

September 24, 2019

The regular meeting of the Otsego County Board of Commissioners was held in Room 100 of 225 West Main Street, Gaylord, Michigan. The meeting was called to order at 9:30 a.m. by Chairman Ken Borton. Invocation by Commissioner Julie Powers, followed by the Pledge of Allegiance led by Jon Deming.

Roll Call:

Present: Julie Powers, Henry Mason, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton.

Excused: Bruce Brown.

Consent Agenda:

Motion by Commissioner Duane Switalski, seconded by Commissioner Rob Pallarito, to approve the Regular minutes of September 10, 2019 with attachments. Ayes: Unanimous. Motion carried.

Special Presentations:

Lisa McComb reported on the Otsego County Economic Alliance; thanked the County for the continued support; 22 Board members; income comes from various places, 36% from private contributions 80 partners, 32% from grants and public service contracts, 24% public service agreements, 8% from grants; provides free information for citizens who would like to start or continue a business. In 2020, 2 new hotels, apartment community 228 units, Wolverine Power expansion.

Department Head Reports:

Maureen Derenzy reported on the Library; major expansion started April 2017 is now finished. 3.7-million-dollar project cost, 25,000 square feet, 2 floors.

Committee Reports:

Motion by Commissioner Ken Glasser, seconded by Commissioner Doug Johnson, to increase the previously approved internal loan from the County to EMS by \$15,500 to a total loan amount of \$210,500 for the purchase of a rescue truck. Ayes: Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton. Nays: Henry Mason, Julie Powers. Excused: Bruce Brown. Motion carried.

Motion by Commissioner Ken Glasser, seconded by Commissioner Paul Liss, to approve the proposed September 30, 2020 budget for the Otsego County Commission on Aging. Ayes: Unanimous. Excused: Bruce Brown. Motion carried. (see attached)

Motion by Commissioner Ken Glasser, seconded by Commissioner Julie Powers, to approve the budget amendment in the OCNet Fund (Fund 594) in the amount of \$18,189 to extend OCNet fiber to the Community Center. Ayes: Julie Powers, Paul Liss, Duane Switalski, Rob Pallarito,

Ken Glasser, Doug Johnson, Ken Borton. Nays: Henry Mason. Excused: Bruce Brown. Motion carried. (see attached)

Motion by Commissioner Ken Glasser, seconded by Commissioner Rob Pallarito, to enter into a 1 year inter local governmental agreement with Crawford County to provide administrative and compliance services as required by the MIDC, in the amount of \$26,000 contingent upon approved from the MIDC. Ayes: Unanimous. Excused: Bruce Brown. Motion carried. (see attached)

Motion by Commissioner Ken Glasser, seconded by Commissioner Duane Switalski, to award the bid for the Land Use Services vehicle to Jim Wernig Chevrolet for a 2019 Chevy Equinox LS in the amount of \$22,755. Ayes: Julie Powers, Paul Liss, Duane Switalski, Rob Pallarito, Ken Glasser, Doug Johnson, Ken Borton. Nays: None. Abstained: Henry Mason. Excused: Bruce Brown. Motion carried.

Motion by Commissioner Ken Glasser, seconded by Commissioner Henry Mason, to approve a budget amendment for the Otsego County Jail (General Fund Department 101-351). Ayes: Unanimous. Excused: Bruce Brown. Motion carried. (see attached)

Motion by Commissioner Ken Glasser, seconded by Commissioner Duane Switalski, to approve a budget amendment for Friend of the Court Fund (Fund 215) to replace two printers at a cost of \$1,998. Ayes: Unanimous. Excused: Bruce Brown. Motion carried. (see attached)

Motion by Commissioner Rob Pallarito, seconded by Commissioner Julie Powers, to adopt the proposed text amendments to Sections, 2,21.12 and Articles 4,5, and 7-10 of the Otsego County Zoning Ordinance. Ayes: Unanimous. Excused: Bruce Brown. Motion carried. (see attached)

#### Administrator's Report:

Rachel Frisch thanked Lisa McComb and Brandy for their hard work; Thanked Maureen Derenzy and staff for their hard work during the construction; Flu shot clinic 9-24-19 in room 100 at the County Building from 1:00 p.m.-2:00 p.m.; 2020 budget process thanked Mel, elected officials and department heads; Building improvements, windows have been replaced, roofers to start; I.T. department indicated another wave of fake emails coming through the County's system again; Township Association meeting is 10-15-19 at 6:00 p.m. at the County Library; ribbon cutting for the Ironbelle Trail is 9-26-19 at 4:00 p.m. at the Tourism Bureau; Met with the DNR and the Snowmobile club regarding concerns on the trail during snowmobile season, snowmobile club to enhance signage and benches will be removed in the fall. Trail maintenance was also discussed; Bids for the trail head came back high.

