles, or any parts thereof, unless located in a Zoning District that permits such use and a site plan has been approved by the Planning Commission.

As used in this Section the following terms shall have the meanings as prescribed in this section.

A "discarded, disused vehicle" includes, but is not limited to, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours, or more, after the consent of the owner or occupant of the property has been revoked.

B. "discarded, disused or dismantled Vehicle" includes, any vehicle that is not licensed for use upon the highways or waterways of the State of Michigan, and shall also include, whether licensed or not, any vehicle that is inoperable, except that one (1) unlicensed vehicle that is used for snow plowing purposes shall be permitted and one (1) vehicle that is inoperable or unlicensed in addition to the snow plowing vehicle, may be permitted so long as that vehicle is repaired and licensed within thirty (30) days of notice by the Zoning Administrator, and one (1) additional vehicle that is kept under cover and where the grass around the vehicle is kept mowed and where the owner can show on going progress toward restoration.

C. "Junk" includes, but is not limited to, broken and/or inoperable machinery or vehicles, or parts relating to machinery or vehicles, or broken and unusable furniture, stoves, refrigerators, or other appliances.

Exemption - Agricultural Operations Any vehicle or parts of vehicles that are part of a farm operation as defined by the Michigan Right to Farm Act, 1980 P.A. No. 93, MCL 286.471, et. seq., and conducted in accordance with the State of Michigan's Generally Accepted Agricultural and Management Practices (GAAMPs) shall be exempt from the provisions of this Section 21.34.

SECTION 21.35 RIDING ACADEMY OR STABLE

21.35.1 Commercial stables and facilities for horseback riding may be allowed in the FR and AR Districts provided that animal housing facilities are located at least three hundred (300) feet from any off premises residential structure.

21.35.2 The site plan for the use must be accompanied with the recommendations and/or approval of the County animal control officer, regarding the effects of establishing the use in each specific case. The site plan shall be submitted under provisions of Article 23.2.

21.35.3 Riding facilities in all other Districts may be allowed on farms of one hundred (100) acres or more on a temporary permit basis, subject to a finding by the Planning Commission that there is protection for developing residential uses including seasonal home areas.

SECTION 21.36 RECYCLING, FACILITIES, AND SOLID WASTE HAULERS

For the purpose of administering this Section, the following definition of terms and provisions are:

21.36.1 Recycled materials means clean source separated materials, site separated materials, high grade paper, glass, metal, plastic, aluminum, newspaper, corrugated paper, and other materials that may be recycled excluding tires.

21.36.2 Recycling facilities means a facility that accepts and processes recycled materials, which are stored in buildings or containers.

21.36.3Solid Waste Hauler means any person primarily engaged in the business of collecting, transporting, and delivery or transferring of solid waste within the County to a solid waste transfer station of landfill by the person so hauling.

21.36.4 Solid waste means garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal and industrial sludge, solid commercial and solid industrial waste, and animal waste other than organic waste generated in the production of livestock and poultry. Solid waste does not include source separated material or site separated material.

21.36.5 Operators of recycling facilities may arrange the establishment of satellite recycling facilities at commercial facilities, which are appropriately zoned with controlled access.

21.36.6 Satellite recycling facilities shall be exempt from Article 23 Site Plan Review. The site plan shall be reviewed and approved by the Zoning Administrator.

SECTION 21.37 SHOOTING RANGE

Minimum lot size for an outdoor shooting range shall be forty (40) acres.

SECTION 21.38 SIGNS AND BILLBOARDS

Any publicly displayed sign, symbol or notice on premises to indicate the name of the occupant, to advertise the business there transacted, or directing to some other locale, shall be regulated as follows, and shall require permits in accordance with the terms of the County Building Code:

21.38.1 Signs Permitted

21.38.1.1 Name Plates in All Districts Residential, business or industrial name plates which are not illuminated and do not exceed a total area of two (2) square feet, may be permitted in any district, and may be permitted in addition to any other legal sign.

21.38.1.2 Accessory Signs in R1, R2, R3, RR, FR and AR Districts One (1) sign not to exceed fifteen (15) square feet may be permitted for uses other than dwelling units, in R1, R2, R3, and RR Districts. In the FR and AR Districts, one (1) sign not to exceed thirty-two (32) square feet in area and measuring not more than four (4) feet by eight (8) feet shall be permitted.

21.38.1.3 Accessory Signs in B, HX and I Districts

A. Signs for Single Business: A single business on one (1) lot or combination of lots in the B1, B2, B3, I and/or HX District may install accessory signs in accordance with the following regulations:

1. Accessory Signs in B1, B2, B3 and/or I Districts may be permitted at the rate of two (2) per use, except that at least one (1) sign shall be affixed to or be within two (2) feet of and be parallel with the wall of the main building. One (1) sign may be a freestanding or pylon sign.

2. Signs mounted on and parallel with the wall of the main building shall not exceed a total area of two and one half (2½) feet times the length of the mounting wall.

3. Freestanding signs intended for local or passerby traffic shall not exceed a height of twelve (12) feet measured from the average grade at the base of the sign to the top of the sign. No freestanding sign shall exceed an area of thirty-two (32) square feet, and no such sign shall be longer than three (3) times its width.

4. Pylon signs, designed and intended to attract traffic from a major expressway or highway, are approved but shall not exceed a height of thirty-five (35) feet and must be constructed and mounted by approval methods set forth in the State Construction Code provided they meet the Airport Zoning Ordinance standards.

B. Signs for Shopping Centers, Shopping Centers, Commercial Developments or Two (2) or more stores, offices, research or manufacturing facilities, or retail developments with multiple stores or Commercial PUDs or retail stores with an area over one hundred thousand (100,000) square feet or other Commercial Developments requiring Special Use Approval which have common off street Parking and/or entrance, may install accessory signs in accordance with the following regulations:

1. Signs which direct traffic movement within a property, and which do not exceed four (4) square feet in area for each sign are permitted.

2. One (1) free-standing identification sign for each street that the development faces.

a. The free standing sign shall state only the name of the Shopping Center or multiple use development and Tenants located therein.

b. No freestanding sign face shall exceed an area of one hundred (100) square feet.

c. Freestanding signs shall not exceed a height of twenty five (25) feet measured from the average grade at the base of the sign to the top of the sign face. The structure supporting the sign shall not exceed a height of thirty (30) feet measured from the average grade at the base of the structure. The height shall not exceed three (3) times the width.

d. Tenants of the shopping center or the owner of outlots included within the development plan or PUD shall not be permitted individual free standing signs, except gas stations as noted below.

3. Businesses within the development or PUD shall be permitted exterior wall signs; the total area of the exterior wall signs shall not exceed twenty percent (20%) of the area of the largest wall.

4. All businesses may display window signs in ground level windows in addition to any wall signs. Window signs shall not cover more than twenty percent (20%) of the total window area.

5. An automobile service station located on an outlot or on an individual lot within the development or PUD may have one (1) free standing sign in addition to the free standing sign utilized for the development. The free standing sign shall be for the purpose of advertising gasoline prices and other services provided on the premises. The service station sign shall comply with the regulations for a single business on its own lot as noted in Section 21.38.1.3(A) above.

21.38.1.4 Non Accessory Signs and Billboards

Billboards, poster boards, and non accessory signs may be permitted in B2, B3, & I Districts provided the area of the sign does not exceed an area of two hundred (200) square feet in B2 & B3 Districts and three hundred (300) square feet in I Districts. A non accessory sign or billboard shall not measure longer than three (3) times its width.

Signs that come under the jurisdiction of P.A. 106 of 1972 are under the jurisdiction of the Township, if the Township has adopted a sign ordinance.

21.38.1.5 Sign Lighting (also see SECTION 21.19 LIGHTING, OUTDOOR)

Signs internally illuminated or with a light emanating surface are allowed only in the RR, FR, AR, B1, B2, B3, I, HX, MUZ-Main Street and MUZ-Town Center Districts provided they meet the other requirements of this ordinance and are setback a minimum of ten (10) feet from all road right-of-ways and seventy-five (75) feet from any other property line.

Table of Contents

Signs internally illuminated or if sign has a light emanating surface, all light sources and reflecting surfaces immediately adjacent to the light source shall be shielded from view. Sign luminance level, beginning one (1) hour after sunrise and continuing until one (1) hour before sunset, shall not be greater than three thousand (3,000) nits, nor greater than one hundred (100) nits at all other times.

Signs externally illuminated, the light on the proposed sign shall be mounted on the top of the sign, shall be directed downward onto the sign and shall be shielded so as to prevent rays of light from being directed into the sky or onto any portion of a street, road, highway or adjacent properties. Illumination shall be limited such that reflected luminance does not exceed one hundred (100) nits per square meter.

21.38.2 Signs Prohibited

21.38.2.1 Signs containing flashing, intermittent or moving lights. (A sign with messages or images accomplished by instantaneous re-pixilation NOT more often than one (1) time in any sixty (60) seconds shall NOT be considered flashing, intermittent or moving and shall be ALLOWED.)

21.38.2.2 Signs with moving or revolving parts.

21.38.2.3 Signs affixed to trees, rocks, shrubs or similar natural features.

21.38.2.4 Signs insecurely fixed, unclear, in need of repair, or signs which imitate official traffic signals or traffic control signs or devices.

21.38.2.5 Signs utilizing vehicles, trucks, vans, or other wheeled devices, unless such signs are used for periods of less than seven (7) consecutive days in any ninety (90) day period, or unless such signs have been approved by the Planning Commission as meeting a special purpose, need and/or as being appropriate for the particular use.

21.38.2.6 Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed seven (7) days within any ninety (90) day period.

21.38.2.7 Signs which overhang or extend into a dedicated public right-of-way, without the written consent of the government unit having jurisdiction.

21.38.3 Signs Not Requiring a Zoning Permit

21.38.3.1 Name Plates not to exceed two (2) square feet.

21.38.3.2 Existing signs may be changed or altered so long as none of the provisions of the Zoning Ordinance are violated.

21.38.3.3 Bulletin Boards that do not exceed fifteen (15) square feet for churches, public and semi-public institutions, and/or schools.

21.38.3.4 Signs that have been approved in conjunction with a valid zoning permit for any principal use of use as detailed in a plot plan or site plan.

21.38.3.5 Street name signs and other signs established by state, county, or township units of government when necessary for giving proper directions or otherwise safeguarding the public in any district.

21.38.3.6 Non-advertising signs erected by any organization, person, firm, or corporation that are needed to warn the public of dangerous conditions and unusual hazards including: caving ground, drop-offs, high voltage, fire danger, explosives, severe visibility limits, etc., in any district.

Table of Contents

21.38.3.7 Temporary signs not exceeding ten (10) square feet advertising a premises being for rent, for lease, and/or for sale in any district. All such signs shall be removed within fourteen (14) days of the consummated lease or sale of the premises.

21.38.3.8 Accessory signs on farms advertising stock, produce, and other farm products produced on the premises, provided the area of sign does not exceed thirty-two (32) square feet.

21.38.3.9 Accessory directional signs each not to exceed two (2) square feet in area on buildings, such as but not necessarily limited to: entrance, exit, loading dock, low clearance, garage, office, warehouse, boiler room, service, and the like.

21.38.3.10 Up to two (2) accessory property directional signs each not to exceed two (2) square feet in area, identifying or directing to the following: entrance, exit, visitors parking, no parking, other traffic flow directions, and similar functional signs.

It is intended that accessory property directional signs be included on the site plan for approval as to location and number by the Planning Commission.

21.38.4 Placement of Signs and Setbacks, Signs in any zoning district must be placed at least ten (10) feet back from any right-of-way or lot-line.

21.38.5 Off Premises Directory Sign – Private, Where a business use or tourist service facility is not located directly on a major tourist route, but is dependent upon passerby traffic for support, one (1) off the premises directory sign located on a County maintained road may be permitted in business or non-business districts, on each road or link or segment of road that affords access to the use, but entails a major change in the direction of travel.

Off premises directory signs shall not exceed an area of fifteen (15) square feet. Community directional signs serving more than one (1) use may be permitted to a maximum size of thirty-two (32) square feet.

21.38.6 Sign Variances, In order to provide relief for reasons of practical difficulty and to allow greater flexibility in property and use signing, the Zoning Board of Appeals may, after a public hearing, permit signs that:

21.38.6.1 Exceed the maximum number of signs permitted when there is more than one (1) bordering street to serve the use.

21.38.6.2 Exceed the maximum sign area for reasons of unusual setback, cooperative sign use (joint use or community type advertising), large site area, and/or natural feature limitations to attaining reasonable signing of the use.

21.38.6.3 Revolve, provided it can be demonstrated that a stationary sign would not afford reasonable notice to the use.

21.38.6.4 Have intermittent lighting in order to construct a public service time and temperature sign in those instances where the applicant can demonstrate a need or show community desire for such a sign service.

21.38.6.5 Exceed the maximum height in those instances where a taller sign is necessary to overcome natural conditions (topography, vegetation, etc.).

In granting sign variances, the Zoning Board of Appeals shall consider the impact of each sign on adjoining residential districts, scenic views, out of character skyline intrusions, and obstructions to signs or uses on adjoining properties. Also the purpose of the sign and its applicability to uses that serve tourists or passerby motorists shall be considered in granting or denying a sign exception.

