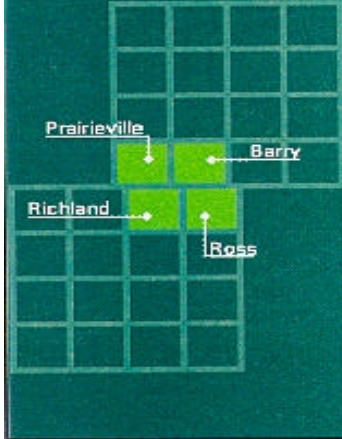
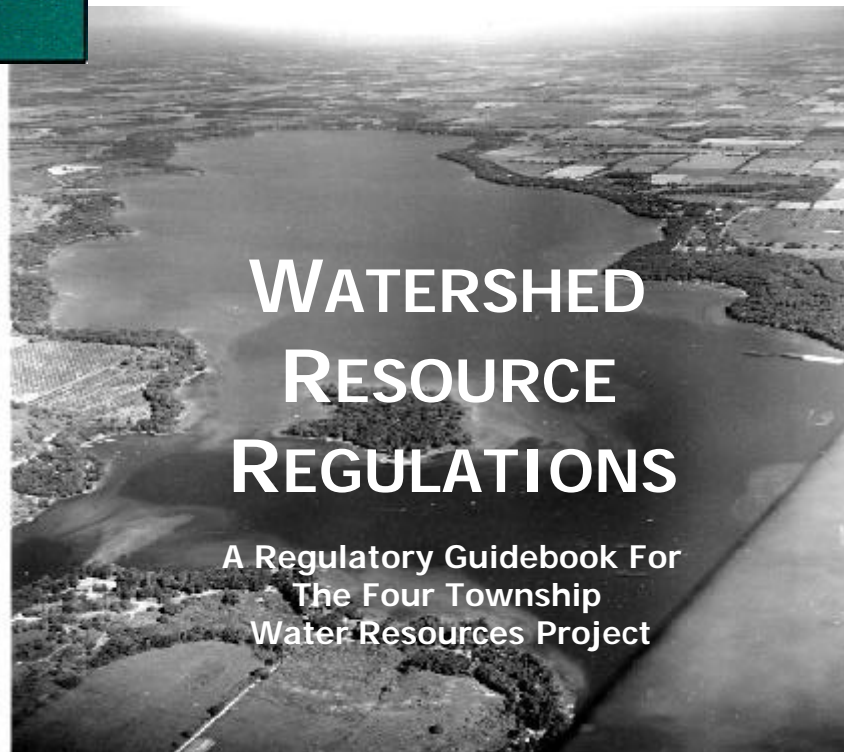


Four Township
Water Resources
Council, Inc.



THE FOUR TOWNSHIP WATER RESOURCES COUNCIL



WATERSHED RESOURCE REGULATIONS

A Regulatory Guidebook For
The Four Township
Water Resources Project

LSL
LANGWORTHY
STRADER
LEBLANC &
ASSOCIATES, INC.

ProgressiveAE

The publication of this document was funded,
in part, with a United States Environmental Protection Agency
non-point source pollution control grant awarded
under Section 319 of the federal Clean Water Act.

February 2001



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WATERSHED RESOURCE REGULATIONS

Introduction and Purpose

The Four Township Water Resources Project is a cooperative planning effort between the Four Township Water Resources Council and the communities of:

Kalamazoo County
 Ross Township
 Richland Township

Barry County
 Barry Township
 Prairieville Township

The Four Township Water Resources Council was established in 1994 to discuss and address common land use and water quality issues. Their mission is to assist the communities of the Four Townships in:

“..the development and implementation of land use strategies that retain the rural environment currently enjoyed by township residents, protecting lakes, streams, drinking water, agriculture, and open space.”

The Project objectives include:

- * Preparing updates of community master plans and zoning ordinances to permit implementation of innovative land use measures to protect water quality;
- * Development of a geographic information system (GIS) to facilitate identification and analysis of land and water features;
- * Acquisition and/or encouragement of the use of conservation easements, and other effective measures to protect sensitive land and water features in perpetuity; and
- * Implementation of an information dissemination/education program targeted at local government decision makers and area landowners.

The ultimate goal of the Four Township Water Resources Project is to implement land use policies on an intergovernmental basis that will pro-actively manage growth and protect water quality.

A Menu of Options

Watershed Resource Regulations

The Watershed Resource Papers, previously published, provided local decision makers with possible techniques available through land use planning and zoning for protecting or improving

water quality. The “menu of options” provided was intended to provide different alternatives to be used either individually or in combination. Much of the language of the Resource Papers was subsequently offered for integration into each community’s Master Plan.

As a followup to the Watershed Resource Papers, LSL Planning, with the assistance of Progressive Architecture Engineering, has compiled a series of example regulations that implement the techniques described in the Watershed Resource Papers. The following Watershed Regulation provisions have been prepared to address specific areas:

- * Farmland Preservation
- * Open Space Development
- * Site Plan Review Provisions
- * Water Quality Provisions
- * Lake Use and Access
- * Lakefront Nonconformities

In addition, a paper has been included for Useful Definitions related to the above regulations.

Using the Watershed Regulations

Watershed planning has traditionally focused on site-specific land use practices related to the quality of the natural environment, specifically water quality. The Four Township Water Resources Council has chosen to expand the typical approach to watershed management to address land use issues across several political jurisdictions.

A critical element of implementing any environmental or land use planning program is the need to ensure that implementation actions are justified by conditions present within the community, and that the measures used are appropriate and effective in addressing those conditions. Justification is necessary to ensure that any regulations or ordinances adopted to implement a specific land use objective have the proper “governmental interest” documented. Not only does this provide sufficient legal support, it also allows the community to express its degree of *commitment* to the objective. The Master Plan is the document in which this commitment can be stated.

The Watershed Resource Papers were used to provide that justification for each community within the Four Township study area that wished to implement specific water quality protection provisions. Adopting applicable elements of the Watershed Resource Regulations is the next step in the implementation of techniques necessary to effectively address each community’s concerns. Implementation takes the form of the ordinances, regulations, or other legal instruments written and adopted to accomplish the stated objective.

Ultimately, the success of the Project will be determined by the continuing efforts of each participating community to keep their Master Plans and regulations up to date, as well as ensuring adequate and continuing enforcement.



WATERSHED RESOURCE REGULATIONS

Water Resource Protection Definitions

The following definitions may be useful to include in either the zoning ordinance or in separate, police power ordinances implementing various provisions regarding water quality protection, rural character preservation, and other issues related to the Four Township Water Resources Project. Some terms may have more than one definition. The language for a number of definitions is subject to individual community preferences.

AGRICULTURE

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

Agricultural use” means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

AVERAGE GRADE

The average finished ground elevation at the center of all walls of a building established 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 finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

BUFFER STRIP

A strip of land required between certain Districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

COMMON LAND (COMMON AREA)

A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of individual dwelling units in a subdivision or planned unit development.

CONSERVATION EASEMENT

A legal agreement in which a landowner retains ownership of private property but conveys certain specifically identified rights to a land conservation organization or a public body.

DENSITY

The number of dwelling units per unit of lot area.

DENSITY, BASE

Base Density means a figure which equals the total number of dwelling units on a lot for Open Space Developments. Determination of base density is through the submission of a parallel plan, as provided in the Open Space Development regulations.

DENSITY, GROSS

Gross Density means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.

DENSITY, NET

Net Density means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot, excluding any lot area owned by a governmental entity; area used as a public or private street right-of-way; area occupied by a non-residential use; or areas that are otherwise unbuildable, such as wetlands, flood plain, or water.

Net density may be calculated as including the "otherwise unbuildable areas" as a means of encouraging their preservation. If density is calculated using the parallel plan, these areas may be included in a lot, but the lot must also have enough buildable area

DETENTION BASIN

A structure or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a predetermined rate. A detention basin may drain completely after a storm event, or it may be a pond with a fixed minimum water elevation between runoff events. (See *also definition for Retention Basin.*)

EXCAVATION

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

FARM

A contiguous parcel of land of not less than five (5) acres in area, directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer or with assistance of members of the household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm.

Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; and other similar uses and activities.

Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, hog farms, commercial feedlots, apiaries, truck farms, and forestry operations. The following are not considered farm uses: fish hatcheries, stockyards, recreation parks, stone quarries, gravel, dirt or sand pits, keeping furbearing animals or game, kennels, stables, riding academies, or mineral extraction.

GRADE

The gradient, the rate of incline or decline expressed as a percent. For example, a rise of twenty-five (25) feet in a horizontal distance of one hundred (100) feet would be expressed as a grade of twenty-five percent (25%).

GREENBELT

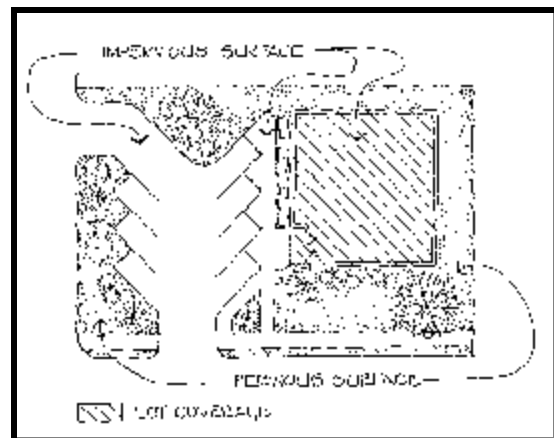
A strip of land of specified width and location reserved for the planting of shrubs, grasses, and/or trees to serve as an obscuring screen or buffer strip.

GROSS SITE AREA

The total area of a site including floodplains, wetlands, and waterbodies

IMPERVIOUS SURFACE

Any material that substantially reduces or prevents the infiltration of water such as streets, roofs, sidewalks, parking lots, and other similar surfaces.



LANDMARK TREE

Any living tree of stature standing alone in the open; or any living woodlot tree which stands obviously apart from its neighbors by size, form, or species. Living trees equal to or greater than thirty six (36) inches in diameter breast height (d.b.h.) will generally be considered a landmark tree regardless of location or type.

Landmark trees may be marked for preservation, or a replacement ratio provided, e.g., for every landmark tree removed, x number of trees must be planted.

LOT

A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

This definition allows site condominium "lots" to be considered as a "zoning lot," allowing minimum lot size, width, setbacks and other lot requirements to be enforced.

LOT COVERAGE

The part of the lot occupied by any building, including accessory buildings.

Or

The part or percent of the lot occupied by impervious surfaces, including, but not limited to, buildings or structures, paving, drives, patios, and decks.

The definition used for lot coverage will depend on whether or not the Township has decided to place additional controls on stormwater runoff. If stormwater regulations are used, the definition of lot coverage should include all impervious surfaces, not just buildings. Accordingly, allowable lot coverage percentages will be greater than those where only buildings are included.

LOT, WATERFRONT

A lot having frontage directly upon a water body or watercourse that meets the minimum lot width requirements of the district in which it is located, or have a nonconforming lot width.

MARINA

A facility extending into or over a body of water which offers service to the public or members of the marina for docking, loading, servicing, or other activities related to recreational or commercial watercraft.

Or

A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a "marina" under this chapter.

NON-CONFORMING BUILDING

A building/structure or portion that conformed with all zoning requirements at the time of its construction, but now does not conform to the setback, height, minimum area (for residential and accessory buildings), lot coverage, or yard provisions of the Zoning District in which it is located.

NON-CONFORMING LOT

A lot, whether platted or unplatted, that conformed with all zoning lot requirements at the time of its creation, but now does not conform to the zoning requirements for lot area, lot width, or both.

NON-CONFORMING USE

A use of land or building that conformed with the use requirements at the time of its establishment, but now does not conform to the use regulations of the Zoning District in which it is located.

NON-EROSIVE VELOCITY

A rate of runoff that does not erode soils. Non-erosive velocities vary for individual sites, based on topography, soil type, and runoff rates.

OPEN SPACE, COMMON

Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development, or multiple developments sharing the open space cooperatively.

ORDINARY HIGH WATER MARK

The line between upland and bottomland 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 the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present. The terms ORDINARY HIGH WATER MARK and SHORELINE, as used in this Ordinance, shall be synonymous.

PIERS

A platform extending from the shore over water and supported by piles, pillars or columns, used to secure and protect watercraft. The terms PIER and DOCK, as used in this Ordinance, shall be synonymous.

PLANNED UNIT DEVELOPMENT (PUD)

The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

PUBLIC OR PRIVATE BOAT LAUNCH

A facility, either publically or privately owned, used for the purposes of loading and unloading recreational or commercial watercraft into a body of water.

RETENTION BASIN

A holding area for stormwater, either natural or constructed, which does not have a positive outlet. Water is removed from retention basins either through infiltration and/or evaporation processes, and may or may not have a permanent pool of water. *(See also definition for Detention Basin.)*

SCREEN

A structure such as a fence, wall, landscape buffer, or combination of same, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

SIGNIFICANT NATURAL FEATURE

Any natural area as designated by the Planning Commission, Legislative Body, or the Michigan Department of Natural Resources, or other appropriate governmental agency, which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

Using a broad definition of "significant" allows the township to require a wide range of environmental and natural features to be shown on the site plan and be used as part of the review standards without defining each one.

STRUCTURE

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

SWALE

A low-lying stretch of vegetated land that gathers and carries surface water runoff.

WATER BODY

A natural or artificial lake, pond, or impoundment. (Note: The generalized location of water bodies is shown on the Township's Wetland and Surface Water Features Map.)

WATERCOURSE

A stream or creek which may or may not be serving as a drain as defined by Act 40 of the Public Acts of 1956, as amended, being MCLA 280.1 et seq. which has definite banks, a bed and visible evidence of a continued flow or occurrence of water. (Note: The generalized location of watercourses is shown on the Township's Wetland and Surface Water Features Map.)

WATER RESOURCES

Water resources means surface waters, including watercourses, water bodies, and wetlands, and groundwater.

WATERSHED

The geographic region in which water drains to a water body or watercourse. (Note: Major watershed boundaries are shown on the Township's Watershed Map.)

WETLAND

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. (Note: The generalized location of wetlands is shown on the Township's Wetland and Surface Water Features Map.)



WATERSHED RESOURCE REGULATIONS

Site Plan Review Provisions

The Zoning Acts state that a community may “require the submission and approval of a site plan before authorization of a land use or activity regulated by the zoning ordinance.” Before a site plan can be required, however, the ordinance must state which land uses or activities will need approval. Site Plan Review is required for all Special Land Uses and Planned Unit Developments.

Site plan review requirements detail what information must be included on a site plan when it is submitted for review. Although requiring significant natural features to be shown on a site plan is a first step in identifying environmentally sensitive areas, this is not a means of preservation.

Site plan review standards, on the other hand, are the criteria that a Planning Commission must use when reviewing all site plans. These standards help establish guidelines on how environmentally sensitive areas on a site are to be treated.