#### City Liaison, Township & Village Representative:

Michelle Noirot, Bagley Township Supervisor, City approved the apartment application.

Correspondence:

Commissioner Ken Glasser received a letter from the AuSable River Zoning review.

Commissioner Paul Liss received a letter from the DNR regarding property purchase in Corwith Township, Story Lake.

Commissioner Ken Borton received a Thank you letter from NEMSCA.

New Business:

Motion by Commissioner Paul Liss, seconded by Commissioner Henry Mason, to approve the September 12, 2019 Warrant in the amount of \$285,021.68. Ayes: Unanimous. Motion carried.

Motion by Commissioner Doug Johnson, seconded by Commissioner Rob Pallarito, to approve the September 17, 2019 Warrant in the amount of \$214,166.42. Ayes: Unanimous. Motion carried.

Motion by Commissioner Henry Mason, seconded by Commissioner Paul Liss, to approve the September 24, 2019 Warrant in the amount of \$266,307.04. Ayes: Unanimous. Motion carried.

Chairman Ken Borton opened up the meeting for public comment.

Board Remarks:

Commissioner Rob Pallarito reported on 10-18-19 at 3:00 p.m. there is a celebration at the Pigeon River Discovery Center.

Commissioner Ken Glasser attended Camp Grayling Community meeting; Road Commission meeting, public hearing at the next meeting regarding fee increases.

Commissioner Paul Liss reported 10-15-19 at 4:00 p.m. is the tentative trail head ribbon cutting ceremony in Vanderbilt.

Commissioner Duane Switalski commented on how nice the Groen Nature entrance looks.

Commissioner Julie Powers commented on the EMS purchase, very supportive of the EMS worried about spending; attended the City Council meeting, patrol and car towards SANE.

Commissioner Henry Mason attended the Road Commission, working hard at balancing the budget; looking at ways to save money. Having more employees do some of the work rather than outsource it. Attended the City Council meeting, SANE asking for more money.

Commissioner Doug Johnson thanked Lisa McComb and staff and Thanked Maureen and staff.

Commissioner Ken Borton will be heading to Washington DC with Rob Pallarito on October 3<sup>rd</sup> as a follow-up meeting with President Trump's administration.

Meeting adjourned at 11:00 a.m.

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Kenneth C. Borton, Chairman

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Susan I. DeFeyter, Otsego County Clerk

## Otsego County Commission on Aging

2019-2020 OCCOA BUDGET		
<b>REVENUE:</b>		
	NEMCSA FEDERAL GRANT INCOME	\$ 150,150.00
	NEMCSA STATE GRANT INCOME	97,284.00
	DONATION INCOME	123,930.00
	TOBACCO/WAIVER/OTHER GRANTS	86,325.00
	PRIVATE PAY-OTSEGO HAUS	52,000.00
	TAX RECEIPTS INCOME	1,294,000.00
	CASH MATCH FOR GRANTS	24,562.00
	INTEREST INCOME	10,000.00
	ACTIVITIES/SPECIAL EVENTS INCOME	33,000.00
	CONTRACTED INCOME	67,400.00
	TRANSFER FROM FUND EQUITY	147,784.00
	<b>BUDGETED TOTAL INCOME:</b>	<b>\$2,066,435.00</b>
<b>EXPENSES:</b>		
	SALARY EXPENSES	\$ 1,284,000.00
	FRINGE BENEFITS	114,233.00
	RSVP FUNDING EXPENSE	42,000.00
	EMPLOYEE BENEFIT	22,410.00
	BOARD EXPENSE	500.00
	RENTS	46,088.00
	RAW FOODS	237,200.00
	EMPLOYEE LUNCH ACCOUNT EXPENSE	1,800.00
	UTILITIES-OTSEGO HAUS	8,000.00
	DUES EXPENSE	3,410.00
	POSTAGE EXPENSE	3,700.00
	SUPPLIES EXPENSE	22,046.00
	KITCHEN SUPPLIES	10,250.00
	TELEPHONE EXPENSE	11,950.00
	SERVICE CONTRACTS/GRANTS	4,120.00
	HOME MEAL DELIVERY EXPENSE	55,000.00
	TRANSPORTATION EXP-OTSEGO HAUS	200.00
	CLEANING EXPENSE	2,800.00
	STAFF TRAVEL EXPENSE	33,926.00
	REPAIR/MAINT EXPENSE	3,650.00
	GARBAGE REMOVAL EXPENSE	1,150.00
	VOLUNTEER PROGRAMS EXPENSE	8,500.00
	EQUIPMENT LEASING-GENERAL OPER	10,540.00
	EQUIPMENT PURCHASE EXPENSE	1,500.00
	COMPUTER EXP-GENERAL OPER	6,000.00
	PRIME TIMES ADVERTISING EXPENSE	9,100.00
	INSURANCE EXPENSE	25,325.00
	AUDIT/PROFESSIONAL FEES	6,500.00
	ADVERTISING EXPENSE	13,300.00
	LEASHOLD IMPROVEMENTS	500.00
	TRAINING EXPENSE	12,900.00
	ACTIVITIES/SPECIAL EVENTS EXPENSES	37,275.00
	CASH MATCH EXP-GENERAL OPER	24,562.00
	TAX TRIBUNAL CHARGEBACKS	2,000.00
	MILLAGE CAMPAIGN 8/2019	
	<b>BUDGETED TOTAL EXPENSES:</b>	<b>\$2,066,435.00</b>
	<b>Revenue over Expenses/Expenses over Revenue:</b>	<b>\$0.00</b>