SECTION 21.39 SLAUGHTER HOUSE, MEAT OR POULTRY PACKING OR PROCESSING

Slaughtering shall be done inside the building only.

SECTION 21.40 SOIL EROSION AND SEDIMENTATION CONTROL, STORM WATER MANAGEMENT

No zoning permit shall be issued until any required Soil Erosion and Sedimentation Control permits and/or Storm Water Management permits have been obtained.

SECTION 21.41 SPEAKERS AND SOUND DEVICES, OUTDOOR

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not be permitted without the written consent of the Planning Commission who shall determine that no public nuisance will be established and that no unreasonable adverse impact will fall on an adjacent property. The Planning Commission may require the installation of various screening and landscaping to minimize the impacts of such speakers on adjoining properties.

SECTION 21.42 TRASH RECEPTACLES/DUMPSTERS

21.42.1 Residential Trash Receptacles shall be placed at curbside no earlier than twenty-four (24) hours from the scheduled pick-up day. Any trash receptacle placed at curb side shall be removed from curb side no later than twenty-four (24) hours after the scheduled pick-up day.

21.42.2 Commercial Trash Receptacles / Dumpsters may be placed upon a parcel of land in such a manner to facilitate loading and unloading. They may be placed no closer than ten (10) feet to any adjoining property. All Trash Receptacles shall be properly maintained with working lids and the lids shall be maintained in a closed position.

21.42.2.1 During the site plan review process the Planning Commission or Zoning Administrator may require Commercial Businesses abutting land zoned Residential (R1, R2, R3, RR) or existing residential development in other zoning districts (HX) to maintain a greater setback than ten (10) feet but in no case shall the required setback be greater than twenty five (25) feet.

21.42.3 Temporary Commercial Construction Dumpsters are exempt from these regulations.

21.42.4 Trash Receptacles / Dumpsters meeting the requirements of Sections 21.42.1, 21.42.2 & 21.42.3 shall not be considered unsightly areas as covered in Section 21.18.5.

SECTION 21.43 UNDERGROUND UTILITY WIRES

Within the area of a plat or site plan, all distribution lines for electric, communication, or similar associated services shall be placed underground. Those electric and communication facilities placed in dedicated public ways shall be installed so as not to conflict with other underground utilities. All communication and electric facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installations which traverse privately-owned property shall be protected by easements granted by the owner of such property.

The Planning Commission may, by resolution, waive or modify any of the above requirements for underground line installations with respect to a particular plat or site plan when the strict application of the above requirements would result in unnecessary hardship. Prior to any such waiver or modification, a public hearing regarding the proposal shall be held by the Planning Commission.

SECTION 21.44 UNLISTED PROPERTY USE

The County Zoning Board of Appeals shall have power on written request of a property owner in any Zoning District to classify a use not listed with a comparable permitted use in the District giving due consideration to the provisions of Article 19 of this Ordinance when declaring whether it is a use permitted by right or by special

permit. If there is a comparable use, then the procedures established in this ordinance for approval of a permit for that use must next be initiated in order for the applicant to apply for the necessary permit(s). If there is no comparable use then the applicant shall be so informed and an amendment to the text of the ordinance or a rezoning would be necessary prior to establishing requested use on the property.

SECTION 21.45 VETERINARY HOSPITALS, KENNELS

Veterinary hospitals and indoor kennels may be permitted by right in the B2, B3, AR & FR Districts provided all of the criteria noted in Section 21.45.2 are complied with.

21.45.1 Outdoor Kennels

Special Use Permits may be granted by the Planning Commission for outdoor kennels in the B2, B3, AR, and FR Zones.

21.45.1.1 Minimum site size of ten (10) acres.

21.45.1.2 Facility shall be located at least five hundred (500) feet from the appropriate district boundary or any off-premises residence.

21.45.1.3 Documentation must be provided, by the applicant, to demonstrate that the County Animal Control Director has approved compliance with State and Local Animal Control and Health Regulations.

21.45.2 Veterinary Hospitals and Indoor Kennels

a. Veterinary Hospitals shall have a minimum lot size of one and one-half (1½) acres.

b. Indoor Kennels shall have a minimum lot size of ten (10) acres.

c. For both Veterinary Hospitals and Indoor Kennels buildings in which animals are kept, runs, and/or exercise areas shall be set back at least one hundred (100) feet from all lot lines.

d. For both Veterinary Hospitals and Indoor Kennels documentation must be provided, by the applicant, to demonstrate that the County Animal Control Director has approved compliance with State and Local Animal Control and Health Regulations.

SECTION 21.46 WIRELESS COMMUNICATIONS:

The Telecommunication Act of 1996, as amended February 8, 1996, sets forth provisions concerning placement, location and construction of towers and related facilities for wireless services. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

(1) Protect residential zoning districts from potential adverse impacts of towers and antennas;

(2) Encourage the location of towers in non-residential areas;

(3) Minimize the total number of towers throughout the county;

(4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism based county is minimal;

(6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sighting, landscape screening, and innovative camouflaging techniques;

(7) Enhance the ability of providers of telecommunication services to provide such services to the county quickly, effectively, and efficiently;
(8) Consider the public health and safety of communication towers; and

(9) Avoid potential damage to adjacent properties from tower failure through engineering and careful sighting of tower structures. In furtherance of these goals, due consideration shall be given to the Otsego County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Wireless and cellular phone service are specially determined to not be essential services, nor to be public utilities as such terms are used in this Ordinance.

It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Also, it is not the intent to regulate ham radio antennae under this section, or to regulate towers installed at single family dwellings for personal television reception.

SECTION 21.46.1 DEFINITIONS:

As used in this section, the following terms shall have the meanings set forth below:

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

2. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

3. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self supporting (lattice) towers, guyed towers, or monopole towers (including telephone poles). The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

4. Co-location shall mean the location by two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the County.

SECTION 21.46.2 WIRELESS COMMUNICATIONS TOWERS OF ONE HUNDRED NINETY (190) FEET OR LESS AND RELATED FACILITIES:

Construction of Wireless Telecommunication Antenna Towers of one hundred ninety (190) feet or less and Equipment Shelter Buildings are allowed in Otsego County subject to the following provisions:

21.46.2.1 Prior to approval of any new tower to be located within one (1) mile of an existing tower or other structure of equal or greater height than the proposed tower, applicant shall contact owner(s) of all said towers or structures and request permission to locate or co-locate in lieu of construction of a new tower. No new tower request shall be granted until proof of contact(s) has been provided to the zoning administrator.

21.46.2.1.1 As an alternative to contacting owners of all towers or structures, as described in the above paragraph, location or co-location on existing towers or structures shall be approved by the Zoning Administrator under applicable provisions, including 21.46.2.7.1.

An accessory equipment shelter building shall meet all normal requirements of accessory buildings. Any location or co-location shall not result in a height of more than twice the height of the existing structure.

Table of Contents

21.46.2.2 Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings shall not be placed in any road right-of-way or in any easement for road purposes.

21.46.2.3 Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner) that have an area no less than the minimum parcel size for the district, as listed in Article 17. No variances shall be granted to reduce this size limit.

21.46.2.4 All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer than one hundred percent (100%) of the tower's height from any property line or any residence.

21.46.2.5 A tower proposal of more than thirty-five (35) feet shall be submitted to the Otsego County Airport Manager and FAA for review and approval prior to issuance of a zoning permit.

21.46.2.6 The tower itself must be of monopole design. There shall be no guyed or self-supporting towers. Self-supporting towers may be considered with application to the Planning Commission.

21.46.2.7 All such tower location proposals shall be submitted with a site plan (Section 23.2).

21.46.2.7.1 The following conditions are required for approval of an application.

Antennas may or may not be mounted on existing structures. The tower and antenna are painted or screened as to blend into the background.

The service building shall be constructed of material such as wood, brick, or stucco, and shall be designed to blend into the natural setting and surrounding buildings. In no case will metal exteriors be allowed for service buildings.

Unless technically impossible, all connecting wires from towers to accessory buildings shall be underground.

Unless technically impossible, all electrical and other service wires to the facility shall be underground.

The service building shall be no larger than necessary to house the equipment and shall meet all setback requirements of this Ordinance.

21.46.2.8 Lighting shall be designed in accordance with Section 21.19 in addition to the following:

Lights shall not be permitted on the tower or antennae unless FAA regulations require them.

Light poles and fixtures shall be located as low as practical; a greater number of low “area” lights are favored over higher lights. Incandescent lights are favored over sodium or mercury-type street lighting.

21.46.2.9 The tower and its accessory buildings shall be fenced with no less than a six-foot (6) safety fence with a locked gate.

21.46.2.10 The application shall include a description of security to be posted at the time of receiving a building permit for the tower to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the security shall, at the selection of the applicant, be in the form of: cash or letter of credit to remove the tower in a timely manner as required under Section 21.46.4, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the county in securing removal.

SECTION 21.46.3 WIRELESS TELECOMMUNICATION ANTENNA TOWERS OVER ONE HUNDRED NINETY (190) FEET AND RELATED FACILITIES:

Construction of Wireless Communications Towers over one hundred ninety (190) feet and Equipment Shelter Buildings are a Permitted Uses Subject to Special Conditions under Article 19. Requirements include all those in Section 21.46.2, plus the following:

21.46.3.1 In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on Otsego County, location, co-location, or the provision of more than one (1) antenna on a single tower may be allowed by the Zoning Administrator and/or required by the Planning Commission.

21.46.3.1.1 As an alternative to the provisions of 21.46.3.1.2 below, location or co-location on existing towers or structures shall be approved as a Principal Use Permitted by the Zoning Administrator under applicable provisions, including 21.46.2.7.1. An accessory equipment shelter building shall meet all normal requirements of accessory buildings.

If not locating or co-locating on existing towers or structures, the applicant shall be required to provide information regarding the feasibility of location or co-location as part of the Special Land Use application.

Factors to be considered in determining feasibility or co-sharing include available space on existing structures, towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.

21.46.3.1.2 The applicant shall be required to send a certified mail announcement to all other tower owners in the area, stating their sighting needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied space on a tower unless mechanical, structural, or regulatory factors prevent sharing.

21.46.3.1.3 Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit to: Responding to any requests for information from another potential shared use applicant. Negotiating in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable; and making no more than a reasonable charge for a share use lease.

21.46.3.2 Tower heights shall be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the county determined by the Planning Commission to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of one hundred ninety (190) feet. Where the independent evaluation shows that service can be provided by a one hundred ninety (190) foot or lower tower no tower in excess of one hundred ninety (190) feet shall be allowed. The Zoning Board of Appeals shall not grant a variance from this requirement.

SECTION 21.46.4 REMOVAL OF WIRELESS COMMUNICATION TOWERS:

21.46.4.1 A condition of every approval of a wireless communication tower shall be adequate provision for removal of all or part of the facility by users and owners when the tower has not been used for a period of twelve (12) months. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations shall be considered as the beginning of a period of non use.

21.46.4.2 At such time that removal is required, the property owner or persons who had used the facility shall immediately apply or secure the application that require demolition or removal and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

21.46.4.3 If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and

reasonable administrative charge to be drawn or collected and /or enforced from or under the security posted at the time application was made for establishing the facility.

SECTION 21.46.5

All towers in Section 21.46 must comply with FCC and FAA regulations.

SECTION 21.47 WIND GENERATION

The purpose of this section is to establish requirements for the location of WIND TURBINE GENERATORS (WTG), commonly known as wind turbines or windmills, and anemometer towers. The county recognizes that it is in the public interest to permit the location of wind turbine generators within the county. As such, this ordinance seeks to:

a. Regulate the development of renewable energy resources in a prudent manner.

b. Protect all areas of the County from any potential adverse impacts of WTG and anemometer towers;

c. Regulate the location of WTG and anemometer towers within Otsego County;

d. Protect the public health, safety and welfare;

e. Avoid potential damage to adjacent property from the failure of WTG and anemometer towers.

21.47.1 ZONING DISTRICT LOCATIONS

WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use in all Zoning Districts. (See Section 21.47.2)

WTG Small: Permitted as an accessory use to an allowed Principal Use in all zoning districts. (See Section 21.47.3)

WTG Medium: Permitted as an accessory use to an allowed Principal Use in AR, FR & I Zoning Districts. (See Section 21.47.4)

WTG Large: Permitted Subject to Special Conditions in AR, FR. (See Section 21.47.5)

Anemometer Tower: Permitted Subject to Special Conditions in AR, FR. (See Section 21.47.6)

21.47.2 WIND TURBINE GENERATOR— BUILDING-MOUNTED.

A zoning permit shall be issued only when the following requirements are met:

a. Zoning District: Permitted as an accessory use to an allowed Principal Permitted Use in all zoning districts.

b. Height: The height of the WTG – BUILDING-MOUNTED shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and similar protuberances, to the highest point of the wind turbine generator, regardless whether that point is on a fixed or mobile part of the wind turbine generator.

c. Property Line Setback: Shall be no closer than the minimum specified in Article 17. No portion of the wind turbine generator shall encroach into the required property line setback. If guy wires are used, their anchors may not be closer than the minimum setback specified in Article 17.

d. Number of Units: All lots shall be allowed one (1) WTG – Building-Mounted provided all the requirements for WTG – Building-Mounted are met.