Site plans are not generally required for individual home sites, but rather for larger sites consisting of many homes, or commercial or industrial development. However, site plan review may be required for residential site condominiums. Site plan review can be required for site condominiums since the review process is generally equivalent to plat reviews.

The following examples cover a variety of zoning ordinance provisions and situations in which site plans may be useful, including what should be required on a site plan and other standards by which site plans should be evaluated.

Other ordinance provisions, such as open space regulations, will also require submission of a site plan, but may add to the requirements stated in the site plan review chapter. For example, the open space provisions also may require a second site plan as a “parallel plan” used to determine base density. In addition, the arrangement and area calculations for open space may also be required.

Reference should also be made to the ordinance provisions for Definitions, in a separate Resource Regulations paper, for some definitions that are useful in properly implementing the site plan review process.

Site Plan Requirements

Preliminary Plan Requirements

- A. Fifteen (15) copies of a site plan, drawn at a scale not less than 1"=30' for property under five (5) acres and at least 1"=100' for those five (5) acres or more; unless another scale is approved for submission by the Zoning Administrator(*or Planning Commission, at the community's discretion*). The following items shall be shown on the plan:

Site plan review procedures may include an optional "preliminary" process to allow the township the opportunity to comment on the plan prior to final detailing and engineering.

1. Existing adjacent streets and proposed streets.
 2. Lot lines and approximate dimensions.
 3. Parking lots and access points.
 4. Proposed buffer strips or screening.
 5. Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, wetlands, water bodies, watercourses, floodplains, hills, and similar natural assets.
 6. Location of all preserved landmark trees and locations of landmark tree removals and replacements, if any.
 7. Land uses and proposed buildings.
 8. General topographical features including contour intervals no greater than ten (10) feet.
 9. All buildings and driveways within one hundred (100) feet of all property lines.
- B. A narrative (shown on the site plan or submitted separately) describing in general terms:
1. An overall description of the proposed development.
 2. Dwelling unit densities by type, if applicable.
 3. Proposed method of providing sewer and water service, as well as other public and private utilities.
 4. Proposed method of stormwater management.

Final Site Plan Requirements

- A. The narrative required for the Preliminary Plan.
- B. Fifteen (15) copies of a final site plan signed by a professional competent in such matters. The final site plan shall include the following information, unless deemed unnecessary by the Zoning Administrator(*or Planning Commission, at the community's discretion*).

1. The date, north arrow, and scale.
The scale shall be not less than 1"=30' for property under five (5) acres and at least 1"=100' for those five (5) acres or more; unless another scale is approved for submission by the Zoning Administrator.
2. The name and firm address, and the name of the professional individual responsible for the preparation of the site plan or as directed by the Zoning Administrator.
3. The name and address of the property owner and petitioner.
4. A location sketch.
5. Legal description of the subject property.
6. The size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
7. Property lines and required setbacks shown and dimensioned.
8. The location of all existing structures, driveways, and parking areas within one hundred (100) feet of the subject property's boundary.
9. The location and dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.
10. The location of all existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, signs, exterior lighting, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas.
11. The location, pavement width and right-of-way width of all roads, streets, and access easements within one hundred (100) feet of the subject property.
12. The existing zoning and use of all properties abutting the subject property.
13. The location of all significant natural features and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
14. The location of all preserved landmark trees and locations of landmark tree removals and replacements, if any, shall also be shown. A tree inventory provided on the topographic map identifying all trees eight (8) inches d.b.h. or more within a regulated woodland, or twelve (12) inches d.b.h. or more outside a regulated woodland by size, common name, botanical name, and general condition shall be provided. Trees located outside areas where construction, grading, or clearing will occur need not be inventoried.
15. A formal wetland determination approved by the Michigan Department of Environmental Quality may also be required.
16. Size and location of existing and proposed public, or private community sewer or water supply systems, including any proposed connections thereto.

It is essential that the Zoning Administrator check site plans before accepting them as part of the application. All required information should be on the plan (unless waived by the Zoning Administrator) before it is accepted.

17. Existing and proposed topographic contours at a minimum of two (2) foot intervals.
 18. Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
 19. Any other physical improvements.
- C. In addition to the above requirements, five (5) copies of a stormwater management plan shall be submitted showing the location and size of all stormwater management facilities, including but not limited to, conveyance systems, and treatment/storage systems (i.e., retention and/or detention basins) and the calculations used to determine such facilities. Stormwater management plans must be prepared and sealed by a professional engineer. Prior to approving a stormwater management plan, the Township may require any or all of the following:
1. A fee for an outside engineering review of stormwater management plans submitted by the applicant.
 2. A performance bond , cash escrow, certified check, or other acceptable form of performance security in an amount sufficient to ensure the execution of the stormwater management plan.
 3. A maintenance agreement which details ownership and financial responsibility for the operation and maintenance of stormwater management facilities.
 4. In order to be approved, all stormwater management plans must meet the following performance standards:
 - a. Runoff leaving the site must be controlled to a non-erosive velocity, both during and after construction.
 - b. After development, runoff from the site shall approximate the rate of flow, volume, and timing of runoff that would have occurred following the same rainfall under pre- development conditions or a maximum release rate of 0.20 cubic feet per second (cfs). Stormwater management conveyance and treatment/storage facilities shall be designed to reduce flood hazards and water pollution related to runoff from the proposed development project.
 - c. The design of any stormwater management system shall be based upon a 25-year frequency 24-hour duration storm event. Retention basins without a positive outlet must be designed to hold runoff from a 100-year storm event. Retention and detention basins shall be designed with a minimum of 2.0 feet of freeboard above high water levels and shall incorporate an overflow pathway that will safely convey water that exceeds the design storm event.
 - d. The banks of retention and detention basins shall not exceed 6:1 (horizontal to vertical), unless a fence is constructed.

Site Plans Reviewed

A. In accordance with the provisions of this Chapter the Planning Commission shall be furnished a Site Plan of the proposed development prior to the creation of a use or the erection of a building in the Districts and conditions cited below, unless such use or building is specifically exempted herein:

The Township may elect which site plans it wishes to review, versus those which can be approved administratively. Site plan review is required by law for special land uses and planned unit developments.

1. All Permitted Uses within any District as follows:

a. The construction of a new building or construction of a structure enclosed floor area equal to or greater than five thousand (5,000) square feet;

A wide variety of options is available. For example, the ordinance could specify that all permitted uses within a Multiple Family, Commercial, and Industrial Districts require site plan review.

b. Any addition to a building or structure adding an enclosed floor area greater than 25 percent (25%) of the existing enclosed building or structure floor area, except that such addition shall be at least equal to or greater than five thousand (5,000) square feet.

2. Special Land Uses in all Zoning Districts.
3. Site condominiums in any district.

B. Zoning Administrator Review

Single family and two-family dwellings (except for those that are part of a site condominium), farms, roadside stands, state licensed residential family care facilities, family day care homes, and home occupations, or any other use or structure not covered in the above paragraph A, shall not be required to submit a site plan for review by the Planning Commission. The Zoning Administrator shall review such plans to determine compliance with the requirements of this Ordinance and any other applicable ordinances.

These exceptions are useful to ensure that the Planning Commissions' time is not taken up by routine reviews that are better done by the Zoning Administrator.

Site Plan Review Standards (partial)

A. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

Site plan review standards are required in the ordinance so the applicant knows what has to be done to receive approval. The standards shown are those that relate most directly to natural resource and water quality elements. Standards related to traffic and other considerations are also appropriate.

B. For sites of one (1) acre or more, stormwater management facilities shall be designed, constructed, and maintained to prevent flooding and protect water resources. Stormwater management facilities may be incorporated into the open space portions of a development site.

C. Areas of natural drainage such as swales, wetlands, or ponds, shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

D. All elements of the site plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

E. Site plans shall conform to all applicable requirements of County, State, Federal, and Township statutes and ordinances. Approval may be conditioned on the applicant receiving necessary County, State, Federal, and Township permits before final site plan approval or an occupancy permit is granted.

F. Catch basins or other protective measures may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. Other provisions may be required to contain runoff or spillage from areas where hazardous materials are stored, or proposed to be stored.

This standard helps implement specific protection measures, such as wellhead protection.

General Requirements for Site Plan Review

- A. The Planning Commission shall approve, disapprove, or approve subject to conditions, the site plan in accordance with the review standards of this Chapter. Reasons for approval or denial, and any conditions or modifications desired by the Planning Commission for an approved plan shall be recorded in the minutes.
- B. As part of an approval the Planning Commission may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review standards of this Chapter are met. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. Three (3) copies of the final approved site plan shall be signed and dated by a designated member of the Planning Commission and the applicant. One (1) of these approved copies shall be kept on file by the Township Clerk, one (1) shall be kept on file by the Zoning Administrator, and one (1) shall be returned to the petitioner or his designated representative.

Signing site plans helps determine the plan that was approved, or provides a date for reference to the minutes of the meeting where the approval and attached conditions are recorded.
- E. Each development shall be under construction within one (1) year from the approval of the site plan, except as noted.

Time limits are enforced to take into account conditions on surrounding properties which may have changed since the time of the original approval.

 - 1. The Planning Commission may grant one (1) six (6) month extension of such time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
 - 2. The extension shall be approved if the applicant presents reasonable evidence that the project has encountered unforeseen difficulties beyond his control and will now have a likelihood of proceeding within the extension period.
 - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the site plan approval shall be null and void.
- F. The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.



WATERSHED RESOURCE REGULATIONS

Farmland Preservation

Agricultural resources throughout Michigan are generally considered to be in jeopardy within the next twenty years if current development trends continue. The value of farmland, and its accelerating loss has been well documented in other sources. In order to maintain the quality of life which Michigan residents have become accustomed to, regulatory measures to preserve farmland will be necessary in some areas.

Farmland may be considered either as holding areas for future development, or as an asset, vital to the character and economic strength of the community. The first view may be appropriate in areas where public utilities, land prices, property divisions, and growth pressures have made farming difficult. These are lands that should be developed; where infrastructure is readily available and agricultural resources are marginal. Other agricultural lands, even those with considerable value, may be difficult to preserve where urban services and development are present. Extraordinary efforts to preserve farmland in these areas is counterproductive and should only be undertaken in the most unusual circumstances.

However, in areas where infrastructure is not available, and high quality agricultural lands are present, communities should recognize the benefits of preserving land for agricultural use. These benefits can be substantial, especially to those communities which have been traditionally agricultural. Farm lands do not require the same extent of services as residential, commercial, and industrial uses.

The following describes regulations that may be implemented through the zoning ordinance which, in combination with other techniques, may be useful in preserving land for agricultural use. It is important to understand that these provisions do not, by themselves, preserve farming in any community; only the farmer can do that. Rather, these techniques are intended to permit larger blocks of land to be set aside for farm use.

Each of the described techniques has its own strengths and weaknesses. Some are less effective than others, but require fewer restrictions on land development. Others are very effective, but require a strong commitment to preserving farmland, even at the risk of restricting development. The technique chosen by each community must be carefully considered by evaluating the importance of farmland to both the character and the economy of the township.

Also included is a sample ordinance for the Purchase of Development Rights, including an example of an evaluation form for determining priorities for properties to be purchased.

Sliding Scale Zoning

A. Permitted Lot Splits

1. The maximum number of lots, that may be created or split for new single family dwelling units in addition to creating a lot for an existing dwelling unit shall be based on the gross area of the lot of record which is to be divided, as listed in the accompanying Sliding Scale table.
2. In addition to the divisions allowed under the above table, every farm which contains a single family dwelling existing before the date of this amendment (*INSERT DATE HERE*) shall be allowed to split a lot from the main farm acreage and create a new lot for the existing dwelling. This new lot shall comply with the provisions of paragraph B, below. Any additional lot splits are not permitted.
3. The above regulations shall not cause the lot of record to be split in a manner which would violate the requirements for access and other applicable provisions contained in the Michigan Land Division Act, Act 288 of 1967, as amended. Any provision of this Ordinance notwithstanding, ** Township is not responsible for any violations of this Ordinance or of the Land Division Act.
4. For each parcel of greater than those covered by the Sliding Scale table, existing as of the date of this amendment (*INSERT DATE HERE*), the sliding scale shall indicate the allowed number splits to be the number up to three hundred and twenty and one-tenth (320.1) acres and the additional difference of the remaining acreage. (Example: parcel of 400 acres- 320.1 acres = 7 lots, 80 acres = 4 lots, for a total of 11 lots for the 400 acres.)

Sliding Scale - ** District	
Area of Lot of Record	Maximum Additional Lots Permitted
1 to 10 acres	1
10.1 to 20 acres	2
20.1 to 40 acres	3
40.1 to 80 acres	4
80.1 to 160 acres	5
160.1 to 320 acres	6
over 320.1 acres	7

The actual numbers used for the sliding scale are flexible and determined by the community. Some communities, for example, have established the scale to mirror the Land Division Act allowances for lot splits.

The lot sizes and widths for the permitted splits are also flexible and determined by the community. However, they should be small enough to ensure that an excessive amount of land is not required to be taken out of the parent parcel.

B. Any lot created according to the above requirements shall be at least one (1) acre and no greater than three (3) acres in areas and shall have a minimum of two-hundred and twenty (220) feet of public road frontage, and shall have a lot depth to width ratio not exceeding 3:1. The permitted lots shall be contiguous unless sufficient road frontage does not exist on the lot, in which case, other contiguous lots may be grouped in appropriate locations, as approved by the Zoning Administrator.

The width to depth ratio is needed to prevent excessively deep lots, which may intrude on agricultural lands in use behind the parcel splits. Contiguous lots ensure that adequate frontage remains for access to rear parcels and to allow concentrations of development that have fewer effects on farming activities.

C. Monitoring Lot Splits - ** Township recognizes that proper administration of the this subsection must be established along with an official register containing the following information:

1. Concurrent with the adoption of this Ordinance, an official map indicating existing lots, parcel numbers, and land ownership shall be established along with an official register containing this information.
2. An allotment of dwelling units possible under this Ordinance shall be made for each parcel in the ** District.
3. As allotments are used up, the official map and register shall be updated to reflect these changes.
4. The official map and register shall be maintained by the Township Clerk and copies made available for inspection by the public.

An established monitoring process is critical to the success of this technique. Frequent changes in property ownership and other changeable factors requires that consistent record keeping of allowed/recorded splits.

Quarter-Quarter Zoning

The following language should be placed in the District in which quarter-quarter zoning is to be used. It may be inserted into the section of the District dealing with other lot and development requirements. (Note: The minimum lot size for the district in which this technique is adopted should be at least 40 acres.)