**OTSEGO COUNTY  
BUDGET AMENDMENT**

**FUND/DEPARTMENT: OCNet Fund**

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type:  General  Special Revenue  Debt Service  Capital Project  Business-Type (Enterprise or Internal Svc)

**DESCRIPTION** Fiber Extension for Community Center

**REVENUE**

Account Number	Decrease	Increase
594-050-400.001 Budgeted Use of Fund Balance	\$	\$ 18,189
	\$	\$
	\$	\$
	\$	\$
<b>Total</b>	\$	\$ 18,189

**EXPENDITURE**

Account Number	Increase	Decrease
594-806-940.010 Outside Contracted Services	\$ 18,198	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
<b>Total</b>	\$ 18,189	\$

Department Head Signature \_\_\_\_\_ Date \_\_\_\_\_

Administrator's Signature \_\_\_\_\_ Date \_\_\_\_\_

<b>Finance Department</b>
Entered:
By:

Board Approval Date (if necessary) \_\_\_\_\_ Budget Adjustment # \_\_\_\_\_ Posting Number \_\_\_\_\_

**INTER LOCAL GOVERNMENTAL AGREEMENT  
FOR THE COUNTY OF CRAWFORD TO PROVIDE MANAGED  
ASSIGNED INDIGENT DEFENSE COUNSEL ADMINISTRATION  
FOR THE COUNTY OF OTSEGO  
October 1, 2019 through September 30, 2020**

This agreement made the date hereinafter set forth by and between the County of Crawford, hereinafter referred to as "Counsel Administrator" and the County of Otsego hereinafter referred to as "the County".

1. **Services to be Performed:** The Counsel Administrator agrees to administer the County's indigent criminal defense programs for adult criminal defendants pursuant to Michigan Indigent Defense Commission Standards- See Attachment A for Scope of Services. This Agreement does not include services related to the appointment of counsel in juvenile, probate, or family division matters.

2. **Payment**

In consideration for the services to be performed by the Counsel Administrator, the County agrees to pay an annual amount based on the total number of new criminal cases filed in the County's courts in the prior full calendar year, as set forth on Exhibit B, attached. The annual payment amount shall be based on the State Fiscal Year ending September 30<sup>th</sup>, divided into equal quarterly payments during the term of the contract, unless earlier terminated.

Counsel Administrator shall be paid within a reasonable time after Counsel Administrator submits a quarterly invoice to the County. The invoice must include an invoice number, dates covered by the invoice, and a summary of the work performed.

3. **Expenses**

Counsel Administrator shall be responsible for all expenses incurred while performing services under this Agreement, including but not limited to, office supplies and overhead expenses; automobile maintenance, repair, or license fees, fuel and travel expenses; insurance premiums; training; licensure; wages, fringe benefits and any other compensation paid to employees or subcontractors.

4. **Vehicle and Equipment**

Counsel Administrator will furnish all vehicles, equipment, tools, and materials used to provide the services required by this Agreement. Counsel Administrator will not require the County to rent or purchase any equipment, product, or service as a condition of entering into this Agreement.