Table of Contents

1. Lots located in R1, R2, R3, RR, B1, B2, B3 & HX zoning districts shall be allowed up to two (2) WTG – Building-Mounted on a single lot if the lot meets or exceeds the Minimum Lot Area requirements of Article 17, and provided all the requirement for WTG – Building-Mounted are met.
2. Lots located in FR, AR & I zoning districts shall be allowed up to four (4) WTG – Building-Mounted on a single parcel if the parcel meets or exceeds the Minimum Lot Area requirements of Article 17, and provided all the requirements for WTG – Building-Mounted are met.
3. WTG – Building-Mounted shall only be located on buildings greater than two hundred (200) square feet in area.
4. The Number of Units may be increased, in all zoning districts, by a rate of one (1) per each twenty thousand (20,000) square feet a lot is larger than the minimum lot size required in Article 17 provided all the requirements for WTG – Building-Mounted are met.
5. WTG – Building-Mounted shall be sited no closer than the height of the taller WTG from its base to the base of an adjacent WTG. For this purpose the base of a Building-Mounted WTG is considered to be the point at which the WTG tower attaches to the building.

e. Sound Pressure Level: Maximum sound pressure level emanating from the WTG and measured on the dB(A) scale at any adjacent property line or any adjoining public or private road with respect to the property on which the WTG is located shall be dependent on the zoning district in which the adjacent property or road is located per the following schedule:

Zoning District	Day dB(A)	Night dB(A)
R1, R2, R3, RR, B1	40	35
FR, AR	40	35
B2, B3, HX	50	45
I	60	50

For the purposes of this article, "Day" shall be defined as the hours between 7:00 AM and7:00 PM and "Night" shall be defined as the hours between 7:00 PM and 7:00 AM. Sound pressure levels may be exceeded during short term events such as utility outages and/or windstorms.

f. Code Requirements: Shall meet all applicable state and local construction and electrical codes, and all other permits required by law.

g. Safety: WTG shall have an automatic braking, governing, or feathering system and shall be maintained in accordance with Underwriters Laboratories (UL) listed standards.

h. Tower: Shall meet or exceed tower specifications provided by the manufacturer of the generator, or have a design approved by an independent professional engineer licensed in the State of Michigan.

i. WTG Unit: Shall be Underwriters Laboratories (UL) listed.

j. Shadow flicker: The WTG – Building-Mounted shall be designed, sited and operated in such a manner to minimize shadow flicker on a roadway. In addition the WTG – Building-Mounted shall be designed, sited and operated in a manner to prevent shadow flicker on any existing structures located off the property on which the WTG – Building Mounted is erected. The owner and/or operator shall prohibit shadow flicker on any future lawfully constructed structure located off the property on which the WTG-Building Mounted is erected.

k. Sale of electric power via net metering is permitted per applicable state law.

Table of Contents

l. The WTG-Building Mounted shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the WTG-Building Mounted is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.

m. The WTG-Building Mounted shall not be artificially lighted unless required, in writing, by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA.

n. The WTG-Building Mounted shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorize personnel only.

o. The WTG-Building Mounted shall be constructed and operated so that it does not interfere with television, radio, cellular telephone or microwave reception in neighboring areas. If degradation of television, radio, cellular telephone or microwave reception occurs as the result of the WTG, the WTG Building Mounted owner and/or operator shall take such action as to correct the television, radio, cellular telephone or microwave reception.

p. The WTG-Building Mounted shall have no advertising painted on or attached to the tower or any other structure of the WTG.

q. A WTG-Building Mounted that is not operated for a continuous period of twelve (12) months shall be removed by the owner of the WTG within ninety (90) days of receipt of a notice from the county requiring removal.

r. The owner shall be responsible for the ongoing compliance with the standards of this ordinance.

21.47.3 WIND TURBINE GENERATOR — SMALL

A zoning permit shall be issued only when the following requirements are met:

a. Zoning District: Permitted as an accessory use to an allowed Principal Use in all zoning districts.

b. Height: Shall have a WIND TURBINE GENERATOR HEIGHT less than sixty (60) feet.

c. Property Line Setback: Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest property line from the base of the WTG.

d. Riparian Zone Setback: Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest ordinary high water mark of lakes in the County that appear on the most recent US Geological Survey Quadrangle maps.

   Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest banks of rivers, streams, and flowages of water in the County that appear on the most recent US Geological Survey Quadrangle maps. These setbacks are measured on a horizontal plane.

e. Number of Units: Lots located in R1, R2, R3, RR, AR, FR, B1, B2, B3, I and HX zoning districts may be allowed one (1) WTG – Small on a single lot if the lot meets or exceeds the Minimum Lot Area requirements of Article 14, and provided all the requirements for WTG – Small are met.

   1. The Number of Units may be increased to a density not to exceed one (1) WTG-Small per five (5) acres (217,800 square feet).

   2. WTG – Small shall be sited no closer than one and on-half (1½) times the height of the taller WTG from its base to the base of an adjacent WTG.

Table of Contents

f. Sound Pressure Level: Maximum sound pressure level emanating from the WTG and measured on the dB(A) scale at any adjacent property line or any adjoining public or private road with respect to the property on which the WTG is located shall be dependent on the zoning district in which the WTG is located per the following schedule:

Zoning District	Day dB(A)	Night dB(A)
R1, R2, R3, RR, B1	40	35
FR, AR	40	35
B2, B3, HX	50	45
I	60	50

For the purposes of this article, "Day" shall be defined as the hours between 7:00 AM and 7:00 PM and "Night" shall be defined as the hours between 7:00 PM and 7:00 AM. Sound pressure levels may be exceeded during short term events such as utility outages and/or windstorms.

g. Code Requirements: Shall meet all applicable state and local construction and electrical codes, and other permits required by law. Wiring for WTG-Small shall be underground or enclosed in the tower.

h. Safety: WTG-Small shall have an automatic braking, governing, or feathering system and shall be maintained in accordance with Underwriters Laboratories (UL) listed standards.

i. Blade clearance: The minimum blade tip clearance from grade, structure, or appurtenance shall be fifteen (15) feet.

j. Tower: Shall be a free-standing monopole (guy wires are not permitted) that shall meet or exceed tower specifications provided by the manufacturer of the generator, or have a design approved by an independent professional engineer licensed in the State of Michigan.

k. Shadow flicker: The WTG – Small shall be designed, sited and operated in such a manner to minimize shadow flicker on a roadway. In addition the WTG – Small shall be designed, sited and operated in a manner to prevent shadow flicker on any existing structures located off the property on which the WTG – Small is erected. The owner and/or operator shall prohibit shadow flicker on any future lawfully constructed structure located off the property on which the WTG-Small is erected.

l. Sale of electric power via net metering is permitted per applicable state law.

m. The WTG – Small shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the WTG – Small is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.

n. The WTG – Small shall not be artificially lighted unless required, in writing, by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA.

o. The WTG – Small shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorize personnel only.

p. The WTG – Small shall be constructed and operated so that it does not interfere with television, radio, cellular telephone or microwave reception in neighboring areas. If degradation of television, radio, cellular telephone or microwave reception occurs as the result of the WTG – Small, the owner and/or operator shall take such action as to correct the television, radio, cellular telephone or microwave reception.

Table of Contents

q. The WTG – Small shall have no advertising painted on or attached to the tower or any other structure of the WTG.

r. A WTG – Small that is not operated for a continuous period of twelve (12) months shall be removed by the owner of the WTG within ninety (90) days of receipt of a notice from the county requiring removal.

s. The owner shall be responsible for the ongoing compliance with the standards of this ordinance.

21.47.4 WIND TURBINE GENERATOR — MEDIUM

A zoning permit shall be issued only when the following requirements are met:

a. Zoning District: Permitted as an Accessory Use to an allowed Principal Use only in AR, FR & I Zoning Districts.

b. Height: Shall have a WIND TURBINE GENERATOR HEIGHT greater than sixty (60) feet but less than or equal to one hundred (120) feet.

c. Property Line Setback: Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest property line from the base of the WTG.

d. Riparian Zone Setback: Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest ordinary high water mark of lakes in the County that appear on the most recent US Geological Survey Quadrangle maps. Shall not be closer than one and one-half (1½) times the Wind Turbine Generator Height to the nearest banks of rivers, streams, and flowages of water in the County that appear on the most recent US Geological Survey Quadrangle maps. These setbacks are measured on a horizontal plane.

e. Avian Corridors: WTG-Medium should not be located in historic avian migration pathways or frequent use corridors.

f. Number of Units: Lots located in AR, FR & I zoning districts shall be allowed one (1) WTG – Medium on a single lot if the lot meets or exceeds the Minimum Lot Area requirements of Article 17, and provided all the requirement for WTG – Medium are met.

   1. The Number of Units may be increased to a density not to exceed one (1) WTG-Medium per ten (10) acres (435,600 square feet).

   2. WTG – Medium shall be sited no closer than one and one-half (1½) times the height of the taller WTG from its base to the base of an adjacent WTG.

g. Sound Pressure Level: Maximum sound pressure level emanating from the WTG and measured on the dB(A) scale at any adjacent property line or any adjoining public or private road with respect to the property on which the WTG is located shall be dependent on the zoning district in which the WTG is located per the following schedule:

Zoning District	Day dB(A)	Night dB(A)
R1, R2, R3, RR, B1	Not permitted	Not permitted
FR, AR	40	35
B2, B3, HX	Not permitted	Not permitted
I	60	50

For the purposes of this article, "Day" shall be defined as the hours between 7:00 AM and 7:00 PM and "Night" shall be defined as the hours between 7:00 PM and 7:00 AM. Sound pressure levels may be exceeded during short term events such as utility outages and/or windstorms.

Table of Contents

h. Code Requirements: Shall meet all applicable state and local construction and electrical codes, and other permits required by law. Wiring for WTG – Medium shall be underground or enclosed in the tower.

i. Safety: WTG – Medium shall have an automatic braking, governing, or feathering system and shall be maintained in accordance with Underwriters Laboratories (UL) listed standards.

j. Blade clearance: The minimum blade tip clearance from grade, structure, or appurtenance shall be twenty (20) feet.

k. Tower: Shall be a free-standing monopole (guy wires are not permitted) that shall meet or exceed tower specifications provided by the manufacturer of the generator, or have a design approved by an independent professional engineer licensed in the State of Michigan.

l. Shadow flicker: The WTG – Medium shall be designed, sited and operated in such a manner to minimize shadow flicker on a roadway. In addition the WTG – Medium shall be designed, sited and operated in a manner to prevent shadow flicker on any existing structures located off the property on which the WTG – Medium is erected. The owner and/or operator shall prohibit shadow flicker on any future lawfully constructed structure located off the property on which the WTG-Medium is erected.

m. Sale of electric power via net metering is permitted per applicable state law.

n. The WTG – Medium shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the WTG – Medium is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.

o. The WTG – Medium shall not be artificially lighted unless required, in writing, by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA.

p. The WTG – Medium shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorize personnel only.

q. The WTG – Medium shall be constructed and operated so that it does not interfere with television, radio, cellular telephone or microwave reception in neighboring areas. If degradation of television, radio, cellular telephone or microwave reception occurs as the result of the WTG, the owner and/or operator shall take such action as to correct the television, radio, cellular telephone or microwave reception.

r. The WTG – Medium shall have no advertising painted on or attached to the tower or any other structure of the WTG.

s. A WTG – Medium that is not operated for a continuous period of twelve (12) months shall be removed by the owner of the WTG within ninety (90) days of receipt of a notice from the county requiring removal.

t. The owner shall be responsible for the ongoing compliance with the standards of this ordinance.

21.47.5 WIND TURBINE GENERATOR – LARGE

21.47.5.1 Application Requirements for WTG – Large

In addition to the application requirements of Article 19 of this ordinance, an application for a special use permit for a WTG – Large shall include all the following information, unless expressly indicated otherwise:

a. A site plan meeting all of the requirements of Article 23 of the Otsego County Zoning Ordinance.

b. All requirements of Article 19 of the Otsego County Zoning Ordinance shall be met.

Table of Contents

c. A study prepared by a professional engineer, licensed in the State of Michigan, documenting that the site of the WTG – Large has sufficient wind resources for the proposed WTG – Large equipment.

d. A detailed analysis by a professional engineer, licensed in the State of Michigan, describing the specific WTG - Large structure(s) tower proposed and all phases for implementing the development in compliance with these standards.

e. A resume' or other written summary of the education, experience, and other qualifications of all experts providing information concerning the WTG – Large project shall be provided.

f. An avian study based on U.S. Fish and Wildlife Service, "Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines", Federal Register: July 10, 2003 (Volume 68, Number 132), or as updated or amended, and in effect at the time of the WTG – Large construction application, shall be provided.

g. Analysis, measurements and projections of WTG – Large noise propagation shall conform to International Electromechanical Commission (IEC) Standard 61400-11 Part 11, as that standard may be amended or updated from time to time. Acoustic Noise Measurement Techniques shall include: optional noise directivity requirements (see below), infrasound (low frequency) projections, low frequency noise (between twenty (20) and one hundred (100) Hz) measurement and analysis and impulsivity measurement (noise pressure of potential "thumping" sounds). Analysis shall include but is not limited to:

    1. A survey of the existing ambient background noise levels. Analysis shall include daytime measurements and also at least two (2) ambient noise measurements between 9:00 PM and 11:59 PM and two (2) between 1:00 AM and 5:00 AM.