A. Permitted Lots

1. For each parcel of forty (40) acres or greater existing as of the date of the adoption of the original Ordinance, (insert date), two (2) additional lots may be created for each whole forty (40) acres.
2. For each parcel of less than forty (40) acres but equal to or greater than thirty (30) acres existing as of the date of the adoption of this original Ordinance, (insert date), excluding any amendment thereto, two (2) additional lots may be created.
3. For each parcel of less than thirty (30) acres but equal to or greater than ten (10) acres existing as of the date of original Ordinance, (insert date), excluding any amendment thereto, one (1) additional lot may be created.

Provisions for existing lots helps make the enforcement of this technique fair to current property

- B. Any lot created according to the above requirements shall be at least one (1) acre and no greater than two (2) acres in area, unless the County Health Department requires a greater area for installation of an approved sewage disposal system. Each lot shall have a minimum of two-hundred and twenty (220) feet of public road frontage. The permitted lots shall be contiguous.

As with the sliding scale, a minimum and maximum lot size is necessary to prevent land being taken from production. Contiguous lots ensure that adequate frontage remains for access to rear parcels and to allow concentrations of development that have fewer effects on farming

Exclusive Agricultural Zoning

The following language would be inserted into the applicable district in which exclusive agricultural provisions are to be implemented. In the example, "Agricultural District" is used. The special land use requirements may be listed either as part of that district or with the other special land use provisions in the applicable ordinance chapter. The italicized provisions indicate those that are necessary for the exclusive agricultural district.

Permitted Uses: The following uses of land and structures shall be permitted in the Agricultural District:

- A. The raising and keeping of livestock.
- B. The raising of crops including trees.
- C. Hunting preserves.
- D. Wildlife refuges.

The Permitted and Special Land Uses shown are only examples. The lists for specific ordinances will vary. The provisions related to the single family dwellings (italicized text) are the only necessary elements for this technique.

- E. *Single family dwellings which serve as the principal residence for the owner, operator and employees of the farm and their immediate families.*
- F. Roadside stands for the sale of farm products produced on the premises, or other premises owner and operated by the owner or operator of the farm.
- G. Home occupations, in accordance with the provisions of Section **.
- H. Churches, cemeteries, public and private schools.
- I. Essential services.
- J. Accessory uses and buildings, in accordance with the provisions of Section **

Special Land Uses: The following uses of land and structures may be permitted in the Agricultural District upon approval of a Special Land Use in accordance with the procedures and criteria contained in Chapter *, Special Land Uses and Chapter *, Site Plan Review.

- A. *Single family dwellings not related to an active farm.*
- B. The sale and service of machinery used in agricultural production.
- C. Facilities and operations used for the centralized bulk collection, storage, transportation and distribution of agricultural products to wholesale and retail markets.
- D. The storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
- E. Veterinarian offices and clinics.
- F. Facilities used in the research and testing of agricultural products and techniques.
- G. Landing fields
- H. Livestock Sale and Auctions.
- I. Commercial mining, gravel and sandpits.
- J. Agricultural labor camps.

Special Land Use Criteria: In addition to the criteria for Special Land Uses contained in Chapter *, Special Land Uses, the following standards shall be applied in approving a Special Land Use in the Agricultural District.

- A. The proposed use shall be situated in a manner reducing to a minimum the amount of productive agricultural land which is converted to the proposed use.
- B. The proposed use shall be located in close proximity to existing facilities providing agricultural services whenever possible and appropriate. The clustering of agricultural services permitted by Special Land Use into agricultural service centers shall be encouraged.

The location of a proposed single family dwelling should be carefully considered with respect to its relationship to adjacent farming operations. Since agricultural buffers (discussed in the following section) are not usually required for an individual home site, it may be appropriate in some instances to provide for the equivalent of a buffer for these approvals.

- C. Any lot proposed for a single-family dwelling as a Special Land Use shall comply with the following:
1. The dwelling shall be situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.
 2. The location for the dwelling will not convert land that has been devoted primarily to agricultural use.
 3. The lot on which the dwelling is to be placed shall be a minimum of one (1) acre in size, but not more than three (3) acres. The Planning Commission may permit a lot of up to five (5) acres to be created, provided that all other provisions of this subsection are met, if necessary to provide a buildable lot (as defined by the Michigan Land Division Act, Act 288 of 1967, as amended).
 4. The Special Land Use approval, including any conditions attached, shall be recorded on the deed of the property in the County Clerk's office for * County.

Agricultural Buffers

- A. Purpose
1. Conversion of agricultural lands to residential uses may create problems with land development. New residential development in rural areas can make daily farming operations difficult and sometimes dangerous. Farmers may be forced to contend with nuisance complaints by new neighbors who may object to farm related noise, dust, odors, and late hours of operation.
 2. Certain agricultural activities may create discomforts or inconveniences which are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
 3. The purpose of this Section is to provide agricultural buffers, as described in this Section, for residential development in agricultural areas to help these often incompatible uses exist in close proximity to one another.

B. Applicability

1. The provisions of this Section shall not apply to farm homesteads or residential home sites located on lots of five (5) acres or greater in total area.
2. Agricultural buffers, as described in paragraph C, below, will be provided for on any parcel proposed for residential development of more than one (1) lot, located adjacent active agricultural lands, and on lots that are less than five (5) acres in total area. The residential development may be part of a plat, site condominium, land division, or other residential development approval if more than one (1) lot, as may be permitted by this Ordinance, or other Ordinance of the Township.

The five acre exception is provided to recognize that the lot is large enough to permit the single family lot owner to locate their home and other outdoor areas away from adjacent farming activities. Smaller sizes may also be appropriate. It would also be possible to apply these provisions to single lots, however, some communities may find the administration and enforcement burdensome. Applying the regulations to multiple lot developments is simpler in that some formal review by the community, either as a site condo, plat, or land division will likely be necessary.

C. A required agricultural buffer shall be placed between affected residential lots and properties on which agricultural activities are conducted. The agricultural buffer shall consist of the following:

1. An open space area of not less than twenty-five (25) feet in width, beginning at the property line(s) nearest the agricultural activities, and extending into the non-agricultural property. A natural buffer (such as a wetland, swale, or berm, etc.) may be included as part of the agricultural buffer.
2. In lieu of an open space area, fencing, densely planted vegetation, or other similar barrier, may be used to provide the agricultural buffer. If a barrier is utilized and maintained, the width of the open space may be reduced to not less than five (5) feet. Any fencing or other structural barrier shall be located at least five (5) feet from the property line(s) nearest the agricultural activities.

As with many of the regulations, the dimensions and requirements for the buffer can vary. Using a fence or vegetation screen is helpful in allowing width reductions. The setback for the fence is to ensure that agricultural vehicles have adequate turning room without damaging the fence.

D. Residential lots with agricultural activities on properties across the street are not required to provide an agricultural buffer.

- E. Lands included in the agricultural buffer may be used as part of the minimum lot area, setback, lot width, lot coverage, or other applicable requirements of the District in which the buffer is located.

This last provision is useful to avoid a possible "takings" claim by the developer or owner of the

Purchase of Development Rights Ordinance and Evaluation Form

The following ordinance language is an example of a purchase of development rights (PDR) regulation. These regulations are required prior to establishment of a PDR program. The requirements for the ordinance are noted in the Michigan Township Zoning Act. An example of an evaluation form is also provided. The criteria and weighted scoring used can be adapted to an individual community's needs.

*** TOWNSHIP
ORDINANCE No. _____**

ACQUISITION OF DEVELOPMENT RIGHTS ORDINANCE

Section 1. Title and Purpose

- F. The climate, variety of soils and terrain make * Township well suited for the production of agricultural production. These lands provide unique, aesthetic and economic benefits, as well as being an important part of the township's natural and agricultural heritage.

Strong justification is useful to support this program. The Master Plan should contain information on PDR and its purpose and use, as well as information regarding the value of farming to the community.

- G. The agricultural land is an irreplaceable natural resource with soil and topographical characteristics that have been enhanced by generations of agricultural use. When this land is converted to residential or other more developed uses that do not require those special characteristics, a critical community resource is permanently lost to the citizens of the township.

- H. It is the policy of the State of Michigan and ** Township to protect, preserve, and enhance agricultural lands as evidenced by the Township's policies for land use management (as expressed through the ** Township Master Plan), the Farmland and Open Space Preservation Act (P.A. 116 of 1974, MCLA 554.702), the Conservation and Historic Preservation Easement Act (P.A. 197 of 1980, MCLA 399.251), and other state and local statutes and policies. These measures by themselves, however, have not effectively provided long-term protection of agricultural areas from the pressure of increasing residential and other development.

- I. Generally, agricultural lands closer to urban areas have a greater market value for future residential or other development than their market value for farming. Prime agricultural lands have the same features (such as perkable soils) that are components of desirable residential areas. This fact encourages the speculative purchase of these lands at high prices for future residential development, regardless of the current zoning of these lands. Agricultural land which has a market value greater than its agricultural value does not attract sustained agricultural investment and eventually is sold by the farmers and removed from agricultural use.
- J. The Township's Acquisition of Development Rights Program will sustain the preservation of agricultural land near developing urban areas and provide long-term protection for the public interests served by agricultural lands in the community.
- K. Properties on which the Township has acquired the Development Rights should remain substantially undeveloped in order to promote their agricultural character.
- L. The Acquisition of Development Rights in agricultural land and other eligible land as provided in this Ordinance is a public purpose of the Township and the securing of the acquisitions requires that the Township enter into agreements with property owners to obtain these Rights.

Section 2 Definitions

- A. "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, fee crops, and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruit; vegetables; Christmas trees; and other similar uses and activities.
- B. "Development Rights" means the rights to develop land to the maximum intensity of development authorized by the township's zoning ordinance and other applicable rules, regulations and ordinances.
- C. "Intensity of development" means the level or degree of land development permitted by an ordinance, which may comprise part of a zoning ordinance, adopted under the legislative body of the jurisdictional government.
- D. "Other eligible land" means land that has a common property line with agricultural land from which development rights have been acquired and is not divided from that agricultural land by a state or federal limited access highway.

- E. "PDR program" means a program providing specifications; consistency with a community plan; conveyance, and other necessary measures for the acquisition of certain described development rights.

Section 3 Authorization

- A. Pursuant to P.A. 570 of 1996, MCLA 125.301 through MCLA 125.310 the Township may acquire the Development Rights of agricultural land and other eligible land.
- B. The acquisition may be by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal or less than the appraised value of the Development Rights as determined in this Ordinance. The Township shall only acquire Development Rights that are voluntarily offered for acquisition by an owner of agricultural or other eligible land.
- C. The Township may enter into cash purchase and/or installment purchase contracts, and agreements for the receipt of tax deductible donations of easements, consistent with applicable law. When installment purchases are made, the Township may pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment contract for the tax-exempt status of interest.
- D. The Township may contract with recognized and legally established nonprofit land trusts or other experienced and qualified nonprofit groups that would assist the Township in establishing both the baseline studies and the procedures for monitoring of any Development Rights easements acquired under this Ordinance.
- E. The Township or other legally established nonprofit land trusts or other experienced and qualified nonprofit groups' owned interests in non-agricultural land may be exchanged for property interests in agricultural land or other eligible land on an equivalent appraised value basis. If the property interest exchanged is not exactly equal in appraised value, cash payment may be made to provide net equivalent value in the exchange.

Section 4 Establishment of Advisory Committee

- A. The Township Supervisor, with the approval of the Township Board, shall appoint a Acquisition of Development Rights Advisory Committee of up to seven (7) members which shall advise the Board on the selection of Development Rights easements on which Development Rights are offered for acquisition by their owners and other program activities.

The Advisory Committee is optional and only recommends applications for participation in the PDR program.

B. Membership

1. The Advisory Committee shall consist of one (1) member of the Township Board, one (1) member of the Planning Commission, and at least one (1) member who shall be an owner or operator of an active farming operation within the Township. The remaining members may represent other relevant interests, including but not limited to realtors, land developers, home owners, or others the Board deems qualified, provided that no member shall be employee of the Township.
2. Terms of the Advisory Committee shall be one (1) year, except that the term of the Board and Planning Commission members shall coincide with their membership on those respective bodies.
3. Members may be compensated for meeting attendance, expenses related to the performance of the Advisory Committee, attendance at educational conferences, and other applicable expenses.
4. A vacancy shall be filled in the same manner as is provided for the appointment in the first instance for the remainder of the unexpired term.
5. Members of the Advisory Committee shall be removable for misfeasance, malfeasance, or nonfeasance in office by the Township Board upon written charges and after public hearing, if requested by the member being removed.

C. Procedures

1. The Advisory Committee shall annually elect from its members a chairperson, a secretary, and other officers or committees it considers necessary, and may engage employees, including technical assistance, it requires.
2. The Advisory Committee is directed to make use of the information and counsel which may be furnished by appropriate public officials, departments or agencies, and all public officials, departments and agencies having information, maps and data pertinent to the PDR program are hereby directed to make the same available for the use of the Advisory Committee.
3. The Advisory Committee shall meet at least once annually to consider applications for PDR acquisitions, as provided in Section 5 of this Ordinance. The annual meeting shall not be required if no applications are pending.
4. The Advisory Committee will consider applications, as provided in this Ordinance and recommend approval or denial of the applications to the Township Board.
5. A majority vote of a quorum of the Advisory Committee shall be necessary to approve any application for submission to the Township Board.

Section 5 Application

- A. Notice of Application
1. The Township Board shall begin each selection process by giving notice that the Advisory Committee will accept applications from property owners of agricultural lands and other eligible land to acquire Development Rights.
 2. This notice shall run for one (1) consecutive week in a newspaper of general circulation. The notice shall generally describe the criteria for eligibility for acquisition in the selection and shall invite the owners of the properties who are interested in relinquishing their Development Rights to request applications expressing an interest to the Township.
 3. The notice shall also be sent to any property owner who has registered with the Township to receive notice of application acceptance.
 4. The notice will also indicate where the applications may be obtained and the date applications are due to the Township.
- B. The Township shall make application forms available to property owners.
- C. The Township Board may by resolution, from time to time, set a fee for consideration of the application. The application shall not be considered unless the fee is paid.
- D. Applications will be submitted to the Township Clerk, who shall transmit the application to the Advisory Committee. Applications shall not be accepted unless all of the material required by the application has been provided.

Section 6 Criteria for Acquisition of Development Rights

- A. The Advisory Committee shall use the Criteria Checklist for Acquisition of Development Rights, as approved by the Township Board, when determining whether to recommend approval of an application to acquire development rights. The numerical ranking system of the Criteria Checklist for Acquisition of Development Rights has been developed to prioritize agricultural and other eligible land for purposes of the Township's PDR Program.
- B. Appropriateness is determined by favorable natural conditions and locations factors that make agricultural uses a viable undertaking both currently and in the future. Areas targeted for preservation are those lands shown in the Master Plan as being agricultural as adopted and amended from time to time by the Planning Commission.