5. **Independent Contractor Status**

Counsel Administrator is an independent contractor and neither the Counsel Administrator nor the Counsel Administrator's employees or subcontractors, if any, shall

be deemed County employees. In its capacity as independent contractor, the Counsel Administrator agrees as follows:

- This Agreement with the County is not exclusive, and Counsel Administrator has the right to perform services for others during the term of this Agreement, provided such service does not impair or delay their ability to perform obligations to the County under this Agreement.
- Counsel Administrator has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed provided such services under this Agreement are timely.
- Counsel Administrator has the right to hire assistants as subcontractors or to use employees to provide the services required by this Agreement providing such subcontractors and employees are properly licensed and/or qualified to perform the services included under this Agreement.
- Neither the Counsel Administrator nor the Counsel Administrator's employees or subcontractors shall be required to wear any uniforms provided by the County.
- The services required by this Agreement shall be performed by the Counsel Administrator, Counsel Administrator's employees or subcontractors and the County shall not hire, supervise or pay any Counsel Administrator employees or subcontractors for services under this Agreement.
- Neither the Counsel Administrator nor the Counsel Administrator's employees or subcontractors shall receive training from the County in the professional skills necessary to perform the services required by this Agreement.
- Neither the Counsel Administrator nor the Counsel Administrator's employees or subcontractors shall be required by the County to devote full time to the performance of the services required by this Agreement. However, Counsel Administrator agrees that the services provided under this Agreement will be performed in a timely manner.

#### **6. Business Licenses, Permits, and Certificates**

Counsel Administrator represents and warrants that Counsel Administrator and Counsel Administrator's employees and subcontractors, if any, will comply with all federal, state, and local laws requiring drivers and other licenses, business permits, and certificates required to carry out the services to be performed under this Agreement. Counsel Administrator's staff attorney assigned to this Agreement shall maintain membership at all times with the State Bar of Michigan as an active attorney and Counsel Administrator shall be responsible for the payment of the attorney's dues as an active attorney.

In the event that the Counsel Administrator shall no longer employ an active member of the State Bar of Michigan assigned to this Agreement; then this Agreement shall immediately terminate. In the event that the Counsel Administrator's staff attorney's license to practice law is suspended, for any reason other than for the failure to pay membership dues on a timely basis, any sums due and owing to the Counsel Administrator for services rendered shall be withheld until such time as confirmation of the reinstatement of the license to practice law is provided to the County Administrator.

#### **7. State and Federal Income Taxes**

The County will not withhold FICA (Social Security and Medicare taxes) from Counsel Administrator payments or make FICA payments on Counsel Administrator's behalf or on behalf of Counsel Administrator's employees or subcontractors, or make state or federal unemployment compensation contributions on Counsel Administrator's behalf or on behalf of Counsel Administrator's employees or subcontractors, or withhold state or federal income tax from Counsel Administrator's payments on Counsel Administrator's behalf or on behalf of Counsel Administrator's employees or subcontractors.

Counsel Administrator shall pay all taxes incurred on its behalf or on behalf of Counsel Administrator's employees while performing services under this Agreement, including all applicable income taxes. Upon demand, Counsel Administrator shall provide the County with proof that such payments have been made.

#### **8. Fringe Benefits**

Counsel Administrator understands that neither the Counsel Administrator nor Counsel Administrator's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of County.

#### **9. Unemployment Compensation**

The County shall make no state or federal unemployment compensation payments on behalf of Counsel Administrator or Counsel Administrator's employees or subcontractors. Counsel Administrator is solely responsible for providing these benefits for its employees or subcontractors in connection with work performed under this Agreement.

#### **10. Workers' Compensation**

The County shall not obtain workers' compensation insurance on behalf of Counsel Administrator or Counsel Administrator's employees or subcontractors, if any. If Counsel Administrator hires employees to perform any work under this Agreement, Counsel Administrator will be solely responsible for any workers' compensation insurance to the extent required by law. Similarly, if Counsel Administrator hires subcontractors to perform any work under this Agreement, Counsel Administrator will ensure the subcontractors have workers' compensation insurance to the extent required by law and will provide the County with a certificate of workers' compensation insurance before any work is performed by any subcontractor.

#### **11. Automobile Insurance**

The County shall not provide insurance coverage of any kind for Counsel Administrator or Counsel Administrator's employees or subcontractors. Upon request, Counsel Administrator shall provide proof of automobile liability insurance for each vehicle used in the performance of this Agreement, including owned, non-owned (for example, owned by Counsel Administrator's employees), leased, or hired vehicles in the minimum amount of \$1,000,000 combined single limit per occurrence for bodily injury and property damage, and maintain same during the entire term of this Agreement:

#### **12. Indemnification**

Each party shall indemnify and hold the other party harmless from any loss or liability arising from performing services under this Agreement including any services performed

by the parties' employees or subcontractors.