    2. A prediction of the WTG – Large noise levels at the property border. This can be made with manufacturer's data or data from a private testing agency for proposed WTGs or by direct measurement for WTGs in place, so long as measurements are conducted according to IEC and 61400-11 part 11 as that standard may be amended or updated from time to time. Including infrasound and low frequency noise between twenty (20) and one hundred (100) Hz, modeling must identify likely pure tone sources.

    3. Identification and support for a model for sound propagation. The model may be hemispherical or spherical but particular attention must be paid to the noise propagation downwind of the proposed installation site and the propagation of sound at differing atmospheric densities.

    4. A comparison of calculated wind sound pressure levels with and without the WTG or proposed WTGs. This confirms the baseline for permitted sound levels once the WTGs are operating shall be provided.

h. Written documentation that the applicant has notified the FAA, Gaylord Regional Airport and any other applicable state and federal regulatory agencies of the proposed WTG – Large.

i. Elevation drawings, computer generated sound models or simulations and other aids or documentation projecting the sound reaching off the property, on which the WTG – Large will be constructed, and the extent and duration of the sound shall be provided.

j. Elevation drawings, computer generated photographic simulations and other images, or other visual aids that depict how the WTG – Large tower and all accessory structures will appear as constructed on the proposed site from vantage points north, south, east, and west of the WTG – Large tower shall be provided.

k. A detailed written statement, with supporting evidence, demonstrating how the proposed WTG – Large will comply with all of the standards for approval shall be provided.

Table of Contents

l. Written documentation projecting the shadow flicker on any existing structures located off the property on which the WTG – Large will be constructed, and the extent and duration of the flicker on these existing structures.

21.47.5.2 Standards for WTG – Large Approval

The Planning Commission shall approve, or approve with conditions, an application for WTG – Large only upon a finding that the proposed WTG – Large complies with all of the following applicable standards, and the approval standards as found in Article 19 of the Zoning Ordinance.

a. Zoning District: Permitted Subject to Special Conditions in AR & FR.

b. The proposed site shall have documented annual wind resources sufficient for the operation of the proposed WTG – Large. The wind resource documentation shall detail, at a minimum, ambient wind at the maximum height permitted by this ordinance. Lower elevations (consistent with anemometer tower approval) shall also be provided by the applicant.

c. The minimum site area for WTG – Large shall be as necessary to meet the required setbacks and any other standards of this section.

d. Noise permitted from WTG – Large is governed by the original ambient baseline noise study performed in accordance with Section 21.47.5.1(g) for the first WTG – Large on the subject property and original fixed noise pressure limits above baseline for both day and night operations.

e. Broadband noise from WTG – Large shall be limited to no more than ten (10) decibels above the original ambient baseline sound level (or that level which is exceeded ninety percent (90%) of the time) beyond the property line, considering both daytime and night measurements as reported in the engineer's sound propagation model required in Section 21.47.5.1(g) . The day and night requirements may be different. The harmonic mean of the night measurements will set the baseline for night noise limits and the harmonic mean of the daytime measurements will set the baseline for daytime limits. Pure tones, defined as an octave band (at any frequency), are limited to no more than three (3) decibels above the adjacent higher and lower octave bands.

f. The maximum height of a Wind Turbine – Large shall be three hundred (300) feet. The Planning Commission may approve an increased height for a WTG – Large, not to exceed four hundred (400) feet, if the following specific conditions are met along with the general conditions set forth in Section 19.7 of the Otsego County Zoning Ordinance. The increased height, however, shall be the smallest increase necessary to meet the following conditions:

1. The increased height is necessary for the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity.
2. To improve the sound model and/or improve compliance with Sections 21.47.5.1(d) and 21.47.5.1(e).

g. A WTG – Large shall meet a setback from any adjoining lot line and any adjoining public or private road a distance equal to one and one-half (1½) times the WIND TURBINE HEIGHT, but setbacks shall not be reduced to less than twelve hundred fifty (1250) feet.

h. For both horizontal and vertical axis WTG – Large turbines, the rotor shall be located on the tower such that the minimum blade clearance above the ground is fifty (50) feet.

i. A WTG – Large shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.

Table of Contents

j. The WTG – Large shall have posted on the site in a visible, easily accessible location two (2) signs no more than four (4) square feet in area displaying an address and telephone number for emergency calls. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours and on weekends or holidays. One (1) sign shall be located at the service drive entrance to the WTG at the minimum setback distance.

k. The WTG – Large shall have no advertising painted on or attached to the tower or any other structure of the WTG.

l. The on-site electrical transmission lines connecting the WTG – Large to a public utility electricity distribution system shall be located underground. In addition all other utility lines shall be located underground.

m. All WTG – Large turbines shall be equipped with controls to limit the rotational speed of the blades within design limits for the specific WTG.

n. The WTG – Large shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the WTG – Large is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.

o. The WTG – Large shall not be artificially lighted unless required, in writing, by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA.

p. The WTG – Large shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorized personnel only.

q. The WTG – Large shall be constructed and operated so that it does not interfere with television, radio, cellular telephone or microwave reception in neighboring areas. If degradation of television, radio, cellular telephone or microwave reception occurs as the result of the WTG – Large, the developer shall pay to correct the television, radio, cellular telephone or microwave reception.

r. The WTG – Large shall be designed and sited in such a manner to minimize shadow flicker on a roadway. In addition the WTG – Large shall be designed and sited in a manner to prevent shadow flicker on any existing structures located off the property on which the WTG – Large is constructed. It shall be the responsibility of the WTG – Large operator to modify operations to also prevent shadow flicker on dwellings constructed and/or occupied after installation of the WTG – Large. If necessary to prevent shadow flicker from crossing occupied structures the WTG – Large may be programmed to stop rotating during times the WTG – Large shadow crosses these structures. The WTG – Large operator may obtain a written easement or other written agreement which specifically allows shadow flicker to cross an occupied structure.

s. The potential ice throw or ice shedding for the proposed WTG – Large shall not cross the property lines of the site in question nor impinge on any public Right-of-Way or overhead utility line. Compliance shall be demonstrated in the permit application by the specific analysis method but such model shall not alleviate the applicant of the need to comply with this subsection under all atmospheric conditions, for the life of the structure.

t. Structural integrity of all components not under the jurisdiction of the Michigan Building Code shall be certified by a professional engineer licensed in the State of Michigan. Certification shall include; verification that ultimate strength exceeds that needed to withstand all factored loads and load combinations specified in SIE/ASCE 7-02 “Minimum Design Loads for Buildings and Other Structures”. First Order Reliability Analysis shall demonstrate a reliability coefficient (Beta) of not less than 3.54 for any failure mode that could result in any portion of the WTG falling to the ground. In lieu of First Order Reliability Analysis, adequate structural reliability may be demonstrated via analysis methods specified in the Michigan Building Code.

21.47.5.3 Conditions for WTG – Large

The Planning Commission may attach reasonable conditions to the approval of a WTG – Large. These conditions may include those necessary to insure that public services and facilities affected by the WTG – Large will be capable of accommodating increased service and facility loads caused by the WTG – Large to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

a. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the WTG – Large under consideration, residents and landowners immediately adjacent to the proposed WTG – Large and the community as a whole.

b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed WTG – Large.

c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the WTG – Large under consideration, and be necessary to insure compliance with those standards.

21.47.5.4 Ongoing Compliance regarding WTG – Large

a. The noise propagation, blade flicker and ice hazard standards developed in permitting of WTGs – Large are absolute. Once WTGs – Large are permitted, the owners have the option of compliance or discontinuation of operations.

b. The owner of a WTG – Large shall conduct physical inspections of the WTG – Large structure(s) and associated equipment annually to ensure continuing compliance with this section and any conditions imposed with the approval of the WTG – Large. Copies of all inspection reports shall be submitted to the zoning administrator within thirty (30) days of the inspection. In the event a WTG – Large owner fails to comply with this Section the County shall have the authority to have the WTG – Large inspected and shall utilize funds from the performance bond to cover the costs of such inspection.

c. Noise exceeding permitted levels. The ordinance recognizes that certain wind and weather conditions and altitude densities can enhance temporary noise pressure that exceeds permitted levels. If non-compliance with the noise standards is brought to the attention of Otsego County enforcement officials the complaint will be investigated and if confirmed, written notice will be sent to the WTG – Large owner requiring post permit documentation of corrective measures taken to address the sound. Documentation could include statements from those adjusting or modifying the WTG – Large and may, at the option of Otsego County, include additional noise propagation certification, conducted in a manner similar to that presented in Section 21.47.5.1(g) tailored to the specific problem being addressed.

21.47.5.5 Performance Guarantee for WTG – Large

In connection with the approval of a WTG – Large the Planning Commission shall require the owner of the WTG – Large to furnish the county with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the county in an amount equal to the estimated costs associated with removal of the WTG – Large and all associated equipment and accessory

structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of ten (10) feet below the natural ground level at that location.

A detailed cost estimate for the removal of the tower shall be provided with the application and shall be based on Means Construction Estimating Guide or similar accepted pricing schedule and shall not include credit for the salvageable value of any materials.

The amount of the performance guarantee shall be reviewed every five (5) years at the time of the Planning Commission review of the WTG – Large as noted in Section 21.47.5.7. The amount of the performance guarantee shall be increased based on an inflation rate equal to the average of the previous ten (10) years Consumer Price Index, but not less than three and one-half percent (3½%) per year.

If the performance bond is used to cover costs associated with inspections as noted in Section 21.47.5.4(b), the owner of the WTG – Large shall immediately insure that the full bond amount is available. Failure by the owner of the WTG – Large to insure that the full bond amount is available shall be a violation of this ordinance.

21.47.5.6 Removal of WTG – Large

WTG – Large that are not operated for a continuous period of twelve (12) months shall be removed by the owner of the WTG – Large within ninety (90) days of receipt of a notice from the County requiring such removal. For purposes of this section, non-operation shall be deemed to include, but shall not be limited to, the blades of the WTG – Large remaining stationary so that wind resources are not being converted into electric or mechanical energy, or the WTG – Large is no longer connected to the public utility electricity distribution system. In the event a WTG – Large owner fails to remove the WTG – Large as required by this section the County shall have the authority to remove the WTG – Large and shall utilize the performance bond to cover the costs of such removal. If the performance bond is not sufficient to cover the cost of the removal or the performance bond has expired or is not available, the County shall institute an action in a court of competent jurisdiction for the collection of the cost for removal.

21.47.5.7 Duration of Permit for WTG – Large

A permit to operate a WTG – Large shall be valid for twenty (20) years with review of the operation by the County Planning Commission at a public hearing every five (5) years.

21.47.5.8 Use of Current Technology

WTGs – Large shall be designed to the current state of the technology. Used, outdated or obsolete WTG – Large equipment shall not be permitted to be constructed or installed. With respect to performance standards set forth in this ordinance, repairs and parts replacement shall not be of lesser quality than that of the original permitted equipment and shall be upgraded to the performance standards current at the time of the repair. In no case shall repairs or alterations be allowed which will decrease the degree to which the WTG – Large complies with this ordinance.

21.47.5.9 Major Equipment Replacement during Life of the Permit

Should the WTG – Large operator wish to replace major components such as turbine blades, generator, main gear box, nacelle, or the entire WTG – Large, the operator shall demonstrate that the WTG – Large will substantially meet the then current criteria for new WTG – Large permits, except that setback distances will

not be increased. In no case shall replacement or alterations be allowed which will decrease the degree to which the WTG – Large complies with this ordinance.

21.47.5.10 WTG – Large Permit Renewal

At any time the operator of a WTG – Large may elect to seek a new permit for a given site. A new WTG – Large permit shall not allow aspects of the previous permit to be "grandfathered". To qualify for a new permit the WTG – Large installation shall meet all criteria of the then current standards.

21.47.6 Anemometer Towers

21.47.6.1 Application Requirements for Anemometer Towers

In addition to the application requirements of Article 19 of this ordinance, an application for a special use permit for an anemometer tower shall include all the following information, unless expressly indicated otherwise:

a. A site plan meeting all of the requirements of Article 23 of the Otsego County Zoning Ordinance shall be provided.

b. All requirements of Article 19 of the Otsego County Zoning Ordinance shall be met.

c. A detailed analysis by a professional engineer, licensed in the State of Michigan, describing the specific anemometer tower proposed and all phases for implementing the development in compliance with these standards.

d. A resume' or other written summary of the education, experience, and other qualifications of all experts providing information concerning the anemometer tower project shall be provided.

e. A detailed written statement, with supporting evidence, demonstrating how the proposed anemometer tower will comply with all of the standards for approval shall be provided.

f. Written documentation that the applicant has notified the FAA, Gaylord Regional Airport and any other applicable state and federal regulatory agencies of the proposed anemometer tower.