Section 7 Acquisition of Development Rights Provisions

- A. Recommendations of Acquisition of Development Rights Advisory Committee
1. The Acquisition of Development Rights Advisory Committee shall review all applications submitted and evaluate each application based on the Criteria Checklist for Acquisition of Development Rights.
 2. The Advisory Committee shall have the right to request any additional information from the Township or from any applicant as part of its evaluation.
 3. Members of the Advisory Committee shall not participate in any part of the evaluation of applications to which they may be a party.
 4. Following the completion of the Criteria Checklist for Acquisition of Development Rights for each application, the Advisory Committee shall prepare a recommendation of applications to be forwarded for considered by the Township Board for acquisition of development rights.
 5. The Advisory Committee will use the Criteria Checklist for Acquisition of Development Rights to prepare the recommendation.
 - a. The Advisory Committee may consider other factors it considers appropriate in making the recommendation beyond those of the Criteria Checklist for Acquisition of Development Rights.
 - b. If other factors are used beyond those noted in the Criteria Checklist for Acquisition of Development Rights, these factors will be fully described and information provided in writing to the Township Board as to why these factors were considered and the effect they may have had on the recommendation.
 6. The recommendation will include the highest ranked properties according to the Criteria Checklist for Acquisition of Development Rights or other factors used by the Advisory Committee, as in subsection 5, above, and will be presented to the Township Board in order of preference.
 7. While all applications shall be evaluated through the Criteria Checklist for Acquisition of Development Rights, not all applications need be forwarded as recommendations to the Township Board.
- B. After receipt of the recommendation of the Advisory Committee, the Township Board shall obtain a preliminary appraisal for all or some of the recommended properties in order to determine the estimated cost for the development rights to be acquired. Final selection of properties to be considered for acquisition shall be determined by the Township Board following receipt of the preliminary appraisals.

C. Final Appraisals

1. Final appraisals shall be completed after the Township Board has selected the properties it will consider for acquisition of development rights.
2. The Township Board County shall select a minimum of two (2) State Certified Appraisers to complete the final appraisal.
3. The selected appraisers shall immediately disclose any conflict of interest they may have in appraising the property. The Township Board shall choose an alternate appraiser when the County's initial appraisers discloses a conflict of interest.
4. Final appraisals must be in writing and shall be furnished to the property owner for review.
5. Disputed Appraisals
 - a. The Township or the property owner may point out errors of fact in any appraisal, provided, however, that only the appraiser may correct the appraisal.
 - b. A property owner who disagrees with the Township's appraisal may, within a reasonable time, obtain a second appraisal from a State Certified Appraiser at the owner's expense.
 - c. The appraisal shall then be filed with the Township.
 - d. The Township Board will then determine the correct appraisal to be used for consideration.

D. Following the determination of appraisal value, the Township Board shall vote to approve or deny any of the recommended applications taking into account available funds, method of acquisition, and any other consideration deemed appropriate by the Board. The Board shall give special weight to applications which are able to attract matching funds or are whose property owners are willing to accept less than market value.

E. If approved for acquisition by the Township Board, the Board shall cause to have executed a Development Rights easement which shall contain the following minimum provisions:

1. A granting clause deeding the Development Rights from the property owner to the Township or a recognized and legally established nonprofit land trust or other experienced and qualified nonprofit group, as approved by the Board.
2. A clause restricting the use of the land to specific agricultural, open space, or other approved activities.
3. A clause which addresses the permitted construction of buildings and residential structures on the property, if any.

4. An enforcement clause acknowledging that the breach of the easement by the property owners or his/her successors will result in irreparable harm to the Township or the nonprofit land trusts or other qualified nonprofit group and authorizing action by the Township to obtain an injunction to stop the breach.
5. A clause indicating that the easement runs with the land and is binding on the property owner's successors in interest.

F. Purchase of development rights

1. Development Rights acquired pursuant to this Ordinance shall run with the land and be held by the Township in perpetuity, provided, however, that a property owner who has sold Development Rights to the Township may repurchase those Rights upon the following conditions:
 - a. A minimum of twenty five (25) years have passed since the Development Rights were sold; and
 - b. The Township Board, upon receiving a recommendation from the Acquisition of Development Rights Advisory Committee, determines that the property may not be reasonably used for agricultural use; and
 - c. Repurchase of the development rights is consistent with the purpose of the Township's PDR program as determined by the Township Board.
2. Once the Township Board determines that a property is eligible to have its Development Rights repurchased, the owner shall pay the fair market value of those rights at the time of their return, as determined by a State Certified Appraiser. The property owner may not challenge this appraisal.
3. The Township will deposit the proceeds from any repurchases into a separate fund that shall be used to purchase additional Development Rights or for other agriculture land preservation means available within the Township at the time of repurchase.

Section 8 Monitoring and Enforcement

B. Documentation

1. At the time the Development Rights easement is recorded, documentation of the property shall be conducted, using aerial photographs, maps, photos, and/or other media, as a baseline for future monitoring.
2. The documentation shall be updated periodically by the Development Rights holder(s).
3. Studies and monitoring shall be conducted according to commonly accepted best practices.

- C. Development Rights easements shall be monitored on an at least an annual basis to ensure compliance. Monitoring may include a site visit, with prior notice to the landowner.
- D. If the terms of the Development Rights easements are violated, the Development Rights holder(s) may pursue all legal remedies available, including, but not limited to, specific performance.

Section 9 Related Costs

The costs of appraisal, engineering, surveying, planning, financial, legal, environmental assessments and other services lawfully incurred in relation to the Township's purchase of Development Rights shall be paid from all available PDR Program funding sources within the Township. The Township shall not be responsible for any expenses incurred by the Owner incident to this transaction.

Section 10 Supplemental Funds

- A. Supplemental or matching funds from other Governmental Agencies or private sources may become available to pay a portion of the cost of acquiring Development Rights or to supplement or enlarge the acquisitions. The Township Board authorizes the funds to be used to purchase Development Rights in agricultural land or other eligible land.
- B. Development Rights Acquisition Fund
 - 1. Available funding for the Township PDR program shall be deposited in a special fund. ("Acquisition Fund"). Money in the Acquisition Fund may be temporarily deposited in institutions or invested in obligations as may be lawful for the investment of Township money.
 - 2. The revenues from the deposit and/or investment of the Acquisition Fund shall be applied and used solely for the purchase of Development Rights under this Ordinance or promoting agricultural land preservation means within the Township.
- C. Development Rights Enforcement Fund
 - 1. The Township Board shall establish a special fund ("Enforcement Fund") from the funding available for the PDR program to be used for enforcement expenses, including initial follow-up with the landowner, review and inspection of remedial measures and legal, engineering and other professional services. Money in the Enforcement Fund may be temporarily deposited in institutions or invested in obligations as may be lawful for the investment of Township money.

2. The revenues from the deposit and/or investment of the Enforcement Fund shall be applied and used solely to enforce the Township's rights under this Ordinance.

Section 11 Severability

Should any provision of this Ordinance be found by a court of competent jurisdiction to be invalid, void or illegal, the finding shall in no way affect, impair or invalidate any other provision contained in the Ordinance and any other provisions shall remain in full force and effect.

Section 12 Amendments

This Ordinance may only be amended by a majority vote of the Township Board after a public hearing. Notice of the public hearing shall be published in a newspaper which circulates in the township. The notice shall be published not more than fifteen (15) days nor less than five (5) days before the hearing.

Section 13 Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of any inconsistencies or conflicts.

Criteria Checklist for Acquisition of Development Rights

APPLICATION INFORMATION			
Application Number		Application Date	
Parcel Number(s)			
Parcel Owner(s) Name			
Parcel Address			
Total Acreage			
Acquisition Method			

Scoring by Section	Possible Points	Points Awarded
Section I Quality of Farmland	80	
Section II Development Pressure	65	
Section III Financial Consideration	50	
Section IV Historical, Archaeological, Scenic and Environmental Qualities	45	
Section V Other Considerations	32	
TOTAL POINTS	272	0

Application Disposition		
Recommendation of Advisory Committee	9 Approval	9 Denial
Township Board Action	9 Approval	9 Denial
Date of Acquisition (if applicable)		

Section I Quality of Farmland	Available Points	Points Awarded
Soils <i>Intent: To protect high quality farmland.</i>		
75% or more Type I or Type II soils	10 points	
50-74% Type I or Type II soils	8 points	
50% or more Type I, II, and III soils	5 points	
Less than 50% Type I, II, and III soils	0 points	
Total Score: Points Awarded x 3.5		
Size of Farm <i>Intent: To protect large viable farm operations and to maximize open space.</i>		
160 acres or more	10 points	
140 to 159 acres	9 points	
120 to 139 acres	8 points	
100 to 119 acres	7 points	
80 to 99 acres	6 points	
60 to 79 acres	5 points	
40 to 59 acres	4 points	
30 to 39 acres	2 points	
under 30 acres	0 points	
Total Score: Points Awarded x 2.5		
Proximity to other Agricultural Land: <i>Intent: To create substantial clusters or blocks of agricultural land.</i>		
80 to 100% of perimeter surrounded by farmland	10 points	
60 to 79% of perimeter surrounded by farmland	8 points	
40 to 59% of perimeter surrounded by farmland	5 points	
20 to 39% of perimeter surrounded by farmland	2 points	
under 20% of perimeter surrounded by farmland	0 points	
Total Score: Points Awarded x 2.0		
Total Points for Section I		

Section II Development Pressure	Available Points	Points Awarded
Proximity to a city or village that is in a position to annex: <i>Intent: To prevent annexation by other municipalities for the purposes of non-agricultural uses.</i>		
In area that has been mapped or discussion about annexation	10 points	
Adjacent to a city or village with annexation powers (but not mapped or discussed about annexation)	8 points	
Within 1/4 mile of city or village	6 points	
Within 1/2 mile of city or village	4 points	
Within 1 mile of city or village	2 points	
More than 1 mile from city or village	0 points	
Total Score: Points Awarded x 2.5		
Proximity to existing or planned utility services: <i>Intent: To protect areas that are vulnerable to development because of their proximity to existing or planned utility services.</i>		
W/i utility district - adjacent to existing/planned service area	10 points	
W/i utility district - not adjacent to existing/planned service area	8 points	
Adjacent to existing/planned service area - not in a utility district	6 points	
Existing or planned service area within 1/4 mile	4 points	
Existing or planned service area within 1/2 mile	2 points	
Existing or planned service area beyond 1/2 mile	0 points	
Total Score: Points Awarded x 2.0		
Number of Buildable Sites: <i>Intent: To protect lands that can be divided under current zoning.</i>		
5 or more	10 points	
4	8 points	
3	6 points	
2	4 points	
1	2 points	
none	0 points	
Total Score: Points Awarded x 2.0		
Total Points for Section II		

Section III Financial Considerations					
Is Landowner willing to sell development rights below their fair market value based on a qualified appraisal			Matching Funds available from other sources.		
<i>Intent: To leverage funds from other sources to purchase easements.</i>					
Available Points (reduced percent of value)			Available Points (% of available grants)		
95-100% = 40	40-44% = 21	10% = 10	95-100% = 40	40-44% = 21	10% = 10
90-94% = 38	37-39% = 20	9% = 9	90-94% = 38	37-39% = 20	9% = 9
85-89% = 36	34-36% = 19	8% = 8	85-89% = 36	34-36% = 19	8% = 8
80-84% = 34	31-33% = 18	7% = 7	80-84% = 34	31-33% = 18	7% = 7
75-79% = 32	29-30% = 17	6% = 6	75-79% = 32	29-30% = 17	6% = 6
70-74% = 30	26-28% = 16	5% = 5	70-74% = 30	26-28% = 16	5% = 5
65-69% = 28	23-25% = 15	4% = 4	65-69% = 28	23-25% = 15	4% = 4
60-64% = 26	20-22% = 14	3% = 3	60-64% = 26	20-22% = 14	3% = 3
55-59% = 24	17-19% = 13	2% = 2	55-59% = 24	17-19% = 13	2% = 2
50-54% = 23	14-16% = 12	1% = 1	50-54% = 23	14-16% = 12	1% = 1
45-49% = 22	11-13% = 11	None = 0	45-49% = 22	11-13% = 11	None = 0
Total Score: Points Awarded x .625			Total Score: Points Awarded x .625		
Total Points for Section III					

SECTION IV Historical, Archaeological, Scenic, and Environmental Qualities	Available Points	Points Awarded
Does the property have significant natural features? <i>Intent: To protect lands with environmental value.</i>		
Exceptional quality: registered by a public agency, conservation organization or other qualified organization	10 points	
Significant quality: important but not targeted for preservation by a land protection agency or organization	8 points	
No significant natural features	0 points	
Explain and document		
Total Score: Points Awarded x 1.0		
Does the property have significant archaeological features? <i>Intent: To protect lands with archaeological value.</i>		
Registered or eligible for registry with a federal, state or local archaeological organization	10 points	
Not eligible for registry, but identified and verified by the Parks Department or another qualified organization	8 points	
No archaeological features	0 points	
Explain and document		
Total Score: Points Awarded x 1.0		
Does the property have significant historical features? <i>Intent: To protect lands with historical value.</i>		
Registered or eligible for registry with a federal, state or local historical organization	10 points	
Not eligible for registry, but significant to the history of the community	5 points	
Other significant historical features, other than archaeological features	2 points	
No significant historical features	0 points	
Explain and document		
Total Score: Points Awarded x 1.0		

Is the property a centennial farm? <i>Intent: To protect farms that have been owned by the same family for one-hundred years or more.</i>		
Farm owned by the same family for over 100 years	5 points	
Total Score: Points Awarded x 1.0		
Does the property have significant scenic value? <i>Intent: To protect lands with scenic value.</i>		
Recognized by a public agency/organization for its scenic value	10 points	
Visible from a highway corridor, county road, major lake, or river	5 points	
Total Score: Points Awarded x 1.0		
Total Points for Section IV		

SECTION V. Other Considerations	Available Points	Points Awarded
Proximity to permanently protected land. <i>Intent: To create substantial blocks of protected land.</i>		
Adjacent to protected land	10 points	
Within 1/4 mile of protected land	8 points	
Within 1/2 mile of protected land	5 points	
Within 3/4 mile of protected land	3 points	
Within 1 mile of protected land	1 points	
More than 1 mile from protected land	0 points	
Total Score: Points Awarded x 1.0		
Location <i>Intent: To prioritize protection of land in the ** area of the Township</i>		
All property located in the _____	10 points	
>25% of perimeter adjacent to _____	5 points	
< 25% of perimeter adjacent to _____	3 points	
Not adjacent to _____.	0 points	
Total Score: Points Awarded x 2.0		