**13. Modifying the Agreement**

This Agreement may not be modified except by amendment reduced to writing and signed by both the County and the Counsel Administrator.

**14. Term of Agreement**

This agreement will become effective October 1, 2019 and will terminate on September 30, 2020.

**15. Termination**

Either party shall, at any time and for any reason, be entitled to terminate the Agreement provided that the County shall be obligated to compensate the Counsel Administrator for services already performed under this Agreement. The parties shall give sixty (60) days written advance notice in the event they desire to terminate this Agreement. Such written notice shall be provided to the other party's County Administrator, or if there is no County Administrator, to the County Clerk.

Counsel Administrator shall be in default if it fails to comply with any provision of this Agreement or commits misfeasance, malfeasance, or nonfeasance in its performance of the duties under the Agreement.

This Agreement does not apply to any work or job performed by the Counsel Administrator, Counsel Administrator's employees or subcontractors for any other governmental entity, corporation, partnership, business venture or self-employment opportunity and shall not be construed as any partnership or joint venture, but instead is merely a contract for services rendered to the County.

**16. Binding Effect**

This agreement shall become effective when signed by both parties and shall be binding on the parties, their successors and assigns.

**17. Entire Agreement**

This Agreement sets forth the entire understanding between the Counsel Administrator and the County with respect to the subject matter of this Agreement, and supersedes any other undertakings and agreements, whether oral or in writing, previously entered into by them with respect to Counsel Administrator's duties. Counsel Administrator represents that, in executing this Agreement, Counsel Administrator does not rely on and has not relied upon any representation or statement not set forth in this Agreement made by the County with regard to the subject matter or effect of this Agreement or otherwise.

**18. No Waiver**

The parties' failure to exercise, or delay in exercising, any power or right under this Agreement shall not operate as a waiver, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of remedies otherwise available in equity or at law.

**19. Severability of Provisions**

Each provision in this Agreement is separate. If any provisions of this Agreement are ever held by a court to be unreasonable, the parties agree that this Agreement shall be enforced to the extent it is deemed to be reasonable and in such a manner as to afford the parties the fullest protection commensurate with making this Agreement, as modified, legal and enforceable under applicable laws, and the balance of this Agreement shall not be affected, the balance being construed as severable and independent.

**20. No Assignment**

Neither party may assign this Agreement without the prior written consent of the other party.

**21. Section Headings**

Section headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

**22. Governing Law**

This Agreement shall be governed by the laws of the State of Michigan.

**AGREED:**

**Managed Assigned Counsel Administrator:**

By: \_\_\_\_\_  
Paul Compo, Crawford County Controller

\_\_\_\_\_  
Date

**Otsego County:**

\_\_\_\_\_  
By: Ken Borton  
Chair - Board of Commissioners

\_\_\_\_\_  
Date

Attachment A:

**ASSIGNED COUNSEL ADMINISTRATOR  
SCOPE OF SERVICES**

**Summary:**

The Counsel Administrator is responsible for facilitating, monitoring and coordinating the County's indigent criminal defense program, pursuant to Michigan Indigent Defense Commission (MIDC) standards, to ensure that indigent adult defendants receive competent legal representation in criminal proceedings. The Counsel Administrator is responsible for MIDC compliance and reporting, screening, selecting and maintaining a roster of eligible attorneys for case assignment and first appearance (subject to County approval), evaluating attorney performance, maintaining payments, authorizing investigative resources and performing other duties associated with the provision of competent and consistent legal representation.

**Essential Functions:**

Counsel Administrator is expected to provide the following services pursuant to the Agreement:

1. Manages the county's public criminal defense operation separate from the court; including budgeting, planning, reporting, procedure verification, and general administration. Provides County Administration with ongoing reports regarding caseload, legal resources and costs.
2. Contracts for any necessary Counsel Administrator's support staff. Maintains responsibility for directing day-to-day operation workload of personnel, evaluates performance, and assures necessary training and professional development
3. Oversees indigence eligibility screening for assigned counsel based on income and other available assets. Follows baseline criteria ensuring that procedures are consistently applied.
4. Identifies attorneys that are qualified to accept assignments. Ensures that interested attorneys meet the MIDC standards established for legal providers, including but not limited to basic skills and annual training requirements thereby ensuring the County's compliance with MIDC.
5. Maintains a roster of qualified attorneys, makes case assignments, and oversees scheduling of counsel. Monitors cases and the performance of assigned attorneys.
6. Works with current attorneys that are under contract with the County to ensure MIDC requirements and the conditions of the contracts are met.