21.47.6.2 Standards for Anemometer Towers

The Planning Commission shall approve, or approve with conditions, an application for an anemometer tower only upon a finding that the proposed anemometer tower complies with all of the following applicable standards, and the approval standards as found in Article 19 of the Zoning Ordinance.

a. Zoning District: Permitted Subject to Special Conditions in AR & FR.

b. The minimum site area for an anemometer tower shall be as necessary to meet the required setbacks and any other standards of this section.

c. All requirements of Article 19 of the Otsego County Zoning Ordinance shall be met.

d. The maximum height of an anemometer tower shall be three hundred (300) feet.

e. An anemometer tower shall meet a setback from any adjoining lot line and any adjoining public or private road or overhead utility line a distance equal to the one and none-half (1½) times the height of the anemometer tower as measured to the highest point. The setback shall be measured from the outermost point on the base of the anemometer tower, not the guy or support wires.

f. The anemometer tower shall, subject to any applicable standards of the FAA, be a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the anemometer tower is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.

Table of Contents

g. The anemometer tower shall not be artificially lighted unless required, in writing, by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA

h. The anemometer tower shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorize personnel only.

i. The anemometer tower shall be constructed and operated so that it does not interfere with television, radio, cellular telephone or microwave reception in neighboring areas. If degradation of television, radio, cellular telephone or microwave reception occurs as the result of the anemometer tower, the developer shall pay to correct the television, radio, and cellular telephone or microwave reception.

j. An anemometer tower may be a lattice-style tower and may utilize guy wires, providing access limitations are maintained to prevent climbing by unauthorized persons.

k. The anemometer tower shall have posted on the site in a visible, easily accessible location two (2) signs no more than four (4) square feet in area displaying an address and telephone number for emergency calls. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours and on weekends or holidays. One (1) sign shall be located at the service drive entrance to the anemometer tower at the minimum setback distance.

l. The anemometer tower shall have no advertising painted on or attached to the tower or any other structure of the anemometer.

m. Structural integrity of all components not under the jurisdiction of the Michigan Building Code shall be certified by a professional engineer licensed in the State of Michigan. Certification shall include; verification that ultimate strength exceeds that needed to withstand all factored loads and load combinations specified in SIE/ASCE 7-02 "Minimum Design Loads for Buildings and Other Structures". First Order Reliability Analysis shall demonstrate a reliability coefficient (Beta) of not less than 3.54 for any failure mode that could result in any portion of the WTG falling to the ground. In lieu of First Order Reliability Analysis, adequate structural reliability may be demonstrated via analysis methods specified in the Michigan Building Code.

21.47.6.3 Conditions for Anemometer Towers

The Planning Commission may attach reasonable conditions to the approval of an anemometer tower. These conditions may include those necessary to insure that public services and facilities affected by the Anemometer tower will be capable of accommodating increased service and facility loads caused by the anemometer tower, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

a. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the anemometer tower under consideration, residents and landowners immediately adjacent to the proposed anemometer tower and the community as a whole.

b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed anemometer tower.

c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the anemometer tower under consideration, and be necessary to insure compliance with those standards.

21.47.6.4 Performance Guarantee for Anemometer Towers

In connection with the approval of an anemometer tower the Planning Commission shall require the owner of the anemometer tower to furnish the County with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the County in an amount equal to the estimated costs associated with removal of the anemometer tower and all associated equipment and accessory structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of ten (10) feet below the natural ground level at that location.

A detailed cost estimate for the removal of the anemometer tower shall be provided with the application and shall be based on Means Construction Estimating Guide or similar accepted pricing schedule and shall not include credit for the salvageable value of any materials.

21.47.6.5 Removal of Anemometer Towers

Anemometer towers that are not operated for a continuous period of ninety (90) days shall be removed by the owner of the anemometer tower within ninety (90) days of receipt of a notice from the County requiring such removal. For purposes of this section, non-operation shall be deemed to include, but shall not be limited to, the anemometer instrument(s) being removed from the anemometer tower or disconnected so that wind resources are no longer being measured. In the event an anemometer tower owner fails to remove the anemometer tower as required by this section, the County shall have the authority to remove the anemometer tower and shall utilize the performance bond to cover the costs of such removal. If the performance bond is not sufficient to cover the cost of the removal or the performance bond has expired or is not available, the County shall institute an action in a court of competent jurisdiction for the collection of the cost for removal.

21.47.6.6 Duration of Permit for Anemometer Towers

A permit to construct and operate an anemometer tower shall be valid for fifteen (15) months and may be extended for a maximum of twelve (12) months, subject to planning commission approval.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 22 GENERAL EXCEPTIONS FOR AREA, HEIGHT, AND USE

The regulations in this Ordinance shall be subject to the following interpretations and exceptions:

SECTION 22.1 ESSENTIAL SERVICES

Essential Services as defined in this Ordinance and as interpreted to be local scale services shall be permitted as authorized and regulated by law and other ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance.

SECTION 22.2 VOTING PLACES

This Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.

SECTION 22.3 HEIGHT LIMIT

Height limitations shall not apply to farm silos, chimneys, church spires, flag poles, or public monuments; provided, however, that a height limit for any building or structure permitted as a conditional or special approval use may be set by the Planning Commission upon approval of a Site Plan.

22.3.1 This exemption shall not allow The Planning Commission and or Zoning Board of Appeals to allow a:

22.3.1.1 WTG height greater than allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS and/or Section 21.47 or

22.3.1.2 Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS.

22.3.2 This exemption shall not apply in those instances where the County Airport Zoning Ordinance governs height within airport hazard areas.

SECTION 22.4 PROJECTIONS INTO REQUIRED OPEN PLACES

22.4.1 Outside stairways, fire escapes, vestibules, balconies, and similar projections from the face of a building shall be considered part of the building and shall not extend into any required yard or open spaces.

22.4.2 Architectural features such as, but not limited to, window sills, cornices, eaves, and may extend or project into a required yard not more than four (4) inches for each one (1) foot of width of such side yard.

22.4.3 Unenclosed paved areas, such as driveways and sidewalks may occupy a required yard but shall not be nearer than two (2) feet from a paralleling lot line.

22.4.4 Accessory utility systems necessary to meet on site health standards may occupy a required yard.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 23 SITE PLAN REVIEW

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Article. The intent of this Article is to provide for consultation and cooperation between the land developer and the Zoning Administrator so that beneficial utilization of the land is achieved at the same time that adverse effects upon the surrounding land uses are minimized consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive Plan of Otsego County will be assured and its communities will develop in an orderly fashion.

SECTION 23.1 SITE PLAN REVIEW REQUIRED

Site plan review is required for the following uses:

23.1.1 Any use or development for which the submission of a site plan is required by any provision of this Ordinance.

23.1.2 Any development for which off-street parking areas in excess of five (5) spaces are provided as required in this Ordinance.

Any use in a B1, B2, B3 and Industrial zone.

Any Special Land Use (See Article 19).

(Note: An application for a zoning permit for a land use not requiring Site Plan Review shall contain a Plat Plan as outlined in Article 25.3.3.)

SECTION 23.2 APPLICATIONS FOR SITE PLAN REVIEW

An application for site plan review shall be obtained from the Zoning Administrator. The completed application and site plan shall be submitted to the Zoning Administrator along with fifteen (15) copies of each for distribution. The application, site plan and copies shall be submitted at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission, in order to have the site plan review scheduled for that meeting. The applicant shall also meet requirements of Article 27 Township Participation in County Zoning. The application for site plan review and the site plan shall contain the following information:

23.2.1 The application shall, at a minimum, include the following information:

23.2.1.1 The applicant's name, address, and phone number in full.

23.2.1.2 Proof of property ownership, and whether there are any options on the property, or any liens against it.

23.2.1.3 A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.

23.2.1.4 The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).

23.2.1.5 The address and or parcel number of the property.

23.2.1.6 Name and address of the developer (if different from the applicant).

23.2.1.7 Name and address of the engineer, architect and/or land surveyor.

23.2.1.8 Project title.

23.2.1.9 Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.

23.2.1.10. A vicinity map drawn at a scale of 1" = 2000' with north point indicated.

23.2.1.11. The gross and net acreage of all parcels in the project.

23.2.1.12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.

23.2.1.13. Project completion schedule/development phases.

23.2.2 The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 50 or fewer feet or less for sites of less than three (3) acres and 1"= 100 or fewer feet or less if the site is larger than three (3) acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

23.2.2.1 Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations, and shoreland and natural river district, if any.

23.2.2.2 Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows.

23.2.2.3 The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern. Boring logs may be required if necessary to determine site suitability.

23.2.2.4 Location and type of significant existing vegetation.

23.2.2.5 Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel.

23.2.2.6 Location of existing and proposed buildings and intended uses thereof as well as the length, width, and height of each building and typical elevation views of proposed structures.

23.2.2.7 Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.

23.2.2.8 Location of existing public roads, rights-of-way and private easements of record and abutting streets. Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.

23.2.2.9 Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations shall be separately depicted with an elevation view.

23.2.2.10 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), and fire lanes.

23.2.2.11 Location, size, and characteristics of all loading and unloading areas.

23.2.2.12 Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

23.2.2.13 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, clean-out locations, connection points and treatment systems, including septic systems if applicable.

23.2.2.14 Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam.

23.2.2.15 Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

23.2.2.16 Location, size and specifications of all signs and advertising features with elevation views from front and side.

23.2.2.17 Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

23.2.2.18 Location and specifications for all fences, walls, and other screening features with elevation views from front and side.

23.2.2.19 Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

23.2.2.20 Location, size of all trash receptacles and other solid waste disposal facilities.

23.2.2.21 Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

23.2.2.22 Identification of any significant site amenities or unique natural features.

23.2.2.23 Identification of any significant views onto or from the site to or from adjoining areas.

23.2.2.24 North arrow, scale and date of original submittal and last revision.

23.2.2.25 Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.

All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect. In the immediate area of the seal there shall also be the following statement, signed by the professional sealing the plans:

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information; the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____.

Or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

23.2.3 All projects requiring a site plan shall also require that the professional in charge of the project inspect and certify that the project has been constructed in accordance with the approved plans. The following format shall be used:

FORM FOR CONSULTANT'S CERTIFICATE

Date_____

Project name_____

Section _____, T____N, R____W, _____Township,

Otsego County, Michigan.

I hereby certify that construction of

_____

is complete and that:

1. I have personally directed the supervision or inspection of the construction.

2. To the best of my professional knowledge, understanding and information, all improvements to date have been installed in accordance with the special use permit.

3. The project meets all requirements of the Otsego County Zoning Ordinance.

(seal)

Signed_____

Registered Professional Engineer (or Surveyor,

Architect or Landscape Architect)

23.2.4 The Planning Commission or Zoning Administrator may waive any site plan submittal requirement when any of the following circumstances are found to be in existence:

23.2.4.1 The data will serve no useful purpose. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted. Another reasonable circumstance or condition exists (not including the cost of complying).

23.2.5 Application fees must be paid when the application is submitted and sufficient escrow accounts may be established to cover the projected review costs.

SECTION 23.3 PRE-APPLICATION CONFERENCE

A pre-application conference is not mandatory, but it is strongly advised. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator and such other representatives as described in the Planning Commission bylaws. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

SECTION 23.4 AGENCY REVIEW

The applicant shall submit a copy of required site plans and a blank comment form supplied by the Otsego County Zoning Administrator to designated Federal, State and Local agencies and departments for review as determined and requested by the Planning Commission or Zoning Administrator.

The applicant may be requested to submit site plans to one or more of the following agencies: the Otsego County Road Commission; the Michigan Department of Transportation; the Michigan State Police, the Otsego County Sheriff; the Otsego County Conservation District; the District Health Department; the Fire Department having jurisdiction; the Michigan Department of Natural Resources; the Michigan Department of Environmental Quality; the Otsego County Airport; or any other agency or department deemed necessary. After delivery of the application, site plans and comment forms the applicant should submit proof of delivery to the Otsego County Zoning Administrator. Comments not received from reviewing agencies by the Zoning Administrator within fifteen (15) of days of delivery shall be considered approved without comment.

SECTION 23.5 APPROVAL AUTHORITY

The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site plans for Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

SECTION 23.6 CONDITIONAL APPROVALS

23.6.1 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of this ordinance.

23.6.2 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, including a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

23.6.2.1 Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,

23.6.2.2 Would protect the natural environment and conserve natural resources and energy,

23.6.2.3 Would insure compatibility with adjacent uses of land, and would promote the use of land in a socially and economically desirable manner.

23.6.3 The Planning Commission and/or Zoning Administrator may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 21.10 and 21.18 of this Ordinance and may collect a performance guarantee consistent with the requirements of Article 23.8, to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

Table of Contents

23.6.3.1 That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;

23.6.3.2 that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area

SECTION 23.7 DISTRIBUTION OF APPROVED SITE PLAN

When a site plan is reviewed and approved or disapproved by the Planning Commission or Zoning Administrator, and all steps completed, two (2) copies of the site plan will be marked by the Planning Commission for the following distribution.

23.7.1.1 One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission or by the Zoning Administrator including any conditions of approval.

23.7.1.2 One (1) copy forwarded to the Zoning Administrator including any conditions of approval.

SECTION 23.8 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Failure to do so is a violation of this ordinance and subject to the sanctions provided herein.