Time <i>Intent: To recognize time factors.</i>		
Submitted PDR application by the 1 st quarter of the year	4 points	
Submitted PDR application by the 2 nd quarter of the year	3 points	
Submitted PDR application by the 3 rd quarter of the year	2 points	
Submitted PDR application by the 4 th quarter of the year	1 point	
Total Score: Points Awarded x .5		
Total Points for Section V		

WATERSHED RESOURCE REGULATIONS



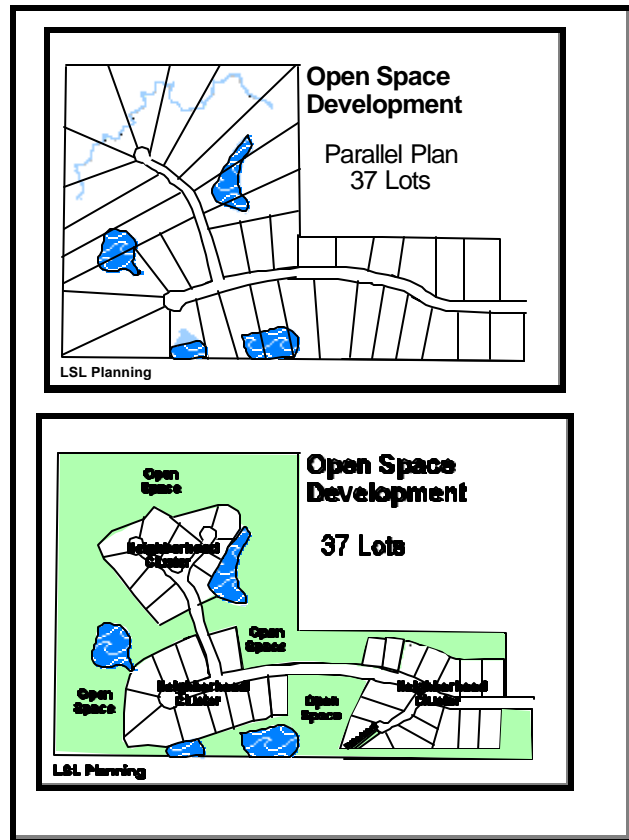
Open Space Development

Open Space Development, also known as clustering or cluster development, encourages the preservation of open spaces or environmentally sensitive areas, such as wetlands. It is a technique that can be used both for farmland or open space preservation. Open Space Development does not increase the density permitted, it simply allows the same number of homes on a smaller portion of the site. The base density must still fall within the requirements of the zoning district and/or PUD requirements.

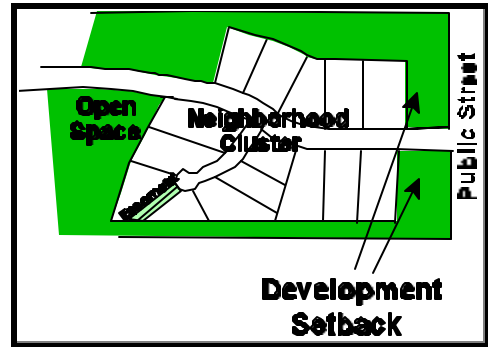
The following pages provide information on design principles for open space development as well as an example of how an Open Space Development (OSD) regulation might be structured. The text includes inserts with explanations about some features of the regulation. This example shows the regulation as a separate chapter of the Zoning Ordinance, and treats OSD as an “overlay” district. As such it may be made available in any residential zoning district, or it could be worded to only permit it in certain districts.

Other methods that can be used include requiring submission as a planned unit development or a special land use. OSD may also be treated as a “permitted use” in a zoning district, but made subject to the regulations contained in the example. Each community within the Four Townships area will be able to select its own method of implementation.

The example regulations are based on submission of a “parallel plan” which shows the allowable development under existing zoning. The parallel plan is used to establish a “base density” for the development. Other provisions incorporated into the example include a density bonus for higher amounts of open space or providing community water and sewer. Other types of site amenities could also be used to award bonuses.



The example also requires a homeowner’s association to maintain the open space, and provides guidance on the quality and use of open space within the development. There is also a requirement for a “development setback” which permits the township to preserve a strip of open land along public roadways.



Principles of Open Space Development Design

What is Open Space Development?

The underlying principle of open space development is that it allows the same overall amount of development that is already permitted under the existing zoning, but groups new homes onto part of the parcel, so that the remainder can be preserved as usable open space. Open space regulations are easy to administer, allow the rural landowner to realize the development potential of his property, and permanently protects valuable open spaces from being paved over.

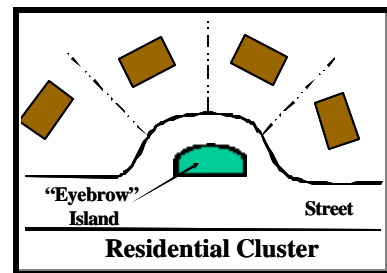
Open space development does not require large public expenditures (to purchase development rights), and allows farmers and others to extract their rightful equity without seeing their entire land holding bulldozed for complete coverage by homes, streets, and driveways.

Some of the following principles will be more applicable to sites that have significant areas of natural features or other areas worthy of preservation. Other principles will apply more directly to properties with large open spaces, such as fields that were cleared for farming.

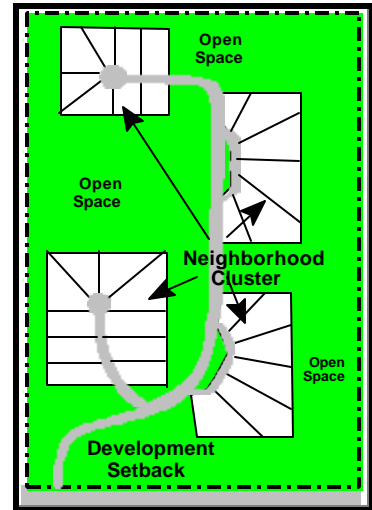
Of these, the latter is the more challenging design problem. It is difficult to apply open space principles to large open areas, uninterrupted by trees or topography. Emphasis on these sites will be on creating neighborhood clusters, separated by open spaces and ensuring that the open space is sufficiently large and in a useable shape (see illustration).

Principles of Open Space Development

- * Open space development should allow flexibility in layout to avoid affecting wildlife habitat areas or scenic features of the rural landscape, such as large rock formations, hill crests, and mature tree-stands.
- * Driveways may be provided that link to shared lanes that branch from the new main road. This may be done through the use of an “eyebrow” island off the main street (see illustration).



- * Septic systems or water systems can be located outside individual lot areas, including easements within protected open space.
- * Lots should be clustered in small groups (perhaps from four to ten). Open space should generally be used to separate these small clusters of residential neighborhoods, as shown in the accompanying illustration. This is intended to avoid the suburban development style normally found in suburban areas. The overall design of the Open Space Development should emphasize the natural character of the area, provide views to open spaces from as many vantage points as possible, and avoid long, straight street segments and rows of homes.



- * The Open Space Development should be designed with due regard for views from adjacent roadways as well as adjacent properties. Where possible, substantial setbacks from adjacent development should be provided, except where internal roadways are designed to connect to adjacent properties for the purposes of providing a network of internal connections between properties.
- * Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
- * Open space should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways should be a high priority. These areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. They may, however, incorporate trails or other internal pedestrian circulation paths.



Highly artificial landscaped entries can detract from the rural character of the area.

- * While many developments wish to provide an attractive front door to their projects, highly artificial landscapes with manicured lawns and non-native plant materials detract from the natural and rural character of the area. The setback area, as discussed in other principles, should remain in as natural a state as possible, with only the street and necessary utilities requiring land disturbance.
- * Entryways to open space developments may also have a significant effect on the character of the project as well as the general area. Elaborate, artificial, landscapes designed as entry points, with large boulevards, flagpoles, and other artificial elements may tend to detract from the rural, natural character of the area.
- * If a sign is included in the development plan, it should be unobtrusive and constructed as part of the overall landscape. This requires use of native materials, as opposed to plastic, internally lighted signs.



CHAPTER *
OPEN SPACE
DEVELOPMENT REGULATIONS

SECTION *.01 PURPOSE

A. The purpose of a Open Space Development (OSD) is to permit greater flexibility in development than is generally possible under standard District regulations. The intent of the regulations is to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed but will be preserved as a result of the OSD.

The purpose clauses are important in that they provide the justification for the regulations. The language may be taken, in part, from the Master Plan to provide a more direct connection between the Plan

B. These OSD provisions are not intended as a device for ignoring the requirements of this Ordinance and are not intended simply as a means to increase density. These provisions are intended to result in land development substantially consistent with the

Not all sites are appropriate for this style of development. Large, flat, featureless properties may not always be the best sites. The community should gain some benefit by preserving natural

underlying zoning, but provide a degree of flexibility in design to meet the unique natural conditions of a particular site. They are also intended to encourage innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning.

SECTION *.02 QUALIFYING CONDITIONS

A. The tract of land for which a OSD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners of all affected properties.

B. The property which is the subject of a OSD application must be a minimum of forty (40) contiguous acres in total area. The Planning Commission may consider a lesser development size if the proposed project substantially forwards the intent of the Residential Cluster Development regulations.

Normally, a larger minimum development area is required so enough open space is available to ensure that the community benefits from the OSD. If the property is too small, the "clustering" can begin to

C. The proposed OSD shall be located within a Residential District.

D. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would be otherwise be developed but will be preserved as a result of the OSD.

SECTION *.03 REVIEW PROCEDURES

A. Preliminary Plan Approval

1. To be considered as a OSD the applicant shall be required to first receive approval of a preliminary plan in accordance with the requirements of this Chapter.

The approval process can vary from being permitted by right with a site plan review, as this example allows, or by a planned unit development and/or special land use process. In all cases, some provision for public review

2. Applications for preliminary plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.

3. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:

- a. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file an application.
- b. Ten (10) copies of a Parallel Plan used to determine base density meeting the standards of Section *.05, C, 1.
- c. Written documentation from the applicant that the proposal meets the standards of Section *.06.
- d. If a phased development is proposed, identification of the areas included in each phase and the density of proposed housing units within each phase and for the total OSD.
- e. Arrangement and area calculations for open space, including upland and wetland open space areas.
- f. A completed application form, supplied by the Zoning Administrator, and an application fee.
- g. Ten (10) copies of a sketch plan meeting the requirements of Section * (preliminary site plans of the Site Plan Review chapter).

A preliminary, or sketch site plan, one with less detail, should be submitted for the early review stages, to ensure that the proposal meets the overall intent of the OSD

4. The Planning Commission shall review the sketch plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the sketch plan.

B. Final Site Plan Approval

1. After receiving approval of a sketch plan from the Planning Commission, the applicant shall within one (1) year submit a final site plan to the Planning Commission.
2. The final site plan may be for either the entire project or for one (1) or more phases.
3. Applications for final site plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
4. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:

Larger developments may be submitted in more than one phase. Each phase should be able to stand alone. The final site plan should meet the requirements normally applied to other final plans.

- a. Current proof of ownership of the site or evidence of a contractual ability to acquire ownership, such as an option or purchase agreement, or a signed agreement from the property owner with permission to file an application.
 - b. Written documentation that the proposal meets the standards of Section *.06.
 - c. If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
 - d. Arrangement and area calculations for open space, including upland and wetland open space areas.
 - e. A completed application form, supplied by the Zoning Administrator, and an application fee.
 - f. Ten (10) copies of a final site plan for the phase for which approval is requested, meeting the requirements of Section *(final site plans of the Site Plan Review chapter).
5. Failure to submit a final site plan for approval within the one (1) year period shall void the sketch plan approval and a new application shall be required to be submitted and approved in accordance with the provisions of this Chapter.
6. The Planning Commission shall conduct a public hearing prior to considering the proposed final site plan. Notices of the public hearing will be provided in accordance with the requirements of the Zoning Act for special land uses.
- If the ordinance already provides for a public hearing for site plan reviews, those notice requirements should be used.
7. The Planning Commission shall review the final plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, approval of the OSD. Reasons for these actions shall be documented in the Commission's minutes.
- The final approval authority will depend on the process used for
8. Major changes in the final site plan shall be submitted to the Township pursuant to the above procedures applicable to the original application. Minor changes may be approved by the Zoning Administrator in accordance with the provisions of Chapter * (Site Plan Review).
- If submitted as a planned unit development, the OSD may also permit other uses, such as duplexes, multiple family, and limited commercial uses, depending on the language of the PUD provisions. The example shown here is exclusively for single

SECTION *.04 PERMITTED USES

The following uses may be permitted, either singly or in combination, in accordance with the applicable OSD requirements:

- A. Single-family detached dwellings.
- B. Accessory buildings and uses customarily associated with single family detached dwellings.
- C. Agriculture, including accessory buildings and uses customarily associated with farming activities.
- D. Private open space and recreational buildings and facilities for use by the residents of the OSD.

SECTION *.05 SITE DEVELOPMENT REQUIREMENTS

A minimum lot size, width, and setbacks may also be included in the OSD provisions, as noted in the example below. The language of paragraph A is the most flexible arrangement possible, but requires careful consideration by the community and the developer to ensure that the lot sizes are adequate

- A. The minimum lot area, width, setbacks and yard requirements for any lot designated for residential use shall be determined by the Planning Commission. Minimum floor area and height regulations for dwelling units shall conform to the **** Residential District requirements.

(Minimum lot size option: The community may wish to establish a minimum lot size as a guide to applicants. The following table provides an example of how this may be structured.)

Lot Condition	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
Lot served by individual septic system and water well	25,000 sq. ft.	110 ft.	25 ft.	10 ft.	20 ft.
Lot served by community water well	15,000 sq. ft.	100 ft.	25 ft.	10 ft.	20 ft.
Lot served by community sanitary sewer	13,000 sq. ft.	85 ft.	25 ft.	10 ft.	20 ft.
Lot served by community water well and sanitary sewer	10,000 sq. ft.	80 ft.	25 ft.	10 ft.	20 ft.

- B. Land not proposed for development, but used for the calculation of overall density shall be considered open space and subject to the requirements of Section *.05, D.
- C. Development Density
 - 1. Parallel Plan: The maximum base density allowed in the OSD shall be determined through the submission of a parallel plan,

The purpose of the parallel plan is to establish the number of dwelling units that would otherwise be allowed if the property were developed under the normal Zoning Ordinance requirements, i.e. the "base density." The parallel plan need not be the most desirable layout; it need only be feasible and

indicating the number of dwelling units that may be otherwise approved under existing zoning. The parallel plan shall meet the following minimum requirements:

- a. The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each indicated lot and/or dwelling unit. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan.
- b. All lots or buildings shown on the parallel plans shall be located on buildable lots, which, for the purposes of this Section shall mean lots or building areas that have an areas of sufficient size and shape to accommodate the proposed main building septic and well systems (where no public sanitary sewer or water system is to be used), and required driveways, streets, or other means of permitted access.
- c. Areas of wetlands, water bodies, and other unbuildable areas shall not be included within buildable areas, but may be included in the lot area calculations.
- d. In determining the feasibility of the parallel plan, the Commission may utilize general factors normally used in reviewing similar development, such as not permitting individual driveways on adjacent streets, limits on street or cul-de-sac lengths, or other similar considerations.