7. Approves the use of investigators, experts and other resources required for particular cases and assigned counsel.
8. Reviews, approves and handles vouchers for payment to assigned attorneys, investigators, experts and other expenditures associated with particular cases.
9. Resolves non-grievance matters between defendants and assigned counsel and the courts, including administratively reassigning counsel when appropriate.
10. Assists with the coordination of compliance with the MIDC standards, including required reporting, drafting annual grant requests for funding compliance plans and quarterly grant claims.
11. Attends legal conferences and seminars to stay current on legal issues, updates administrative techniques regarding public defender requirements and other legal matters.
12. Performs other duties as required by MIDC.

**Required Minimum Staff Attorney Qualifications:**

- Juris Doctorate degree and licensed to practice law in the State of Michigan and a member in good standing with the Michigan Bar Association.
- Valid Michigan Vehicle Operator's License.
- Ability to attend meetings scheduled at times other than normal business hours.
- Ability to respond to emergencies or service needs on a 24-hour basis.

**Preferred Additional Staff Attorney Qualifications:**

- At least 5 years of progressively more responsible experience in the practice of criminal defense or the equivalent. The Contract Administrator, at its discretion, may consider an alternative combination of formal education and work experience.
- Thorough knowledge of the professional public management techniques involved in budgeting, personnel administration and resource management and the ability to identify and implement new best practices.
- Thorough knowledge of the principles and practices of State of Michigan criminal law and public defense processes and procedures.
- Skill in assembling and analyzing data, preparing comprehensive and accurate reports, and formulating policy and service recommendations.

- Skill in effectively communicating ideas and concepts orally and in writing and making presentations in public forums.
- Ability to establish effective working relationships and use good judgment, initiative and resourcefulness when dealing with County employees, contractors to the County, representatives of other governmental units and the courts, professional contacts, elected officials, and the public.
- Ability to assess situations, solve problems, work effectively under stress, within deadlines, and in emergency situations.
- Skill in the use of office equipment and technology, including Microsoft Suite applications and the ability to learn data base software utilized in public defense administration.

**Other Contractual Requirements:**

Contract Administrator's staff attorney shall not represent any indigent defendant or provide any Indigent Defense Representation Services in any court within the County.

ATTACHMENT B

County	2018 District Court Criminal Cases	2018 Circuit Court Criminal Cases	Total 2018 Criminal Cases Filed
Antrim	582	59	641
Charlevoix	934	102	1036
Cheboygan	1052	183	1235
Crawford	786	127	913
Emmet	1414	202	1616
Missaukee	457	84	541
Otsego	1401	218	1619
	Total 2018 Criminal Cases Filed		Annual Contract Rate
	< 1,000 total		\$18,500
	1,001 - 1,250		\$21,000
	1,251 - 1,500		\$23,500
	1,501- 1,750		\$26,000
	> 1,750		\$28,500
----- District Court Caseload includes Non-Traffic Felony and Misdemeanor new filings, Traffic Misdemeanors and OUIL/OVI		----- Circuit Court Caseload includes Criminal Capital & Criminal Non-Capital new filings	





**OTSEGO COUNTY  
BUDGET AMENDMENT**

FUND/DEPARTMENT: Friend of the Court

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type:  General  Special Revenue  Debt Service  Capital Project  Business-Type (Enterprise or Internal Svc)

DESCRIPTION Printer Replacements

**REVENUE**

Account Number	Decrease	Increase
215-030-400.001 Budgeted Use of Fund Balance	\$	\$ 1,998
	\$	\$
	\$	\$
	\$	\$
<b>Total</b>	\$	\$ 1,998

**EXPENDITURE**

Account Number	Increase	Decrease
215-141-970.440 Property Computers	\$ 1,998	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
<b>Total</b>	\$ 1,998	\$

*Oracey J. Crey*  
Department Head Signature

9-17-19  
Date

<b>Finance Department</b>
Entered:
By:

\_\_\_\_\_  
Administrator's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board Approval Date (if necessary)

\_\_\_\_\_  
Budget Adjustment #

\_\_\_\_\_  
Posting Number



*Otsego*  
COUNTY  
M I C H I G A N

*Department of  
Land Use Services*  
1322 Hayes Rd • Gaylord, MI 49735  
Phone: 989.731.7400 • Fax: 989.731.7419  
[www.otsego-county.mi.gov](http://www.otsego-county.mi.gov)

To: Otsego County Board of Commissioners

RE: Text Amendment / Sections 2.2, 21.12, Article 4, 5, and 7-10 Family and Group Care Facilities

Motion made by Mr. Hartmann to recommend adoption of the proposed language to Sections 2, 21.12 and Articles 4,5, and 7-10 pertaining to Family and Group Care Facilities to the Otsego County Board of Commissioners; Seconded by Mr. Borton.