SECTION 23.9 SITE PLAN EXPIRATION AND REVOCATION

23.9.1 Failure to initiate construction of an approved site plan within three hundred sixty-five (365) days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After this appearance the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

23.9.1.1 An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

23.9.1.2 Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

23.9.1.3 A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

23.9.1.4 Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

23.9.2 Thirty (30) days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

23.9.3 Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

Table of Contents

23.9.4 Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to Subsection 23.11 below.

SECTION 23.10 PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Otsego County and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as regulated by Article 25.6. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and any other required improvements.

SECTION 23.11 MINOR AMENDMENTS TO APPROVED SITE PLANS

Minor Amendments to a site plan may be approved by the Zoning Administrator provided that such changes conform to the Zoning Ordinance and the applicant agrees. No additional fees will be charged for minor amendments. Minor changes to an approved site plan may be approved by the Zoning Administrator before or after construction has begun provided no such change results in any of the following:

23.11.1.1 A change in the use or character of the development.

23.11.1.2 An increase in overall coverage of structures.

23.11.1.3 An increase in the intensity of use.

23.11.1.4 A reduction in required open space.

23.11.1.5 A reduction in required off-street parking and loading.

23.11.1.6 A reduction in required pavement widths or utility pipe sizes.

23.11.1.7 An increase in traffic on public streets or an increase in the burden on public utilities or services.

23.11.2 The following are minor amendments:

23.11.2.1 Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies

23.11.2.2 The changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided

23.11.2.3 Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or a reduction of aisle width below ordinance requirements.

23.11.2.4 Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate state, county or other local road authority with jurisdiction.

23.11.2.5 Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects.

23.11.2.6 Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.

23.11.2.7 Increase peripheral yards.

23.11.2.8 Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

23.11.3 If a proposed amendment to an approved site plan does not qualify as a minor change, a new site plan and application and fees in accordance with the provisions of Article 23 must be submitted. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

ARTICLE 24 PLANNED UNIT DEVELOPMENT (PUD)

INTENT

The planned unit development (PUD) is intended to be a development option for land use changes in specified districts that contain multi-functional land use elements under single ownership or single management control. It is specifically intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities; encourage the maintaining of open space in its natural state; and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the County.

Planned unit developments may be authorized by special use permit pursuant to the procedures and site plan review of Article 19 of this Ordinance. Planned unit developments may be authorized in the following districts: R1, R2, and R3 and other residential districts in which PUD development would be appropriate. This may include the RR, FR and AR Districts.

The PUD is not intended to be a substitute for a multiple family zoning district, and any business type services are permitted only as accessory uses to the larger planned development.

SECTION 24.1 GENERAL STANDARDS

24.1.1 To be eligible for Planned Unit Development approval, the applicant must demonstrate that the following criteria will be met, in addition to the other requirements of this Section:

24.1.1.1 Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely to be achieved taking into consideration the reasonable foreseeable detriments of the proposed development and use(s); including without limitation:

24.1.1.1.1 The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state, and/or national basis;

24.1.1.1.2 Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

24.1.1.2 Availability and Capacity of Public Services. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities, and utilities. In determining whether an unreasonable increase exists, the Planning Commission shall consider impacts and any mitigation measures proposed by the developer, as well as any identified by any public agency. Where an impact will cause a public service, facility or utility to exceed its design capacity or create a threat to public health or safety, the project shall not be permitted without adequate mitigating measures to prevent an unhealthy or unsafe condition. Where the impact is less, but still unreasonable in the opinion of the Planning Commission, which shall be based on documented facts cited by the Planning Commission, then the PUD project shall not proceed without satisfactory mitigation measures that reflect contributions by the PUD developer equal to the magnitude of the projected development impact.

24.1.1.3 Compatibility with the Comprehensive Plan. The proposed development shall not have an adverse impact on the Comprehensive Plan of the County.

Table of Contents

24.1.1.4 Compatibility with the Planned Unit Development Intent. The proposed development shall be consistent with the intent and spirit of these regulations, as stated in the intent of this Article.

24.1.1.5 Economic Impact. The proposed development shall not unreasonably impede the continued use or development of surrounding properties for uses that are permitted in the zoning district.

24.1.1.6 Unified Control of Property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Planned Unit Development regulations. This provision shall not prohibit transfer of ownership or control, provided that notice of such transfer is given immediately to the County.

24.1.1.7 Permitted Uses. The proposed uses in the planned unit development project shall be limited to the following:

24.1.1.7.1 Single family dwellings.

24.1.1.7.2 Duplex or two (2) family homes.

24.1.1.7.3 Apartment houses and multiple family housing.

24.1.1.7.4 Parks, recreation lands, and resource open spaces.

24.1.1.7.5 Public buildings, community buildings, and community facilities.

24.1.1.7.6 Resort complexes which, in addition to lodging, provide community type recreation including: skiing, golfing, tennis, swimming, boating, hiking, snowmobiling, camping, riding, and related or accessory activities. Such resort complexes may also offer accessory commercial services including: boat docks, gifts, clothing, groceries, sporting goods, repair services, personal services, dance floors, dining rooms, alcoholic beverages, and offices. The applicant, and final site plan, must clearly demonstrate that the proposed accessory commercial uses are, in fact, accessory to the main use, and that the PUD is not misused to create, in effect, a commercial zoning district. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed non-residential uses: extent to which it serves residents in the planned unit development compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors, and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use. Where residential development is the principal use and the commercial component of the planned unit development is predominantly designed to serve persons other than those to reside in the planned unit development, it shall not be permitted.

24.1.2 **[RESERVED FOR FUTURE USE]**

24.1.3 Exterior boundary setback No uses in a PUD shall be nearer than fifty (50) feet from the boundary line of any zoning district. The Planning Commission may require greater setbacks for permitted accessory commercial services in order to assure that the use remains accessory to the total development and does not become a commercial influence on any adjoining district not zoned for business or commercial uses.

24.1.4 **[RESERVED FOR FUTURE USE]**

24.1.5 Yards and setbacks: The intent of the PUD is to encourage planned unit development and/or cluster housing to increase the interrelationship between open space resource areas and developed areas.

Table of Contents

The Planning Commission may, therefore, waive the "Schedule of Dimensions" standards for single lots of record and permit the elimination or reduction of required yards and setbacks; except that yards fronting on roads determined by the Planning Commission to be potential public roads shall be arranged so that there is at least eighty (80) feet of separation between buildings located across said roads.

24.1.6 Building or Structural height: The maximum height of building or structures shall be thirty-five (35) feet, but may be modified up to one hundred percent (100%) by the County Planning Commission where it is conclusively shown that the height modification will:

24.1.6.1 Result in a better use of land.

24.1.6.2 Not deprive off premises properties of natural views, light and air.

24.1.6.3 Not detract from the character of uses and developments in the surrounding area.

24.1.6.4 Can be accommodated in terms of utility service requirements and fire protection systems.

24.1.6.5 This exemption shall not allow The Planning Commission and or Zoning Board of Appeals to allow a:

24.1.6.5.1 WTG height greater than allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS and/or Section 21.47 or

24.1.6.5.2 Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS.

24.1.7 Floor area: The minimum floor area requirements shall be in accordance with the minimum required for one (1) family dwelling and/or multiple family dwellings as prescribed in the applicable zoning district (e.g. R1, R2).

24.1.8 Site location: Any planned unit development shall be located only where it can meet the service requirements of the district in which it is located, including existing or programmed essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, refuse disposal, and police and fire protection as is applicable.

24.1.9 Parking, loading, traffic and access: Planned unit development projects shall be subject to the regulations for parking, loading, traffic and access of this Zoning Ordinance.

24.1.10 Special conditions: The Planning Commission may attach special conditions to the approval of the final site plan to insure conformance with the intent of this Ordinance and the Otsego County Comprehensive Plan.

SECTION 24.2 PROCEDURE

24.2.1 General: A planned unit development project may be permitted only by the issuance of a special use permit. An approved final site plan shall be a requirement for the issuance of a special use permit for a planned unit development. A final site plan for a planned unit development shall conform to all standards of Article 19.3.

24.2.2 Preliminary site plan: A preliminary site plan of the planned unit development project shall be submitted which contains all the information required by Article 19.3.2. It is recommended that this submission be preceded by pre-application conferences to determine whether the developer's intent

is consistent with all requirements of this Ordinance. Additional supporting material shall be submitted by the developer and shall include:

24.2.2.1 Explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the flexibility of these regulations. This must include an explanation of how development of the property via the planned unit development regulations will benefit the community over and above any benefits the community would receive by development of the same property under the existing regulations of the District in which it is located.

24.2.2.2 Statement of present and proposed ownership of all land within the project.

24.2.2.3 Development schedule indicating: Stages in which project will be built with emphasis on area, density, use and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the plan and through supporting graphic material; approximate dates for beginning and completion of each stage shall be shown on the plan.

24.2.2.4 Agreements, provisions, or covenants which will govern the use, maintenance, and continued protection of the planned unit development, and any of its common open space.

24.2.3 Site plan approval: No approval shall be granted for a preliminary or final planned unit development unless all the requirements of Article 19.3 and 23.6 are met.

24.2.3.1 The landscape shall be preserved in its pre-approval condition, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

24.2.4 A hearing by the Planning Commission in accord with the requirements of the special use procedure established in Article 19; Section 19.5 shall be initiated after review of the preliminary site plan by the County Planning Commission.

24.2.5 Final Plans: If the proposed planned unit development project preliminary site plan is approved, final site plans shall be prepared for each stage according to the development schedule. The final site plan and supporting material shall show in detail the design and use of all buildings and overall land development plans, as well as such other considerations as are appropriate. An approved planned unit development shall be in conformance with all comprehensive plan elements and the requirements of this ordinance. A special use permit shall be valid only for that site plan and supporting material upon which the approval of the proposed planned unit development project was based. All supporting material shall remain on file with the approved final site plan. The County Planning commission may approve minor changes to an approved preliminary site plan without additional public hearings if changes do not affect the overall density, impact of, concept or intent of the development. Minor changes shall be made only upon the mutual consent of the County Planning Commission and the landowner affected. The Planning Commission shall maintain a record of conditions which are changed.

Major Changes: Changes in density, height of buildings, reduction of proposed open space, development schedule, or final governing agreements, provisions or covenants may be approved only by submission of a new preliminary site plan or applicable supporting material followed by another hearing according to the special use procedures in Article 19.2. Once compliance with Ordinance requirements is achieved, the final site plan shall be approved by the County Planning Commission.

24.2.6 Continuing control: The planned unit development project shall be developed only according to the approved and recorded final plan and all supporting material. The recorded final plan and supporting material together with all recorded amendments shall be binding on the applicants, their successors, and assigns and shall limit and control the uses of premises and location of structures in the planned unit development. Major changes in the final site plan during or after construction shall be accomplished only by submission of a new preliminary site plan followed by the special use permit procedure. The County Planning Commission shall consider the planned unit development special use permit subject to termination if construction falls more than one (1) year behind schedule.

24.2.7 Fees and permits: The Board of County Commissioners may establish a schedule of reasonable fees to be charged for plan review. Zoning permits shall be required for each structure according to Article 25. The Zoning Administrator shall base issuance upon conformance with the final plan and supporting material.

SECTION 24.3 OPEN SPACE PLAN

24.3.1 Clustered residences shall be placed contiguously, not dispersed over the property. Maximum gross density of one (1) unit per one (1) acre for FR and AR districts, are allowed only where seventy-five percent (75%) of the total site remains undeveloped. For all other districts, fifty percent (50%) of the total site shall remain undeveloped.

Regulated or unregulated wetlands used in density calculations shall be left in their natural state, that is, as they were before proposed development, except as a mitigation plan with a wetland permit approved by DNR is made part of the site plan for regulated wetland or approved by the Planning Commission for unregulated wetland. Existing vegetation and water-related conditions shall remain undisturbed except where specifically authorized in the PUD plan. Unless using an open space plan, applicant must hold to Article 17 for gross density.

24.3.2 Open Space Plan: Plans for open space reservation, natural resource conservation, and recreation in Open Space Plan for permanent dwellings or seasonal dwellings may be approved. In reviewing and approving the Open Space Plan the following requirements shall apply, as permitted modifications to the standards as outlined in Article 17, Schedule of Dimensions.

24.3.2.1 Lot areas may be reduced from the minimums stated for the District, provided that the approved open space plan results in better protection of open space than if the lot areas were not reduced. Examples of better protection of open space include the following:

A greater commonly used buffer area around sensitive lands like wetlands, flood plains or shorelines of rivers, lakes or streams.

A greater setback around the perimeter of the property, especially sites abutting developed properties or a public road, permanent protection of

A scenic resource such as a view shed along a public road by means of

A conservation easement or similar deed restriction.

A trail corridor with linkages to trails or planned for adjoining properties.

The amount of lot reduction shall be established by the Planning Commission based on the degree to which the open space plan results in better protection of open space than not developing with a reduced lot area. In any event, approved lot reductions may result in an increased number of lots, and hence density, of up to twenty-five percent (25%) greater than Article 17 dimensions as applied to the overall site.

24.3.2.2 No lot shall have a depth of less than one hundred (100) feet or a width of less than eighty (80) feet at the front property line under this open space plan. All lots created under this Section must at least be tentatively approved for development by the Health Officer having jurisdiction whenever septic tank services are to be utilized.