2. Density Bonus: In order to preserve the maximum amount of open space, an OSD may permit an increase in the number of dwelling units above the base density established in the parallel plan.

Density bonus provisions are optional. If allowed they can be very flexible. The community should first decide the maximum bonus allowed, then determine what features may be "rewarded" through the bonus. These may include greater open space, community water and sewer

- a. In no case shall a density bonus exceed sixty percent (60%) of the base density.
- b. The OSD may qualify for density bonuses in accordance with the following:

Facility/Open Space Provided		Density Bonus
Open Space	55% open space	10%
	60% open space	20%
	65% or more open space	30%
Community or Public Sanitary Sewer Service		30%
Community or Public Water Service		20%
Community or Public Sanitary Sewer and Water Service		60%

c. For the purposes of this Section, a *community sanitary sewer service* shall be defined as all aspects of a complete mechanical system required to properly collect, treat, and dispose of wastewater from all of the individual dwelling units or other buildings within the OSD, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat, and dispose of wastewater at a central location. It shall not be construed to mean a common drain field using septic tank systems.

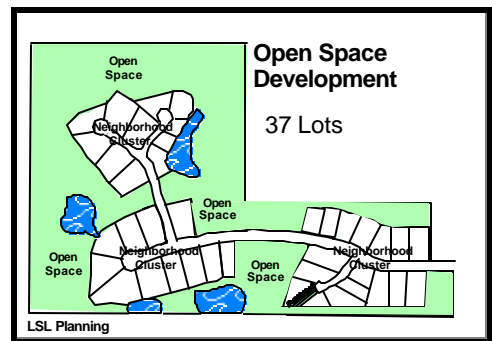
Density bonuses should be greater for a community sewer system than water. Having a community sewer system is one way to help

d. A *community water service system* shall be defined as all aspects of a complete system required to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within the OSD from a central location or water source.

D. Open Space: Any open space provided in the OSD shall meet the following considerations and requirements:

Open space should be reviewed to ensure that it serves a purpose, rather than being left over land, impractical to develop. A high percentage of open space does not necessarily indicate a better project if the

1. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, so that all properties within the entire OSD may utilize the available open space.
2. The OSD shall have a minimum of twenty five percent (25%) open space. Any area used in the calculation of required open space shall have a minimum width of fifty (50) feet.
3. Evidence shall be given that satisfactory arrangements will be made for the maintenance of the designated land to relieve the Township of the future maintenance thereof.
4. Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation. Open space is encouraged to be located between neighborhood clusters of housing units, as shown in the accompanying illustration.



5. All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.

A property owner's association is required in order to ensure that the open spaces are maintained. "Maintained" does not necessarily mean mowed or manicured lawn areas. But natural areas also need to be monitored to ensure it is kept free of junk or that diseased or dead

6. All open space shall be in the joint ownership of the property owners within the OSD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.

E. Development Setback

1. Any building area, which for the purposes of this Section shall mean any lot on which a main use is located, shall be located at least two hundred (200) feet from any public street right-of-way not constructed as part of the OSD.

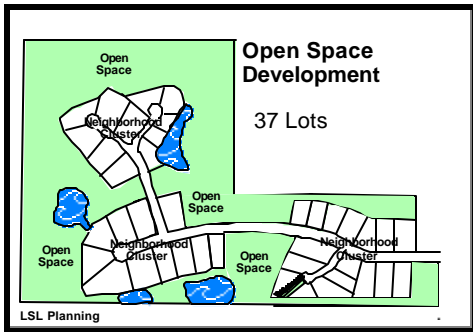
The development setback is an optional, but effective, provision. Its aim is to preserve roadside rural character by providing a natural strip of land along the adjacent major

2. No native or natural vegetation shall be removed from the development setback area, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the OSD.
3. The Planning Commission may reduce the development setback to not less than one hundred (100) feet if existing landscaping or topography provides a natural screen that substantially blocks the view to the proposed development. In this case the Commission may also require additional landscaping if necessary to further screen the development area. Landscaping may consist of either existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
5. OSD sites abutting more than one (1) public street shall be permitted to reduce the development setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. Where sites have equal frontage, the Planning Commission may determine the side for the reduced setback.

F. Design Principles: The overall intent of the Open Space Development regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the Planning Commission in evaluating proposed Open Space Developments.

The design principles are intended as a guide to allow the community to properly evaluate the effectiveness of the OSD in achieving the desired objectives. They are intended not to limit creativity but to foster

6. Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.

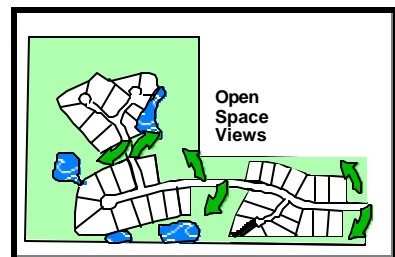


7. Residential Clusters

- a. Neighborhoods should be created as clusters of housing units, separated by areas of open space, as shown in the accompanying illustration. This is intended to avoid the suburban development type normally found in urbanized areas.
- b. Generally, neighborhood clusters should have not more than 6-8 units per cluster for smaller developments, and generally not more than twenty (20) units for larger developments.
- c. Homes within the clusters should have varied setbacks, side entry garages, and other elements that reduce the visual effect of the homes from the street.

8. The Open Space Development should be designed with due regard for views from both inside and outside the development.

9. Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways will be considered a high priority by the Township. Areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. Open space may, however, incorporate trails or other internal pedestrian circulation paths.



10. The overall design of the Open Space Development should emphasize the rural character of the Township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.

SECTION *.06 REVIEW STANDARDS

The following review standards will be used by the Planning Commission in its consideration of a OSD. Before a development may be approved the Commission shall find:

As with any zoning approval, review standards are necessary to permit consistent and effective evaluation of individual projects. They must be taken seriously and compliance must be ensured before approval. Reasonable conditions may be imposed to

- A. That the OSD meets the Purpose of Section *.01.
- B. That the OSD does not substantially alter the character of the general neighborhood in which the development is proposed.
- C. That the location of the buildings of the OSD do not unduly impact other single family uses in the vicinity of the proposed development.
- D. That the OSD preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
- E. That the OSD can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use.
 1. To evaluate this review standard, the Planning Commission may specify what additional evidence it deems to be acceptable to ensure the review standards are met, including additional soil borings, soil reports, hydrological tests, and other evidence which will be submitted by the applicant and reviewed by the Township prior to approval of the OSD.
 2. Additional information may also include the following provisions related to the objective of groundwater protection.
 - a. The Planning Commission may require specific evidence from the applicant that groundwater will be protected and that other environmental concerns are met. Approval of the ** County Health Department or other agencies, while required

Placing a greater number of dwelling units in a smaller area with individual septic systems and wells can create concerns about groundwater quality. These provisions allow greater discretion by the community in

to develop the site, will not be the sole determining factor in this regard.

- b. The Planning Commission may specify what additional evidence it deems to be acceptable to make this determination, including additional soil borings, soil reports, hydrological tests, and other evidence which will be submitted by the applicant and reviewed by the Township prior to approval of the OSD.



WATERSHED RESOURCE REGULATIONS

Lake Use and Access

As more development occurs around lakes and more lakeside cottages are converted from seasonal to year-round use, boating and other recreational activities on inland lakes can be expected to increase accordingly. This fact, coupled with the tremendous increase in the number, size, and speed of today's watercraft, has brought the issue of lake access and overcrowding to the forefront in many communities.

The key, therefore, is to recognize the development potential around lakes, and attempt to find a balance between the needs and desires of the various users. Several recent Supreme Court decisions and Michigan laws define the roles state and local government may play in addressing lake access and overcrowding issues. Many issues are generally left up to individual communities and the policies they wish to develop and implement.

The example language that follows includes provisions related both to lake access for individual property owners as well as to transient or casual users. While most of the examples may be included as part of the zoning ordinance, others may be equally or more effective as a stand alone ordinance. Zoning and police power ordinances do not regulate existing and proposed uses in the same way.

A police power ordinance is not required to recognize existing non-conforming use rights, therefore, existing and proposed uses can each be regulated. Zoning under the Township Zoning Act, however, regulates only proposed uses, since non-conforming situations must be recognized. In addition, under the Zoning Act, variances may be obtained from the Zoning Board of Appeals, which may not have a clear understanding of the need for and value of these regulations.

Thus, for a lake community experiencing problems as a result of existing uses may wish to consider proceeding under the Township Ordinance Act. On the other hand, if future uses are more of a concern than existing ones, it may be more appropriate to proceed under the Township Zoning Act.

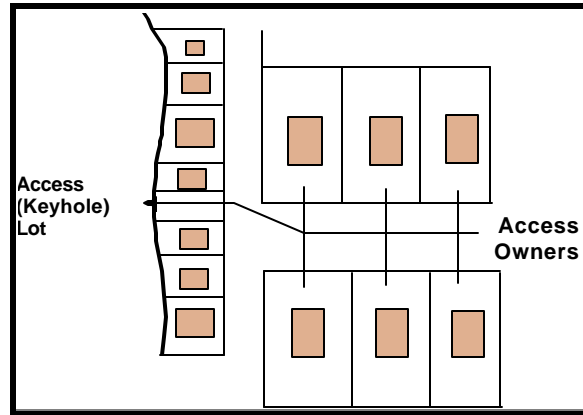
Although the courts have repeatedly stated that township ordinances are presumed to be a valid exercise of authority, any adopted ordinance must have a logical basis, which may be identified through appropriate studies. Otherwise, a court may find an ordinance unreasonable or arbitrary and, therefore, invalid if challenged. Care must be taken in drafting and applying lake use regulations to ensure ordinances are not deemed unreasonable or confiscatory (i.e. constitute a taking of property without compensation). The ordinance (and/or Master Plan for zoning regulations) should clearly articulate standards and address a specific, defined need.

Keyhole or Funnel Development

General Provision or District Regulation Requirements for Riparian Access (Keyhole)

SECTION * Riparian Access

The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the township.



- A. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake, river, or stream in all Districts, regardless of whether access to the lake, river, or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.
- B. Existing Keyholes: Lots of record which existed prior to the effective date of this ordinance that provided common use access to a water body may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Environmental Quality under Part 301 of the Michigan Act 451 of 1994.
- C. Standards: Except as may be noted in this subsection, waterfront lots dedicated to common use shall conform in all respects to the minimum lot area and width requirements of the districts which they are located. In addition, common use riparian lots shall have the following minimum lot dimensions:

The frontage requirement (here 50 and 200 feet) can vary widely. Excessively high numbers should be avoided to ensure that the regulations are defensible.

- 1. In all Districts there shall be at least fifty (50) feet of lake frontage, and at least two hundred (200) feet of river or stream frontage, as measured along the ordinary high water mark of the lake, river, or stream, for each dwelling unit utilizing or accessing the lake, river, or stream frontage. For example, a multiple family building with four (4) dwelling units would require two hundred (200) feet of lake frontage to gain access to the lake for all of the units.
- 2. Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

3. Such riparian lot or parcel shall have a minimum lot depth of one hundred (100) feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge.
4. The deed to such lot or parcel shall specify the non-riparian lots or parcels which shall have rights to its use.
5. All structures and appurtenances shall comply with the requirements of Section *, Boat Docks.

Public Access Sites

Special Land Use Specific Requirements for Public or Private Boat Launches

1. The boat launch site shall be at least one (1) acre in size.
2. The launch site shall contain not more than one (1) ramp for each full acre of land used for the launch site.
3. There shall be no above ground storage of gasoline, fuel oil, or other flammable liquids or gases.
4. No building, structure, dock, or parking area which is part of a boat launch area shall be located closer than five (5) feet to any lot line, except the setback shall be thirty five (35) feet to any lot in a Residential District.
5. Parking facilities shall not be used for the overnight storage of boats, trailers, or other vehicles.
6. A minimum of ten (10) parking spaces per boat launch shall be provided. If, after evaluation of the site, it is found by the Planning Commission that parking will be inadequate to satisfy user demand, the Planning Commission shall reserve the right to require additional parking, or if parking is not available, curtail use of the site.
7. The parking area shall be hard surfaced with pavement having an asphalt or concrete binder. The Planning Commission may permit a surface of a minimum of six (6) inches of compacted gravel, or other equivalent material if such material would be more in keeping the natural character of the site.
8. All parking and maneuvering areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. Runoff shall not be permitted to drain directly to a water body or watercourse, but shall be collected on site or otherwise properly disposed of.
9. A seventy-five (75) foot radius vehicle turn-around, separate from any parking areas shall be provided within the site. Such area shall not extend into any public or private street right-of-way.
10. The number of users of the site may be limited by the Planning Commission if necessary to protect the public health, safety, and welfare. In making this determination, the Planning Commission shall consider whether or not the public access site creates congestion, safety problems, or aggravates existing recognized congestion or safety problems.

Marinas

Special Land Use Specific Requirements for Marinas

1. Storage of gasoline, fuel oil, or other flammable liquids or gases shall be in accordance with the requirements of the State of Michigan.
2. No building, structure, dock, or parking area which is part of marina or boat launch area shall be located closer than five (5) feet to any lot line, except the setback shall be thirty five (35) feet to any residential use lot or District.
3. Parking facilities shall not be used for the overnight storage of boats, trailers, or other vehicles.
4. Entrances and exits to the marina are on the same property as the marina, or a written and recorded access easement is secured from the property owner from whose property access is gained.
5. The marina will not create congestion, safety problems, or aggravate existing recognized congestion or safety problems.
6. The facilities related to the marina, including any accessory buildings are generally compatible with other similar structures in the general vicinity of the marina.
7. Adequate parking, vehicle and boat storage space shall be available to accommodate anticipated users.
8. Any structures within the marina area do not constitute a safety or navigational hazard and are maintained in good repair.
9. Public or private boat launch areas shall comply with the applicable requirements of this Ordinance for such launch areas.

Boat Docks

General Provision or District Regulation Requirements for Boat Docks

1. No more than one (1) dock, slip or boat house per dwelling unit shall be permitted for single-family dwellings and two-family dwellings.
2. No more than one (1) boat slip per dwelling unit shall be permitted for multiple-family dwellings.
3. Dock design, including length, shall not interfere with navigation or other riparian rights of waterfront owners.
4. Docks shall be designed, constructed, and maintained to blend with natural surroundings. The use of natural, native materials is encouraged.
5. Boat docks, boat houses and boat slips shall be used only by persons residing on the premises or their guests, and shall not be leased, rented or otherwise used for compensation except in conjunction with the lease or rental of the dwelling unit on the same lot, unless approved as a private or public marina as a special land use.