Motion approved unanimously.

\*\*\* Amendment changes / additions are highlighted in yellow

\*\*\*Amendment deletions are double struck

*Proposed Language:*

ARTICLE 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Amended 3.29.2018

**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."

**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.

**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 setbacks.

**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

**BUILD-TO-AREA:** The space within the Build-to-Line and the Lot Line Sides. The Build-to-Area may vary a distance on either side of the Build-to-Line. The distance is determined by measuring the number of feet between the Build-to-Line and the public right-of-way and multiplying the number of feet by ten percent (10%).

**BUILD-TO-LINE:** The line of vertical plane formed by the planned building facade that is parallel to the road right-of-way and extends to and coincides with the plane of the front facade of existing or planned buildings along the same right-of-way.

**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 facility ~~A single family residence in which care or supervision is provided for,~~ required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol, 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 facility is excluded from this definition. This does not include commercial day care facilities, family child care homes, group child care homes, foster homes, schools, hospitals, jails or prisons.

**CARE FACILITY, GROUP:** A facility ~~in which care or supervision is provided for,~~ required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol, for at least seven (7) but not more than twelve (12) ~~minor children or adults.~~ Care for persons related by blood, marriage, or adoption to a member of the family occupying the facility are excluded from this definition. This does not include commercial day care facilities, family child care homes, group child care homes, foster homes, schools, hospitals, jails or prisons.

**CHILD CARE HOME, FAMILY:** A private home in which 1 but fewer than 7 minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. This definition is intended to be pursuant to the Child Care Organizations Act, MCL 722.111

**CHILD CARE HOME, GROUP:** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. This definition is intended to be pursuant to the Child Care Organizations Act, MCL 722.111

**CLIMBING BARRIER:** Material attached to the lowest eight feet (8') of a lattice tower for the prevention of using structural cross members as a ladder; a safety feature to discourage climbing by unauthorized individuals

**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.

**COURTYARD:** An unroofed area that is completely or mostly enclosed by the walls of a large building.

**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.

**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.

**FENESTRATION:** The arrangement of windows and doors on the elevations of a building.

**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.

**GARBAGE:** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food. A self-contained compost pile is not considered garbage.

**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.

**GLAZING:** Furnishing or fitting with glass all surfaces on a fenestration.

**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:** The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes. Family or group child care homes shall not be considered a home occupation and shall be regulated under 2006 PA 110, MCL 125.3206 and 1973 PA 116, MCL 722.111 to 722.128

**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:** 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, stove, refrigerators, or other appliances.

**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 21.38.03.01.

**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.

**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.

**NEO-TRADITIONAL:** Reviving traditional methods; combining tradition with newer elements.

**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

**PERSONAL WIRELESS SERVICES TELECOMMUNICATIONS TOWERS AND FACILITIES:** Self-supporting or guyed towers of one hundred fifty feet (150') or less that provide data and internet access within a three to five (3-5) mile radius. These low wattage towers are a Permitted Use Subject to Special Conditions. (Section 21.46)

Section 322(c)(7) of the Federal Communications Act uses the following definitions:

(i) the term "personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services; and

(iii) the term "unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

**PLANNING COMMISSION:** Shall mean the Otsego County Planning Commission

**PLAZA:** A public square in a city or town; an open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit and sometimes shops.

**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.

**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.

**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.

**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.

## 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, meeting applicable state licensing requirements

4.1.6 Family child care homes and group child care homes

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

4.1.78 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

4.1.89 The following in-home uses provided no more than fifteen percent (15%) of floor area may be used for such a purpose:

4.1.89.1 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]

4.1.910 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

4.1.1011 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

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 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes 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

## **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 trunk line 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 21.12.02, 21.12.05]
- 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
- 5.2.6 Commercial day care facilities
- 5.2.7 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes 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 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 meeting applicable state licensing requirements
- 7.1.7 Family child care homes and group child care homes
- 7.1.78 Bed and Breakfast/Tourist Homes
- 7.1.89 Travel trailers [Permit criteria include Article 21.33]
- 7.1.910 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.
- 7.1.4011 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.
- 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 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes 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 meeting applicable state licensing requirements
- 8.1.8 Family child care homes and group child care homes
- 8.1.9 Duplex dwellings
- 8.1.10 Fraternal lodges
- 8.1.11 Landing strips
- 8.1.12 Wildlife, plant, and habitat preservation areas
- 8.1.13 Cemeteries [Permit criteria include Article 21.4]
- 8.1.14 Riding academies or stables [Permit criteria include Article 21.35]
- 8.1.15 Travel trailers (on private property) [Permit criteria include Article 21.33]
- 8.1.16 Home occupation
- 8.1.17 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height, without lights [Permit criteria include Article 21.46]
- 8.1.18 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.
- 8.1.19 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use
- 8.1.20 WTG Small: Permitted as an accessory use to an allowed Principal Use
- 8.1.21 WTG Medium: Permitted as an accessory use to an allowed Principal Use