24.3.2.3 For each square foot of land gained within an open space plan through the reduction of lot size below the minimum requirements as outlined in the "Schedule of Dimensions", at least equal amounts of land shall be dedicated to the common use of the lot owners of the development.

24.3.2.4 The location and shape of the area to be dedicated for open space purposes shall be approved by the Planning Commission consistent with a finding that the proposed open space will:

24.3.2.4.1 Improve the interrelationship between open space resource areas and developed areas.

24.3.2.4.2 Provide maximum recreation and aesthetic use of the open space.

24.3.2.4.3 Provide maximum utility of the open space, considering future development of additional phases of the subdivision or adjacent areas.

24.3.2.4.4 Maximize appropriate drainage of developed areas.

24.3.2.4.5 Provide maximum sight distance for road access safety.

24.3.2.5 The land area necessary to meet the minimum requirements of this Section shall not include bodies of water, but may include swamps with standing water, or lands with soils rated to have severe limitations for development by the standards of the Otsego County Soil Conservation District.

24.3.2.6 This plan for reduced lot sizes shall be permitted only if a copy of the preliminary plat or plan of the development has been submitted that has been certified, or is supported by other written documents by the Township Board in the affected Township community; and further, that the open space plan is agreeable to the developer and the Otsego County Planning Commission.

24.3.2.7 Under this planned unit approach, the developer or sub divider shall dedicate the total park area at the time of filing of the final plat on all or any portions of the plat to the common ownership of those owning in the PUD or to the public, if the local governmental unit or the County agrees to accept the responsibility for said parkland.

ARTICLE 25 ADMINISTRATION AND ENFORCEMENT

SECTION 25.1 ADMINISTRATION

The administration and enforcement of this Ordinance shall be the responsibility of the Zoning Administrator and County Board of Commissioners. The Zoning Administrator shall be appointed by the County Board of Commissioners; he or she shall not be a member of the County Board of Commissioners.

SECTION 25.2 DUTIES OF THE ZONING ADMINISTRATOR;

It shall be the responsibility of the Zoning Administrator to administer and enforce the provisions of this Ordinance and in doing so shall perform the following duties:

25.2.1 Issue Permits: All applications for zoning permits, temporary zoning permits, special land use permits, planned unit development permits, variances, appeals, requests for Ordinance interpretation and requests for changes to a nonconforming use shall first be submitted to the Zoning Administrator who may issue such permits when all applicable provisions of this Ordinance have been met and following approval by the proper body or official.

25.2.2 File of Applications: The Zoning Administrator shall maintain files of all permit applications, and shall keep a record of all permits issued; these files shall be open for public inspection.

25.2.3 Inspections: The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the administration and enforcement of this Ordinance. No person shall molest the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek a search warrant through the County Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.

25.2.4 Record of Complaints: The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.

25.2.5 Violations: Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he or she identifies a violation.

25.2.6 Report to the County Board of Commissioners: The Zoning Administrator shall report to the County Board of Commissioners periodically at intervals not greater than quarterly, summarizing for the period since the last previous report all Zoning Permits issued and all complaints of violation and any action taken on each complaint.

Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein.

SECTION 25.3 PERMIT PROCEDURES AND REGULATIONS

It is the intent and purpose of this Section to create a review and permit process for the administration of this Ordinance. The primary process shall require the issuance of one (1) permit which shall be the Zoning

Table of Contents

Permit. Issuance of such a Permit, pursuant to Section 22.3, shall indicate that the plans and specifications for any particular land use that has been requested, complies with the Zoning Ordinance.

25.3.1 Jurisdiction: No land clearing shall be initiated; the excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of (including porches, decks, patios or terraces), or moving of any building or structure shall not be undertaken; or any land shall not be used; or any existing land use changed to a different type or class; or the use or occupancy of any building or premises, or part thereof, hereafter shall not be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the requirements of Sections 25.3.2 and 25.3.3 of this Ordinance. Except upon written order of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.

25.3.2 Zoning Permits

25.3.2.1 When required: A zoning permit is required before any activity listed in Section 25.3.1 is initiated, or before any activity otherwise specifically requiring a zoning permit in another section of this ordinance is begun.

25.3.2.2 Expiration of permit: Any permit granted under this Section shall become null and void after twelve (12) months from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit shall be renewable upon reapplication and upon payment of an original fee, provided the provisions of all ordinances in effect at the time of renewal are complied with.

25.3.2.3 Revocation: The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing. The Zoning Administrator may issue a stop work order if necessary or desirable to prevent further ordinance violation. Upon such revocation, all further construction activities and usage shall cease upon the site, except as allowed by the Zoning Administration for the purpose of correcting the violation. Cancellation of a permit issued for a special land use, planned unit development or variance shall not occur before a hearing by the body which granted the permit.

The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on cancellation of said permit.

25.3.2.4 Fees: Fees for review of development proposals, inspections and the issuance of permits or certificates required under this Ordinance shall be deposited with the County Clerk in advance of processing any application or issuance of any permit. The amount of such fees shall be established by the County Board of Commissioners by resolution and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance. Such fees may include all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission, Board of Commissioners and/or Zoning Board of Appeals time, mileage and any costs associated with reviews by qualified professional planners

and/or engineers. Such fees may be collected in escrow with any unexpended balance returned to an applicant according to the procedure described below:

25.3.2.4.1 For any application for approval of a Site Plan, Special Land Use, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires any more than twenty (20) parking spaces. An escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and, because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

25.3.2.4.2 The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the Zoning Administrator, Planning Commission or County Board of Commissioners values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the County indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be required to be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review hired by the County and a copy of the statement of expenses for the professional services rendered.

25.3.2.4.3 No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the County Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.

25.3.2.4.4 If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any Zoning Permit or other permit issued by the County in response to the applicant's request.

25.3.2.5 Issuance: Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of the Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue the appropriate permit. In any case where a permit is refused, the reasons shall be stated in writing to the applicant. The Zoning Administrator shall not refuse to issue a permit when the procedures, standards, and/or conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants, deed restrictions or other private agreements which may occur upon the granting of said permits (but also see Section 25.3.2.7).

25.3.2.6 Withholding Permit: The Zoning Administrator may withhold any Zoning Permit pending verification that an applicant has received required county, state or federal permits including septic

and water well permits, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission or County Board of Commissioners, the Planning Commission or County Board of Commissioners may condition final approval of the requested development activity upon the receipt of any of the above mentioned county, state or federal approvals and/or direct the Zoning Administrator not to issue a Zoning Permit until said permits from other agencies have been obtained.

25.3.2.7 Relation to Nonconforming Uses: It shall not be necessary for an owner of a legal nonconforming structure or use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article 21.26 until a Zoning Permit has been issued by the Zoning Administrator. In such cases the Permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.

25.3.2.8 Performance Guarantee: A performance guarantee may be required as a condition to the issuance of any Zoning Permit, special land use permit, planned unit development permit, or variance approval in order to insure conformance with the requirements of this Ordinance. (See Section 25.6)

25.3.2.9 Occupancy Permit: No structure or use shall be occupied (except for a single family dwelling in zones permitting single family dwellings), without first receiving an Occupancy Permit. An Occupancy Permit shall be issued by the Zoning Administrator following an inspection that confirms that all requirements of a previously issued Zoning Permit, special land use permit, planned unit development permit or variance approval, if any, or if not, of this Ordinance have been met.

25.3.3 Zoning Permit Application: An application for a Zoning Permit for a land use not requiring Site Plan Review shall be considered for approval by the Zoning Administrator when said application contains the following:

25.3.3.1 Plot Plan: Two (2) copies of an accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair, and demolitions as determined by the Zoning Administrator. The Zoning Administrator shall establish and make available in the office of the County Clerk written guidelines as to the scale and level of detail needed on a plot plan for applications for various types of uses requiring a Zoning Permit, or for information to be submitted to the Zoning Board of Appeals in order to make a decision on an appeal, request for Ordinance interpretation or variance.

25.3.3.1.1 Name, address and telephone number of the applicant (and owner if different).

25.3.3.1.2 The location, shape, area and dimension of the lot, including setbacks and shoreland and natural river districts, if any.

25.3.3.1.3 The location, dimensions and height of the existing and/or proposed structures to be erected, altered, or moved on the lot.

25.3.3.1.4 A description of proposed use of the building(s), land or structures.

25.3.3.1.5 The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.

25.3.3.1.6 The yard, open space and parking lot dimensions, parking space dimensions, and number of spaces.

25.3.3.1.7 A vicinity sketch showing the location of the site in relation to the surrounding street system, and adjacent land uses within three hundred (300) feet in every direction including on the opposite side of any public street; also showing adjacent landowners.

25.3.3.1.8 Location of any septic system or drain field and well.

25.3.3.1.9 Configuration of the driveway and parking, county drains and site drainage patterns.

25.3.3.1.10 Existing public right-of-ways or easements.

25.3.3.1.11 Any other information deemed necessary by the Zoning Administrator to determine and provide for the enforcement of this Ordinance.

25.3.3.2 Sanitary Sewer or Septic Approval: In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the County Health Department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

25.3.3.3 Water Supply Approval: When a municipal, public or private water supply system is required by law or proposed by the applicant, either a report from the County Health Department certifying approval of a proposed private water supply system, or when municipal or public water supply is required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

SECTION 25.4 VIOLATIONS

Violations of any provisions of this Ordinance are declared to be Municipal Civil Infractions and are to be enforced pursuant to the Otsego County Municipal Civil Infraction Ordinance.

25.4.1 Notice of Violation: The Zoning Administrator, county zoning enforcement officer, county building inspector, or other authorized personnel of the county, shall inspect each alleged or apparent violation. Whenever an authorized county official determines that a violation of this Ordinance exists, said county official shall issue a Notice of Violation pursuant to the Otsego County Municipal Civil Infraction Ordinance. Said notice shall be in writing and shall specify all circumstances found to be in violation and what corrective actions must be taken. Said Notice of Violation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the zoning ordinance section violated, time, place, and location of the alleged violation, the place where the alleged violator shall appear before the Municipal Violations Bureau and the time at or by which the appearance shall be made. If the alleged violator does not appear before the Municipal Violations Bureau to admit responsibility or if the alleged violator appears and does not admit responsibility the county official shall issue a Civil Infraction Citation pursuant to the Otsego County Municipal Civil Infraction Ordinance.

25.4.2 Issuance of Citation: If the alleged violator does not appear before the Municipal Violations Bureau to admit responsibility or if the alleged violator appears and does not admit responsibility the county official shall issue a Civil Infraction Citation pursuant to the Otsego County Municipal Civil Infraction Ordinance. Said Citation shall be in writing and shall specify all circumstances found to be in violation. Said Citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the zoning ordinance section violated, time, place and location of the alleged violation, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made pursuant to the Otsego County Municipal Civil Infraction Ordinance.

25.4.3 Service of Notice: Notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. As provided by Section 3.2(g)(2) of the Otsego County Municipal Civil Infraction Ordinance, a copy of the Notice of Violation or the Citation may be served upon an owner or occupant of the land, building or structure by posting a copy of the citation upon the land or attaching the copy to the building or structure. A copy of the notice and if necessary a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

25.4.4 Violation: All ordinance violations which constitute a Municipal Civil Infraction and upon which the owner or party in interest has received a civil infraction notice or citation, the alleged violator shall admit responsibility by mail or may admit responsibility "with explanation" by mail, or deny responsibility and appear at an informal hearing or formal hearing at the district court pursuant to Section 3.3 of the Otsego County Municipal Civil Infraction Ordinance.

25.4.5 Hearing: All ordinance violations which constitute a Municipal Civil Infraction and for which the alleged violator has denied responsibility, the party may appear in person for an informal hearing before a judge or magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the county, or by appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney pursuant to Section 3.3 of the Otsego County Municipal Civil Infraction Ordinance.

25.4.6 Legal Action: If the owner or party in interest fails to appear, admit responsibility, pay the civil fine or neglects to correct the violation within the time period specified by the district court magistrate or judge, the county enforcement officer, county zoning administrator,

county building inspector, or other personnel of the county authorized by the Otsego County Board of Commissioners to issue municipal civil infraction citations or violation notices

shall transfer a report to the County Attorney recommending the appropriate action be taken. The County Attorney may then initiate prosecution proceedings. If the threat of public health and or safety necessitates immediate action, this procedure may be circumscribed and the County may initiate injunctive action in Circuit Court or any such other remedy provided by Law.

SECTION 25.5 PENALTIES AND REMEDIES

25.5.1 Municipal Civil Infraction: Any land clearing, or any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance or in violation of a permit or approval issued by a body or official under this Ordinance is hereby declared to be a Municipal Civil Infraction.

25.5.2 Penalties and Sanctions for Violations: The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the Section 3.6 of the Otsego County Municipal Civil Infraction Ordinance, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

25.5.3 Remedies: The County Board of Commissioners, the county zoning enforcement officer, county zoning administrator, county building inspector or other authorized personnel of the county may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance.

The imposition of a civil fine shall not exempt the violator from compliance with the provisions of this Ordinance.

Table of Contents

SECTION 25.6 PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE

In authorizing any Zoning Permit, Special Land Use Permit, Planned Unit Development approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; (2) to insure the discontinuance of a temporary use by a stipulated time; and (3) to provide sufficient resources for the County to complete required improvements or conditions in the event the permit holder does not.