6. Boat docks and boat launching sites within a common use riparian lot shall comply with the provisions of *Section * Riparian Access*, or as a special land use for Public or Private Boat Launches.
7. Any portion of a dock shall be located at least ten (10) feet from any adjoining property line.
8. Boat hoists shall be permitted for seasonal use. A boat hoist may be installed in place of a dock or at the end of a dock, but in such case shall not interfere with navigation or other riparian rights of waterfront owners. One (1) boat hoist per parcel or lot shall be permitted.

WATERSHED RESOURCE REGULATIONS



Water Quality Provisions

Shoreland Overlay Zoning

Overlay zoning is the application of an additional set of regulations to an established zoning district. Areas commonly targeted by overlay zones include: floodplains, watersheds, lake shorelands, river corridors, environmentally sensitive areas, high risk erosion areas, historic districts or economic revitalization areas. Overlay zoning can be used to help ensure uniform regulations are in place across several zoning districts or political jurisdictions.

The example regulations are for a “shoreland” overlay district for lakes and streams. The intent of the regulation is to limit certain activities within shorelands adjacent to lakes and streams to help prevent future water quality problems. In many cases, existing structures and situations will be nonconforming and allowed to continue. However, using the regulations in combination with a public education program may help bring about compliance, even on properties that are currently nonconforming.

A key component of the overlay regulations is a requirement for a shoreline vegetative buffer. In addition to aesthetic appeal, vegetated buffers can enhance fish and wildlife habitat and help to protect water quality by controlling erosion and reducing runoff. Over time, development along lakes and streams can degrade water quality. Visual and physical access to water is often gained by the clearing of vegetation along streambanks and lakes. This contributes to reduced water quality and may lead to the eventual loss of aesthetic value.

In general, smaller buffers may be adequate when the buffer is in good condition (e.g. dense native vegetation, undisturbed soils), when the water body or resource is of low functional value, and the adjacent land use has low impact potential (park land or very low density residential development). Larger buffers will provide water quality protection for high impact land uses such as highly developed commercial areas dominated by large parking lots (highly impervious surfaces). These factors will be important to consider as each community determines how or whether to implement these provisions.

The example is shown as an overlay zoning district. It is also possible to structure them as a general ordinance regulation, either as a stand alone (police power) ordinance or as a general provision to the Zoning Ordinance.

SHORELAND OVERLAY DISTRICT

SECTION *.01 PURPOSE AND APPLICATION

- A. The purpose of this District is to recognize the unique physical, environmental, economic, and social attributes of water bodies, watercourses, and shoreland properties in ** Township, to ensure that the structures and uses in this District are compatible with and protect these unique attributes. Other specific purposes include the prevention of water pollution, preservation of wildlife habitat, protection from the negative effects of erosion and storm water runoff, conservation of natural beauty and open space, and management of development in sensitive shoreland areas.
- B. The Shoreland Overlay District is a supplemental District which applies to certain designated lands, as described in this Section, simultaneously with any of the other Zoning Districts established in this Ordinance, hereinafter referred to as the "underlying" Zoning District. Lands included in the Shoreland Overlay District are:

- 1. **Watercourses** - All lands located within five hundred (500) feet of the shoreline of the watercourses in the township (to be listed here); and
- 2. **Water Bodies** - All lands located within five hundred (500) feet of the shoreline of the water bodies in the township (to be listed here).
- 3. In cases where a parcel is partially inside and partially outside of the Shoreland Overlay District, only those portions located within the Overlay District are required to comply with the requirements of this district.

The first important issue to determine is to what bodies of water or water courses the regulations will apply. There may be some degree of selectivity; not all lakes and streams need be covered, but there should be specific reasons why some are covered and not others.

SECTION *.02 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply.

- A. Lot Coverage - The part or percent of a lot occupied by impervious surfaces, including, but not limited to, buildings or structures, paving, drives, patios, and decks.
- B. Natural Vegetative Cover - Natural vegetation, including bushes, shrubs, groundcover, and trees, on a lot. Lawn shall not

The definition of lot coverage proposed for the overlay district emphasizes the total amount of imperviousness and is designed to address potential adverse impacts associated with stormwater runoff from shoreland areas.

qualify as natural vegetative cover.

SECTION *03 DEVELOPMENT REQUIREMENTS

A. Permitted Uses: With the exception of uses and activities prohibited herein, the following uses of land and structures shall be permitted in the Shoreland Overlay District: Permitted Uses and Special Land Uses permitted in the underlying District, provided that Special Land Uses meet the requirements of Chapter * (Special Land Use chapter).

B. Prohibited Uses: The following uses and activities shall be specifically prohibited in the Shoreland Overlay District:

1. Confined Feedlots
2. Slaughterhouses
3. Gas Stations
4. Auto Repair Shops, either major or minor repairs and including oil change establishments
5. Auto Washes, either self service or automatic
6. Hazardous Waste Storage Facilities
7. Petroleum Storage Facilities
8. Landfills, Salvage or Junkyards
9. The construction of a canal, channel, or any artificial waterway
10. Any other use not specifically permitted in the underlying Districts

C. Lot Area, Width, Yard, Building Area, Height, and Setback Requirements

1. Except as noted below, minimum requirements for lot area, lot width, yards, building area and building height shall conform to those required by the underlying District.

2. The following additional requirements shall apply for structures within the Shoreland Overlay District. Unless otherwise noted, all requirements apply to both watercourses and water bodies.

As an "overlay district" most of the underlying development regulations remain the same.

a. As of the effective date of this Ordinance, no dwelling or other main building, accessory building shall be constructed, erected, installed, or enlarged unless in compliance with the following setback requirements:

The setback requirements are generally based on Michigan's Natural Rivers regulations.

- (1) **Watercourses** - The structures noted shall be set back a minimum of one hundred (100) feet, as measured from the shoreline, except that for each one (1) foot of elevation above a minimum of seven (7) feet above the shoreline, new structures may be placed five (5) feet closer to the shoreline of the watercourse, provided that no structure shall be located closer than seventy-five (75) feet from the watercourse.
- (2) **Water Bodies** - The structures noted shall be set back a minimum of twenty-five (25) feet, as measured from the shoreline.

b. No dwelling shall be constructed or placed on lands which are subject to flooding.

D. Shoreline Vegetative Buffer

1. A buffer bordering any watercourse or water body, shall be maintained in its natural vegetative state. Lawn shall not qualify as natural vegetative buffer under this section. The minimum width of the buffer, as measured from the shoreline, shall be:

The shoreline vegetative buffer is an essential element of this regulation. It is most difficult to implement where development has already taken up the shoreline. However, public education and enforcement where possible can still make this an effective tool.

- a. **Watercourses** - one hundred (100) feet
- b. **Water Bodies** - twenty five (25) feet

- 2. Within the shoreline vegetative buffer, no more than an aggregate of twenty (20) feet for each one hundred (100) feet of shoreline may be cleared to afford lake access, provided that the clearing does not cause erosion or sedimentation. Since the intent of the vegetative buffer is water quality protection, the lake access area must be covered in grass or other vegetative groundcover. Impervious materials such as asphalt or concrete shall not be used within the shoreline buffer area.
- 3. The Zoning Administrator may allow limited clearing of the vegetative buffer when required for construction of a permitted building or structure outside the vegetative buffer, provided that the land cleared is returned to a vegetative state of approximately the same quality as that which existed prior to clearing and is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.

4. These provisions shall not apply to the removal of noxious, dead, diseased, or dying vegetation or trees that are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the watercourse or water body.

Some reasonable maintenance provisions are necessary to maintain safety and prevent the blocking of navigable waters.

5. The shoreline vegetative buffer shall not be used for any motorized vehicular traffic, parking, or for storage of any kind, including junk, waste, or garbage, or for any other use not otherwise authorized by this Ordinance.

E. Lot Coverage and Natural Vegetative Cover

1. Notwithstanding the requirements of the underlying zoning district, lot coverage shall not exceed forty percent (40%).

Actual lot coverage requirements are flexible, but should be higher than those normally applied when lot coverage only includes buildings.

2. At a minimum, lots shall maintain a minimum of thirty percent (30%) of the entire lot area in natural vegetative cover. To the extent practicable, natural vegetative areas shall be maintained along lot lines, water bodies and watercourses, natural drainage courses, wetlands, and steep slopes. On lots bordering water bodies and watercourses, the Shoreline Vegetative Buffer required by this provision may be included as part of the Natural Vegetative Cover.
3. In the case of planned unit developments, site condominiums, and open space developments, each individual lot need not meet the requirements of this Section, provided that the total project or an individual phase of a project meets the requirements of this Section.

F. General Design and Development Standards: For all development in the Shoreland Overlay District, the following design and construction standards shall be followed:

1. Natural vegetation shall be maintained wherever possible.
2. Existing mature trees shall be maintained on site where feasible.
3. To the extent feasible, natural drainage areas should be protected from grading activity.
4. Buildings and structures shall be clustered as much as possible to retain open

space and surrounding tree cover and to minimize changes in topography.

5. The smallest practical area may be exposed at any one time during construction.
6. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
7. Appropriate measures shall be taken to ensure stormwater drainage will not adversely affect neighboring properties or the quality of area water resources. Where feasible, steps should be taken to retain and infiltrate uncontaminated stormwater (such as roof top drainage) on site.

SECTION *04 APPROVALS

- A. Site plan approval, in accordance with the requirements of Section ** (Site Plan Review chapter) shall be obtained for the following uses or buildings (including additions or extensions to these uses or buildings) that are located wholly or partially within the Shoreland Overlay District.
 2. Any Commercial establishment
 3. Any Industrial establishment
 4. Multiple Family Residential Dwellings
 - B. Development within the Shoreland Overlay District must conform with all applicable County, State, and Federal, and Township statutes and ordinances including, but not limited to, Part 91, Soil Erosion and Sedimentation Control, of Michigan Act 451 of 1994. A building permit shall not be issued in the Shoreland Overlay District unless a copy of the soil erosion control permit required pursuant to Part 91 has been submitted to the Zoning Administrator.
 - C. All other requirements, including parking, signs, and other similar provisions shall be as required by the underlying zone district, except that where specific requirements of the Shoreland Overlay District vary or conflict with the regulations contained in the underlying zoning district, the stricter shall govern.
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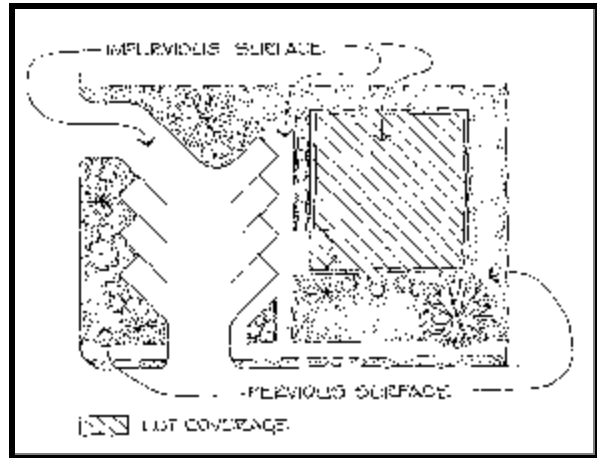
Other Water Quality Zoning Provisions

Impervious Surface Limits

Limits on impervious surfaces may be implemented through zoning district requirements, as shown in the following district regulation example. Without limits on impervious surfaces, lot coverages for larger lots generally range from 10-20 percent; on smaller lots, perhaps as high

as 20-25 percent. However, those lot coverages generally only take into account main and accessory buildings.

Zoning restrictions on impervious surfaces require a broader definition of lot coverage to include more impervious surfaces. Accordingly, the range of lot coverages must be higher to take into account permitted driveways, sidewalks, patios, and other impervious surfaces, in addition to main and accessory buildings. For example, where a zoning district might normally require a 15-20 percent lot coverage (where only main and accessory buildings are used in the calculation), that number might be as high as 40-50 percent to take into account all impervious surfaces. (See also the Water Resource Regulation paper on Definitions for Impervious Surface and Lot Coverage)



Parking Lot Restrictions

Placing certain restrictions on parking lot size may also help limit impervious surfaces. Zoning requirements for parking are normally written for individual uses, without taking into account any specific needs for individual requirements related to specific businesses. For example, all retail businesses may be included under a single parking requirement, such as 5 spaces per 1,000 square feet of leased area. Some retail businesses may have a need for that amount of parking, but others much less. The “deferred parking” provision allows the community to tailor parking needs without sacrificing future needs, and without requiring individual variance procedures.

On the other hand, some businesses may wish to greatly exceed the number of spaces required by the Ordinance. In some instances, these spaces may be greatly in excess of those actually required, but are used as a “comfort margin” by individual owners. “Maximum” parking requirements may be used to avoid creating excessively large, unused parking lots. Larger than necessary parking areas would be required to be specifically justified.

Other provisions related to parking may limit the number of parking spaces in a continuous row with islands of landscaping separating the rows. Landscaping requirements can be used to define parking areas, control traffic, and lower speeds thus promoting efficiency in the operation of the lot. Dense perimeter landscaping can also reduce and filter the runoff of the parking lot surface. Perimeter landscaping can also muffle the noise of automobiles and reduce the glare of automobile headlights and parking lot lighting.

The following provisions may be placed within the parking requirements of the zoning ordinance.

A. *Parking Area Deferment*

1. Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this Chapter is retained as open space.
2. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
3. The property owner shall agree, in writing, to construct the additional parking at the direction of the Planning Commission based on observed use within six (6) months of being informed of the request in writing by the Building and Zoning Administrator.
4. Stormwater calculations shall be provided to verify adequate stormwater storage capacity if an expansion is necessary.

B. *Maximum Parking Requirement*

1. To minimize excessive areas of pavement which detract from community aesthetics and contribute to high rates of stormwater runoff, no parking lot shall exceed the minimum parking space requirements, as determined by the Parking Requirements of Section **, except as may be approved by the Planning Commission.
2. In granting additional space, the Planning Commission shall determine that the parking will be required, based on documented evidence of actual use and demand provided by the applicant or as justified through a specific parking study conducted by a professional qualified in the field.

Site Preservation Requirements

A frequent complaint from neighboring property owners is the indiscriminate clearing of vacant properties, either in anticipation of development, or for clearance prior to construction of buildings and parking areas. This can also create problems with erosion and runoff if cleared sites are not part of a development project. The following General Provision may be added to the zoning ordinance to address this issue.

Section * *Grading, Excavation, Filling, Soil Removal, Creation of Ponds and Clearing of Trees*

- A. The grading, excavation, filling, soil removal, creation of ponds, or clearing of trees within an area of less than one hundred (100) square feet, shall be permitted activities provided the activity is normally and customarily incidental to the uses on the site and in accordance with applicable county and state regulations.

