

**OTSEGO COUNTY ZONING ORDINANCE AMENDMENT
NOTICE OF ADOPTION**

Following a recommendation from the Otsego County Planning Commission, the Otsego County Board of Commissioners adopted changes to the Otsego County Zoning Ordinance at their December 15, 2015 regular meeting, including changes to the following sections:

Article 9 AR/Agricultural Resource – amending language to reflect a Zoning Board of Appeals determination that Agricultural Equipment Auctions are a permitted use subject to special conditions.

Article 17 Schedule of Dimensions – amending ‘note g’ to clarify that it applies to the HX/Highway Interchange zoning district.

Article 21, Section 21.46 – amending to update language referencing the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning Enabling Act (Michigan Public Act 100 of 2006 as amended including Act 143 of 2012).

Article 27 Township Participation in County Zoning – amending to reflect that timeline extensions, per state law, for township response cannot be given for matters pertaining to items related to wireless communications towers.

The amendment can either be viewed on-line at <http://www.otsegocountymi.gov> or at the Otsego County Courthouse at 225 W. Main Street, Room 203, Gaylord, MI, weekdays between 8:00 am and 4:30 pm. If you have any questions, please call (989) 731-7520.

*The Otsego County Planning Commission is submitting a proposed amendment to ARTICLE 9 AR/Agricultural Resource zoning districts per the Zoning Board of Appeals decision on a comparable use:

ZBA Motion:

The Zoning Board of Appeals makes the determination that Agricultural Equipment Auctions are a comparable use to Article 9.2.4 'Livestock Auction Yards' and therefore, under Article 9.2.24 and Article 18.44, Agricultural Equipment Auctions are a permitted use subject to special conditions and the conditions of Livestock Auction Yards in the Agricultural Resource District (AR).

Agricultural Equipment Auction Yards:

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

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.]

Current language:

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.

Proposed language:

9.2.4 Auction yards for livestock and/or agricultural equipment 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.

*The Otsego County Planning Commission would like your input in reference to the Highway Interchange Zoning District and 'note g'. A detail was omitted when previously presented concerning 'note g' and the maximum building height. It was referenced in the chart below but was not clarified in 'note g' itself as to the possible percentage to exceed.

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](#))

<i>Zoning District</i>	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)		
<i>Zoning District</i>	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](#).

- 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, B2 and **IX** 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

*The Otsego County Planning Commission is submitting proposed language to ARTICLE 21/SECTION 21.46 as an update to the section.

Current language:

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 siting 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, siting, 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 siting 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.

Proposed language:

SECTION 21.46 WIRELESS COMMUNICATIONS:

Reference the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012). These set forth provisions concerning placement, location and construction of towers and related facilities for wireless services, provide rules for changes to existing towers and set time frames for municipality action. The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of the section are to: ...

*The Otsego County Planning Commission is submitting proposed language to ARTICLE 27/TOWNSHIP PARTICIPATION per Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012) referencing the timeframe of ninety days for wireless communication cases before an automatic approval:

Current language:

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;
 - 27.1.2 The 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).

Proposed language:

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. **Exception:** Due to state law time frames for wireless communication towers, an extension beyond the original forty (40) days shall not be permitted. It shall be presumed that the township waives its right to act if no action is taken within the applicable time period(s).

*The Otsego County Planning Commission held a public hearing for the following on October 19, 2015:

2016-2021 Otsego County Capital Improvement Plan

Motion made by Mr. Hartmann to recommend adoption of the 2016-2021 Otsego County Capital Improvement Plan to the Otsego County Board of Commissioners; Seconded by Mr. Mang.

Motion approved unanimously.