25.6.1 Improvements Covered: Improvements that shall be covered by the performance guarantee or bond include: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements:

25.6.1.1 Form: The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the County Clerk, which names the property owner as the obligor and the County as the obligee.

25.6.1.2 Time when Required: The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the County shall deposit the funds in an interest bearing account in a financial institution with which the County regularly conducts business.

25.6.1.3 Amount: The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the County Board of Commissioners. If none are specified or applicable to the particular use or development, the County Board of Commissioners shall by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the County and its inhabitants.

25.6.2 Return of Performance Guarantee or Bond: The County Clerk, upon the written request of the obligor, and pursuant to the procedure in the next subsection, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.

25.6.3 Withholding and Partial Withholding of Performance Bond: As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the County Clerk of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit a recommendation to the Planning Commission and County Board of Commissioners indicating approval, partial approval, or rejection of the improvements or approval with conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

25.6.3.1 The Planning Commission shall approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements.

Table of Contents

Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

25.6.3.2 Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the County may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining would be returned to the applicant.

25.6.4 Performance Bond for Razing of Building: The Zoning Administrator may require a bond prior to the razing or demolition of principal structures and accessory structures having more than one hundred forty-four (144) square feet of floor area. The bond shall be determined according to a guideline of one thousand dollars ($1,000.00) for each one thousand (1,000) square feet or fraction thereof of floor area of the structure to be razed. A bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Chief or the County Board of Commissioners may from time to time prescribe, including filling of excavations and proper termination of utility connections.

25.6.5 Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator and the status thereof reported to the County Board of Commissioners at least quarterly.

SECTION 25.7 CHANGES AND AMENDMENTS

The County may from time to time, on recommendation from the Planning Commission, or on petition, amend, supplement or change the District boundaries or the regulations, herein, or subsequently established herein, pursuant to the authority and procedure established in Public Act 110 of 2006 as amended. The notices for all public hearings before the planning commission or County Board of Commissioners concerning proposed zoning ordinance amendments (zoning text or map amendments) shall comply with all of the following applicable provisions:

A. For a proposed amendment to the text of the zoning ordinance, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information
   a. A description of the nature of the proposed zoning ordinance amendment.
   b. The time, date, and place the proposed zoning ordinance will be considered.
   c. The places and times at which the proposed zoning ordinance amendment may be examined.
   d. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
2. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.
3. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility Company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the County Clerk for the purpose of receiving the notice of public hearing.

B. For a proposed zoning ordinance amendment rezoning an individual property or ten (10) or fewer adjacent properties, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information:

   a. A description of the nature of the proposed zoning ordinance amendment.

   b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.

   c. The time, date, and place the proposed zoning ordinance will be considered.

   d. The places and times at which the proposed zoning ordinance amendment may be examined.

   e. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.

2. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.

3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.

4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property or properties proposed for rezoning and to the occupants of all structures within three hundred (300) feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the County. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility Company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the County clerk for the purpose of receiving the notice of public hearing.

C. For a proposed zoning ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information:

   a. A description of the nature of the proposed zoning ordinance amendment.

   b. The time, date, and place the proposed zoning ordinance will be considered.

   c. The places and times at which the proposed zoning ordinance amendment may be examined.

   d. The address where and the deadline when written comments can be sent concerning the proposed zoning ordinance amendment.

2. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.

3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.
4. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the County Clerk for the purpose of receiving the notice of public hearing.

ARTICLE 26 BOARD OF APPEALS

SECTION 26.1 CREATION AND MEMBERSHIP

A Zoning Board of Appeals, first established by the Zoning Ordinance adopted August 8, 1965, is hereby retained in accordance with Public Act 110 of 2006, as amended, known as the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall perform its duties and exercise its powers in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done.

The Zoning Board of Appeals shall consist of the following seven (7) regular members and not more than two (2) alternate members, each of whom shall be appointed by the Board of County Commissioners:

26.1.1 One (1) of the regular members of the Zoning Board of Appeals shall be a member of the Planning Commission but shall not serve as chairperson of the Zoning Board of Appeals. [Sec. 3601 (4)]

26.1.2 One (1) regular or alternate member of the Zoning Board of Appeals may be a member of the Board of County Commissioners but shall not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the Board of County Commissioners may not serve as a member of the Zoning Board of Appeals. [Sec. 3601 (6)]

26.1.3 The remaining regular members, and any alternate members, shall be selected from the electors residing within Otsego County but outside the City of Gaylord or the Village of Vanderbilt. The members selected shall be representative of the population distribution and of the various interests present in Otsego County. [Sec. 3601 (5)]

26.1.4 An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made and shall have the same voting rights as a regular member of the Zoning Board of Appeals. [Sec. 3601 (7)]

26.1.5 A member of the Zoning Board of Appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties. [Sec. 3601 (8)]

26.1.6 A member of the Zoning Board of Appeals may be removed by the Board of County Commissioners for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. [Sec. 3601 (9)]

26.1.7 The terms of office for members appointed to the Zoning Board of Appeals shall be for staggered three (3) years, except for members serving because of their membership on the County Planning Commission or Board of County Commissioners, whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired.
[Sec. 3601 (10)]

26.1.8 Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. [Sec. 3601 (11)]

SECTION 26.2 JURISDICTION

26.2.1 The Zoning Board of Appeals shall have all the powers and duties granted by State law and this Ordinance, including the following specific powers:

26.2.1.1 Interpretation of the Zoning Ordinance Text and Map: To hear and decide requests for interpretation of the zoning map and zoning text, as well as for decisions on other special questions on which this Ordinance specifically authorizes the Zoning Board of Appeals to pass. [Sec. 3603 (1)]

26.2.1.2 Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is an error in any administrative order, requirement, decision, or determination made by the Planning Commission or a Land Use Services officer charged with enforcement of this Ordinance. [Sec. 3603 (1)]

26.2.1.3 Variances: To grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this Ordinance or to any other nonuse-related standard in the ordinance. [Sec. 3604 (8)]

26.2.2 Exceptions: The Otsego County Zoning Ordinance does not provide for appeals to the Zoning Board of Appeals for special land use or planned unit development decisions.

26.2.2.1 The Zoning Board of Appeals shall have no jurisdiction over a decision of the Planning Commission in regard to matters concerning the granting of special use permits. [Section 19.13 of the current Zoning Ordinance]

SECTION 26.3 MEETINGS

26.3.1 The Zoning Board of Appeals shall not conduct business unless a majority of the regular members of the Zoning Board of Appeals are present. [Sec. 3601 (12)]

26.3.2 Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at other times as the Zoning Board of Appeals in its rules of procedure may specify. [Sec. 3602 (1)]

26.3.3 All meetings conducted by the Zoning Board of Appeals shall comply with the Open Meetings Act.

26.3.4 The Zoning Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the County Clerk. [Sec. 3602 (2)]

SECTION 26.4 PROCEDURES

26.4.1 The Zoning Board of Appeals shall establish and adopt its own rules of procedures. [Sec. 3603 (1)]

26.4.2 The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. [Sec. 3602 (1)]

26.4.3 An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under Section 4 of the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54. [Sec. 3604 (1)]

26.4.4 An appeal to the Zoning Board of Appeals must be filed within twenty-one (21) days of the date the decision or order being appealed was communicated in writing by the Land Use Services officer to the aggrieved party. The applicant shall specify the grounds for the appeal on the appropriate application form along with the payment of established fees with the Land Use Services officer. The

Table of Contents

Land Use Services officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken. [Sec. 3604 (2)]

26.4.5 An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed from unless the County Land Use Services officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the County Land Use Services officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a circuit court. [Sec. 3604 (3)]

26.4.6 Following receipt of a written request for a variance, interpretation of the zoning ordinance, or an appeal of an administrative decision, the Zoning Board of Appeals shall fix a reasonable time for the public hearing and give notice as provided in MCL 125.3103 and described in Section 19.5 Public Hearing Requirements of this Ordinance. [Sec. 3604 (4)]

26.4.7 At the hearing, a party may appear in person or by an authorized agent or attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. [Sec. 3604 (6)]

26.4.8 The Zoning Board of Appeals shall only hear and decide a specific case that must include a public hearing.

26.4.9 The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance. [Sec. 3603 (2)] The Zoning Board of Appeals shall state the grounds of any determination made by the board. [Sec. 3604 (2)]

26.4.10 A member of the Zoning Board of Appeals who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same issue as a member of both bodies. However, the member may consider and vote on other unrelated matters involving the same property. [Sec. 3601 (13)]

SECTION 26.5 USE VARIANCE

Nothing herein contained shall be construed to give the Zoning Board of Appeals the power or authority to change the Zoning Ordinance or the Zoning Map so as to allow a use of land that is not permitted in the district in which the property is located.

SECTION 26.6 DIMENSIONAL OR NON-USE VARIANCE

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

26.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

SECTION 26.7 TIME LIMITS

Each variance granted under the provisions of this Ordinance shall become null and void unless:

The construction authorized by such variance has received a County zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.

SECTION 26.8 DECISION AS FINAL – APPEAL TO CIRCUIT COURT

26.8.1 The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located. [Sec. 3605]

26.8.2 An appeal under this section shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. [Sec. 3606]

ARTICLE 27 TOWNSHIP PARTICIPATION IN COUNTY ZONING

It having been established that the Township units of government in Otsego County are desirous of actively participating in zoning amendment and zoning procedures; and Otsego County having determined that such participation is needed in the zoning process,

NOW, THEREFORE, IT IS HEREBY DECLARED to be the policy of Otsego County that no zoning decision (with respect to those matters hereinafter set forth) affecting any particular township shall be made without the direct participation of said township so affected in accordance with the following procedures:

27.1 When a Petition is filed with the Otsego County Planning Commission with respect to any of the four (4) types of requests listed below, and then the procedure specified in 27.2 shall be followed prior to a decision being rendered by the County Planning Commission or the County Zoning Board of Appeals:

27.1.1 Changes in zoning district boundaries;

27.1.2The approval of Uses Subject to Special Conditions, Special Approval Uses, and Special Land Uses;

27.1.3 The approval of Planned Unit Developments, all condominium projects, and all subsequent phases of an approved phased development;

27.1.4 Any appeal of an administrative decision, Ordinance interpretation, or variance.

27.2 Prior to a hearing by the County Planning Commission, the Otsego County Zoning Administrator shall forward, by certified or first class mail, said written petition to the township clerk of the township within which the property associated with the petition is located and shall execute and file an Affidavit of Mailing such petition.

Upon the approval or disapproval of the petition by the affected township, said township's clerk shall notify, in writing, the petitioning party and the Otsego County Zoning Administrator of the Township Board's decision. The Petition shall then be acted upon, with due regard to the affected Township's decision, by the Otsego County Planning Commission in conformance with this Ordinance.

In like manner, and under the same conditions, authority, and rule of policy, the Otsego County Board of Appeals, shall make no rule, interpretation or determination on any matter pertaining to a zoning variance (Article 26.2) affecting any particular township, without the Otsego County Zoning Administrator first forwarding, by certified or first class mail, said written petition to the township clerk of the township to be affected by said petition; the Zoning Administrator shall execute and file an Affidavit of Mailing as to such petition.

Upon the approval or disapproval of the petition by the affected township, said township's clerk shall notify, in writing, the petitioning party and the Otsego County Zoning Administrator of the Township Board's decision. The petition shall then be acted upon with due regard to the affected Township's decision by the Otsego County Zoning Board of Appeals in conformance with this ordinance.

The affected township shall take some official action to notify the county Zoning Administrator of its decision within forty (40) days after having received the written petition. The township may take an additional thirty (30) days to study the matter and take action thereon; but it shall file written notice with the Zoning Administrator within the original forty (40) days of its intention to take the additional time. It shall be presumed that the township waives its right to act if no action is taken within the applicable time period(s).

Table of Contents

Township participation in the zoning amendment and zoning decision procedures shall only apply to those townships which file notice with the Otsego County Zoning Administrator stating their desire to proceed under the provision of this article.

Table of Contents

ARTICLE 28 SEVERANCE CLAUSE

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 29 CONFLICTING REGULATIONS AND REPEAL OF PRIOR ORDINANCES

Whenever in the county there are provisions in two (2) or more laws or ordinances that have conflicting provisions, the law or ordinance with the more stringent requirements or regulations shall govern, except where a township has a validly enacted zoning ordinance under the provisions of Public Act 110 of 2006, the Michigan Zoning Enabling Act, then for as long as such zoning ordinance remains lawful and in effect, its regulations shall govern the use of land within that township.

THIS PAGE LEFT BLANK INTENTIONAL

ARTICLE 30 RESERVED FOR FUTURE USE

THIS PAGE LEFT BLANK INTENTIONALLY

ARTICLE 31 EFFECTIVE DATE

Public Hearing having been held hereon, the provisions of this Ordinance are hereby declared to be necessary for the preservation of the public health, peace and safety, and are hereby adopted by ordinance on May 13, 2003, by the Otsego County Board of Commissioners and become effective the day after approval by the Michigan Department of Commerce.

THIS PAGE LEFT BLANK INTENTIONALLY