### 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
- 8.2.22 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes Article 21.46]

## **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 meeting applicable state licensing requirements
- 9.1.12 Family child care homes and group child care homes
- 9.1.13 Forest production and forest harvesting operations including temporary sawmills, temporary log storage yards and related facilities
- 9.1.14 Fraternal lodges
- 9.1.15 Aircraft Landing Strips
- 9.1.16 Churches
- 9.1.17 Cemeteries [Permit criteria include Article 21.4]
- 9.1.18 Dwellings less than sixteen (16) feet wide [Permit criteria include Article 21.22]
- 9.1.19 Riding academies or stables [Permit criteria include Article 21.35]
- 9.1.20 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
- 9.1.21 Veterinary hospitals, clinics with indoor kennel [Permit criteria include Article 21.45]
- 9.1.22 Travel trailers (on private property) [Permit criteria include Article 21.33]
- 9.1.23 Home occupation
- 9.1.24 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
  - 9.1.24.1 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.
  - 9.1.24.2 All applicable sections of the zoning Ordinance apply
  - 9.1.24.3 The Zoning Administrator may opt to refer the application to the Planning Commission if there are unusual circumstances
- 9.1.25 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria include Article 21.46]
- 9.1.26 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.
- 9.1.27 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use
- 9.1.28 WTG Small: Permitted as an accessory use to an allowed Principal Use
- 9.1.29 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 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

- 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
- 9.2.25 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes Article 21.46]

## **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 and group care facilities meeting applicable state licensing requirements
- 10.1.18 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See Article 21.46]

#### **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
- 10.2.11 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes Article 21.46]

#### **SECTION 21.12 HOME OCCUPATION**

Amended 3.29.2018

##### **DEFINITIONS:**

**HOME OCCUPATION:** The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes. Family or group child care homes shall not be considered a home occupation and shall be regulated under 2006 PA 110, MCL 125.3206 and 1973 PA 116, MCL 722.111 to 722.128

##### **21.12.1 Home Occupation**

A Home occupation shall be permitted in all zones, provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises.

##### **21.12.2 Permit Required**

A Home Occupation Permit is required before any activity is initiated. A Home Occupation Application shall be submitted to the Zoning Administrator who may issue such permit when all applicable provisions of this Ordinance have been met and following approval by the proper body or official.

**21.12.3 Home Occupation Regulations:**

21.12.3.1 A Home Occupation shall not employ more than one (1) person other than those related by blood, marriage or adoption.

21.12.3.2 A Home Occupation shall not exceed fifteen (15) percent of the floor area of the primary residential structure, which can include the attached garage.

21.12.3.3 A Home Occupation Inventory and supplies shall not occupy more than fifty (50) percent of the area permitted to be used as a home occupation.

21.12.3.4 A Home Occupation 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.

21.12.3.5 A Home Occupation major activity shall be carried on indoors.

21.12.3.6 A Home Occupation shall have no exterior display or storage of goods on said premises.

21.12.3.7 A Home Occupation sales and services to patrons shall be arranged by appointment and scheduled so that not more than two (2) patron vehicles are on the premises at the same time.

21.12.3.8 A Home Occupation shall be limited to the hours (8 a.m. to 8 p.m.) to its patrons.

21.12.3.9 A Home Occupation shall provide three (3) additional parking spaces on the premises, except only two (2) need be provided if the home occupation does not have an employee.

21.12.3.10 A Home Occupation shall not generate greater traffic volumes than normally expected in a residential neighborhood. No additional on street parking demand shall be generated.

21.12.3.11 A Home Occupation may have One (1) non illuminated sign not to exceed 2 sq. ft. if it is attached to, and is parallel with the wall of the dwelling unit.

21.12.3.12 A Home Occupation use shall not take on the operational character of a business, industrial, industrial transit or institutional use in terms of parking, truck or commercial traffic, loading and unloading, and related activities.

21.12.3.13 A Home Occupation shall not make structural alterations which are architecturally at variance with the residential dwelling or which cannot be readily and simply returned to residential use. Exterior alterations shall not be of a design to indicate or characterize the presence of a home occupation.