- B. Grading, excavation, filling, soil removal, creation of ponds or tree clearing over one hundred (100) square feet may be permitted after review and approval of a sketch plan by the Planning Commission in accordance with *Chapter ** Site Plan Review* and with applicable county and state regulations.

- C. Any clearing of trees on undeveloped sites prior to site plan approval in accordance with *Chapter ** Site Plan Review*, shall be prohibited.

- D. Topsoil or sand may be removed from a lot to allow the construction of a building or structure, provided a permit is first obtained from the Zoning Administrator. If removal shall exceed five hundred (500) cubic yards of material, then the applicant shall comply with the Special Land Use provisions of this Ordinance pertaining to the removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

- E. In addition, topsoil or sand may be moved from one part of a lot to another part if the action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs or possible future injury to adjoining properties.



WATERSHED RESOURCE REGULATIONS

Lakefront Nonconformities

A common source of zoning nonconformities is around inland lakes where once seasonal cabins and homes are converted to year-round residences. In communities with substantial areas of lake development, variances on these lots often occupy a substantial portion of a Board of Appeal's agenda. Owners wishing to add bedrooms, family rooms, decks, enclosed porches, and other improvements find that nearly every action requires a variance.

What Does Nonconforming Mean?

A nonconforming lot, use, or building is one that, when created, met the requirements of the zoning ordinance in effect at that time, but, as a result of a situation beyond the control of the owner, no longer complies with the ordinance. The essential principle behind nonconformities is that if the lot, use, or building was legal when constructed, it must be allowed to continue to exist just as it was when it was legal.

However, if a lot, use, or building was not legal when created, it does not become "nonconforming" simply because it does not comply with the zoning ordinance. Therefore, it is important to carefully distinguish between those lots, uses, and buildings that have formal "nonconforming" status, where the requirements of the zoning ordinance are applicable, and those lots, uses, and buildings which do not meet the requirements of the zoning ordinance at the time of their creation. In this case of the latter, the creation of the lot, use, or building is simply illegal, and enforcement of the zoning ordinance to bring it into compliance is necessary.

The Zoning Acts require communities to include regulations concerning nonconformities in the zoning ordinance. Before any nonconforming situation can be properly considered, it is first important to identify the type of nonconformity to be addressed. This is critical because each type of nonconformity has a different set of regulations which must be applied.

It is important to distinguish between regulations that apply to nonconforming buildings, nonconforming uses, and nonconforming lots. It is equally important, therefore, that the regulations applicable to nonconformities are clearly separated by buildings, lots, and uses. The Water Resource Protection Definitions section includes relevant definitions for these terms.

Nonconforming Lots

Creation

As with other nonconformities, nonconforming lots may be caused by a change in district regulations that change lot areas or widths. (Note that a change in yard setbacks will not affect the conformity of the *lot*. It may, however, create a nonconforming building, if a building already lawfully exists on the lot.) There are, however, other governmental actions that may be involved in their creation, such as a road widening that involves the purchase of additional right-of-way, causing the lot area to drop below that allowed by the Zoning Ordinance.

As noted above, one of the most frequent occurrences of nonconforming lots is around inland lakes where changes in zoning provisions have increased lot areas and widths above those normally found in these older, once seasonal or resort areas.

Use of Nonconforming Lots

Nonconforming lots that are otherwise buildable, must be allowed to be used for a use permitted by the district in which they are located. Attempts to prohibit their use will normally be prevented by the courts. Exceptions are generally made for lots which are so small so that they cannot reasonably be utilized for building sites (i. e. nonbuildable), and, in fact, may have more value if sold to adjacent property owners.

Ordinance provisions may be adopted to deal with various situations governing the reasonable use of nonconforming lots, including construction of buildings otherwise allowed by the zoning ordinance. Some examples follow.

New Zone District

The simplest solution to situations in areas with many nonconforming lots, such as lakefront development, is to create a new zone district that more closely reflects existing nonconformities. Yard and setback requirements of the new district should be based on a careful study of existing conditions in order to avoid an excessive number of variance requests. The existing lots and buildings should be inventoried to determine a lot size, width, and setbacks that most closely represent existing conditions. The new ordinance provisions should then be based on the findings of the inventory.

This solution is particularly effective because it preserves the zoning requirement for "uniformity." A provision of the Township Zoning Act states: "The provisions shall be uniform for each class of land or buildings, dwellings, and structures, including tents and trailer coaches, throughout each district, but the provisions in 1 district may differ from those in other districts."

Percent Compliance

If the number of nonconforming lots does not warrant a new zoning district, the ordinance may include a provision that allows existing lots of record to be used if the lot area and lot width meets a set percentage of what is currently required. For example, assume the ordinance allows a building to be constructed if it meets 50 percent of the lot requirements of the district. If the current lot area requirement is 10,000 square feet, and the lot of record is at least 5,000 square feet, that lot would be able to be used as zoned. The percentage used should be tailored to accommodate as many existing nonconforming lots as practicable.

Maximum Compliance

Another version of the percent compliance regulation is a more liberal provision that would allow the use of any existing, legal nonconforming lot, provided that it complies with lot and yard requirements to the "greatest possible extent." The Zoning Administrator is normally given the approval authority. It is normally useful, however, to provide at least a minimum side yard requirement for such lots.

Other Zoning Provisions

Several useful zoning provisions may be added to the ordinance to accommodate situations frequently found with construction on nonconforming lots.

Setback Averaging

The ordinance may include a provision that allows an averaging of nonconforming front setbacks. This allows a new structure to be built at the average of the front setbacks established by developed lots. The area from which the averages are calculated can be the adjoining lots, all lots within the same block, or all lots within a described distance (on the same side of the street). It is also essential that the ordinance clearly define the front yard location (lake side or street side).

Yard Projections

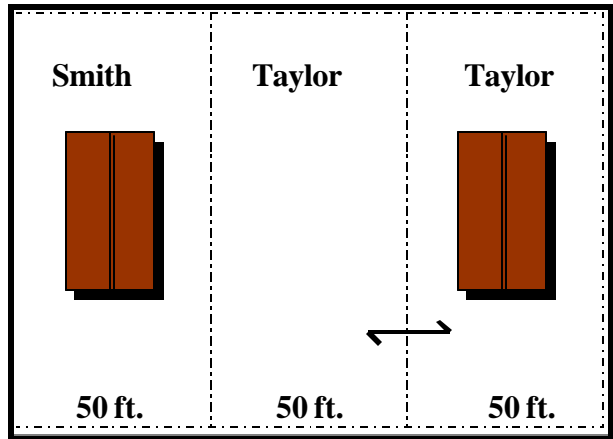
A common zoning provision (permitted for all lots, not just nonconforming lots) allows some architectural and incidental physical features, such as bay windows, cornices and other similar features, to extend a limited distance into required yards. Most of the time, however, this allowance only includes front and rear yards. Side yards should generally be protected from encroachments, particularly on narrow lots.

Some of the most common projection problems on lakefront lots are decks or open, unenclosed porches. A provision may be included that permits a limited encroachment into the yard on lakefront lots. This can cover those situations where the buildings are already nonconforming for front and rear yards. However, the ordinance should require some minimum setback for all structures from the shoreline.

Using one or more of these solutions can help limit variances by highlighting those cases that are truly deserving of a variance due to unusual circumstances not found on other similar lots. Once these solutions are in place, it is imperative that the Board of Appeals strictly interprets the standards for a variance, particularly since the ordinance already includes, through these regulations, a strong measure of fairness.

Nonconforming Lots in Single Ownership

Multiple nonconforming lots of record bordering one another and under the same ownership that individually do not meet the requirements of the zoning ordinance may be considered a single lot for zoning purposes. These lots then would not be able to be used separately, but can be recombined into conforming lots.



This is an optional provision, but one that should be seriously considered. The purpose of this requirement is to ensure that where it is possible to meet the requirements of the ordinance, compliance should be mandated. However, if there are many of the same lots in the same situation, one of the other solutions for nonconforming lots may be applicable. Otherwise, in isolated situations, individual, adjoining nonconforming lots in single ownership should be required to conform to the ordinance.

Nonconforming Buildings

Nonconforming buildings are often created in either of two ways. When new zoning districts are created, or particular areas rezoned to another district, individual district regulations, such as setbacks, heights, lot coverage, dwelling unit sizes, or other regulations may cause a specific building to no longer comply with the yard or setback provisions of the Ordinance.

Nonconformities may also be caused by other governmental actions, such as a road widening which involves the purchase of additional right-of-way. The loss of a portion of a lot may create a nonconforming building by reducing the setback or a nonconforming lot by decreasing the lot area below the district minimum.

Whenever new districts are added or changes made to existing district regulations, the community should carefully evaluate the possible number of nonconforming situations that may be created. If excessive, the regulations may have to be "tweaked" to avoid an excessive number of variance requests.

Enlargement/Expansion/Extension of Nonconforming Buildings

Enlargement/Expansion

Most ordinances will not permit a nonconforming building to increase its nonconformity. For example, a building which has a nonconforming side yard would not be permitted an expansion that would bring the building even closer to the lot line. However, regulations may be adopted that might permit some degree of alteration, generally after the approval of the Board of Appeals (or other body or official).

However, rather than the normal variance standards, which would be difficult, if not impossible to meet, the review considerations used by the Board generally will include some or all of the following.

1. *The enlargement/expansion will not unreasonably extend the existence of the nonconforming building.* This is often a difficult standard to evaluate, but essentially, an expansion should allow the owner to make reasonable changes to the building, as long as those changes do not make the building more viable and subject to long-term use.
2. *The expansion will not lead to requests for similar expansions in the area.* As with other variance requests, if similar requests could be expected for neighboring properties, the problem should be addressed through an ordinance amendment instead of a variance.
3. *The expansion will not have a negative affect on neighboring properties.* If the expansion of the building has a potential to make nuisance problems worse, it should be denied.

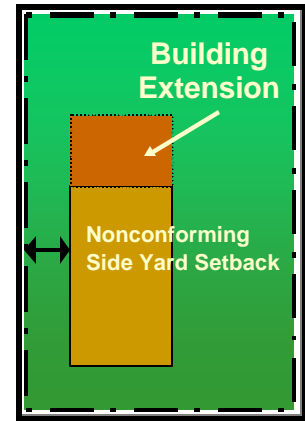
There may also be provisions that limit the degree of expansion. For example, the ordinance may limit an expansion to 50 percent (or some other percentage) of the original nonconforming area of the building. Another regulation will require that any additions to a nonconforming building provide the parking required by the ordinance for the added space.

If desired, the nonconforming regulations may permit the expansion or enlargement for a nonconforming building, provided the expansion takes place with the area where conformity to the ordinance is maintained. For example, if the front yard setback of the building is nonconforming, an addition to the rear of the building may still be permissible, provided that the addition conforms to the current rear yard and side yard setback requirements.

A stricter regulation would prohibit any expansion of a nonconforming building without first obtaining Board of Appeals approval, as noted above.

Extensions

Another, more unique provision would permit a nonconforming building to be extended along the same line as an existing nonconformity. For example, if a building has a nonconforming side yard, it may be permitted to be extended parallel to the side lot line, provided the extended area does not infringe any further into the nonconforming yard. This may also be made subject to Board of Appeals review using the same review considerations noted above.



Rebuilding of Nonconforming Buildings

The ordinance should address nonconforming buildings damaged or destroyed by an Act of God (fire, storm, etc.) Most ordinances will allow a nonconforming building to be reconstructed, as long as the cost of replacement or reconstruction does not exceed a specified percentage of the building's original value. A low percentage, less than 50%, will make it difficult to rebuild nonconforming buildings; a high percentage, more than 50%, indicates a willingness to let nonconforming buildings continue.

However, the zoning ordinance must not restrict the ability of the property owner to maintain the nonconforming building in a safe and sanitary condition.

Nonconforming Uses

The most important consideration for nonconforming uses is the issue of abandonment. Nonconforming uses are no longer considered abandoned simply on the basis of time. The ordinance (and its enforcement) must also demonstrate that the owner indicates a deliberate "intent" to abandon the use. Normally, this is accomplished by adding appropriate considerations, such as utility shut-offs, removal of fixtures and signs, evidence of lack of maintenance of the building and grounds, etc., which taken together indicate evidence of abandonment. These conditions must be present throughout the abandonment period, which generally could be as short as 90 days and as long as two years.

Enlargement/Expansion

The ordinances may prohibit any expansion or enlargement of a nonconforming use. However, regulations may be adopted that permits an expansion or enlargement, subject to some of the same considerations used for nonconforming buildings.

1. *The enlargement/expansion will not unreasonably extend the existence of the nonconforming use.* This is often a difficult standard to evaluate, but essentially, an expansion would allow some increase in the area of the nonconforming use, as long as those changes would not tend to make the use more viable. For example, an expansion of a nonconforming retail use for storage might meet this criteria, but adding additional retail space might not.
2. *The expansion will not lead to requests for similar expansions in the area.* As with other variance requests, if similar requests could be expected for other nonconforming uses in the area (if present) the problem should be addressed through an ordinance amendment instead of a variance. The amendment, for example, might change the district to make some of the nonconforming uses conforming. Another option would be to rezone the properties, if enough were present to warrant such action, and the rezoning was consistent with the Master Plan.
3. *The expansion will not have a negative affect on neighboring properties.* If the expansion of the use has a potential to make nuisance problems worse, it should be denied.

There may also be provisions that limit the degree of expansion. For example, the ordinance may limit an expansion to 50 percent (or some other percentage) of the original nonconforming use area (including outdoor areas). Another regulation will require that any expansion to a nonconforming use provide the parking required by the ordinance for the added space.

Conclusion

The most important factor when dealing with nonconformities is to first determine which type (or types) of nonconformity is present, and to then clearly distinguish between those regulations that apply to each.



WATERSHED RESOURCE REGULATIONS

Community Selection Checklist

The following is a checklist of the Watershed Resource Regulations that could be used in your community. Through a consensus of the Planning Commission, Township Board, staff or others, please list your degree of interest.

COMMUNITY _____

Regulation/ Amendment		Amendment Desired	Need More Information	Not Interested
Definitions				
Site Plan Review Provisions				
Farmland Preservation	Sliding Scale			
	Quarter-Quarter			
	Exclusive Ag			
	Ag Buffers			
	PDR Ordinance			
Open Space Development				
Lake Use and Access	Keyhole Regulations			
	Public Access Sites			
	Marinas			
	Boat Docks			
Water Quality Provisions	Shoreland Overlay			
	Deferred Parking			
	Maximum Parking			

Regulation/ Amendment		Amendment Desired	Need More Information	Not Interested
	Site Preservation			

Regulation/ Amendment		Amendment Desired	Need More Information	Not Interested
Lakefront Nonconformities	Nonconforming Lots			
	Nonconforming Buildings			
	Nonconforming Uses			
Others				