

April 11, 2016

Township Board, Planning Commission,
and Director of Planning & Zoning
Peninsula Township
13235 Center Rd.
Traverse City, MI 49686

Subject: Proposed Zoning Ordinance Articles 1 – 7

Members of the Township Board, Planning Commission, and Staff:

Enclosed for your review and comment is the proposed draft of Articles 1 through 7 of the Peninsula Township Zoning Ordinance, dated April 11, 2016. In keeping with the proposed schedule (enclosed), the proposed articles primarily address Zoning Districts and related standards. This step of the review process is, by far, the most difficult and time-consuming because it addresses not only the Zoning Districts (including overlays), but also the associated development standards, Schedule of Regulations, General Provisions, and Definitions. The purpose of addressing these parts early in the process is to allow time to re-visit major items, as needed, later in the process.

At the March 21st Planning Commission meeting, the outline of the document was reviewed and discussed. While the general organizational structure and format were acceptable, there were a few modifications made which are reflected in the enclosed Zoning Ordinance draft.

All of the current sections of the Zoning Ordinance are referenced in the headers, from which the current text has been copied and changed accordingly. As you will see, the changes are noted in the document, with new text underlined and deleted text in the margin. This way, it will be much easier for the Township to track changes during the amendment process. Some of the text is highlighted, which means that there is a corresponding editorial comment in the margin.

While several changes are proposed to the Zoning Ordinance at this time, the most notable changes are described in this letter. We expect that there will be in-depth discussion about many of these changes, and a monthly meeting is reserved later in the process (August) to re-visit any major items that remain at that time. Therefore, any items requiring more work will be noted and added to this future meeting.

The major changes to proposed Articles 1 through 7 of the Zoning Ordinance are as follows:

Article 1. Title, Purpose, and Scope.

This article will contains sections for Title, Purpose, Scope, Interpretation, Repeal, Effective Date, Severability, and Conflicting Regulations. The only notable changes are including additional purpose statements and updating the State Act.

Article 2. Definitions.

The Definitions article is similar to the existing article, but all terms are numbered for easier access. While many changes have taken place, the following are the most notable:

- **“Accessory Building or Accessory Structure”** was updated to exclude water, sanitary or septic, cooking, bathroom, or sleeping facilities, except for agricultural buildings on a farm.
- **“Adult Foster Care, Family Home”** and **“Adult Foster Care, Small Group Home”** were added, and **“Adult Foster Care Facility”** was updated, to meet the requirements of the Adult Foster Care Facility Licensing Act.
- **“Basement”** was updated to refer to basements as “stories” only if they are over a certain height above grade.
- **“Bed and Breakfast”** was updated to be consistent with Amendment #190.
- **“Boat Livery”** was updated to prohibit fuel sales. This use was also put in C-1 as a special land use.
- **“Building Elevation or Building Width”** was added to make it easier to administer the minimum elevation requirements.
- **“Building Envelope”** was revised to state that it is the area outside of the setbacks.
- **“Building Height”** was revised to describe how height is measured based on the roof of a building. Also, the definition was updated to add a new method of calculating heights of waterfront buildings. Graphics were include for height measurements.
- **“Dwelling”** now includes “Dwelling Unit.”
- **“Easement”** was added.
- **“Essential Services”** was updated to exclude wireless communication facilities, solar energy facilities, and wind energy facilities.
- **“Event”** was added, per Amendment #190.
- **“Family”** was updated to be more encompassing, as the definition of “Family” may violate the Fair Housing Act if it becomes too restrictive.
- **“Fence”** was updated to remove the requirement for 50% transparency. However, in the Waterfront Overlay District and in the fence regulations in Article 7, there is a transparency requirement. Having the regulation outside of the definition will make it easier to administer and enforce.
- **“Floor Area”** was updated to be more descriptive.
- **“Gasoline Service Station”** was updated to be more specific and include automobile repair and car washes. Given the rural character of the township, allowing gas stations, car washes, and auto repair together make it more likely that the 3 uses will be concentrated on a site and less spread out.
- **“Guest House”** was added to include the existing development standard.
- **“Impervious Surface”** was added to define how an impervious surface is classified. When we address Stormwater Management standards in the Environmental Performance article (Article 8), we will proposed stormwater management standards that apply to lots with an imperious surface coverage over a certain percentage. While we are not proposing a maximum impervious surface coverage in Article 3 at this time, we may address this item later in the Zoning Ordinance review process. For now, there are impervious surface coverage limits proposed in the Shoreline Overlay District.
- **“Junk Yard”** was modified to be consistent with Junk Ordinance and reduced the number of cars to 1.

- **“Lot”** was updated based on our understanding of its definition and application in the Township. While 2 or more lots across the street from each other may be combined into a single tax identification number, the development may only occur on one side of the road and the lot coverage is based on the developed lot. Therefore, houses and garages must be on the same lot and must meet the lot coverage for that lot.
- **“Lot, Width, Minimum”** was updated to allow narrower lots on the frontage of cul-de-sacs (80% minimum width).
- **“Lot Coverage”** was added to clarify that it includes buildings and above-grade structures, but excludes at-grade structures. While this definition can be modified to include at-grade structures such as patios, please note that adding structures to the definition of “Lot Coverage” may require the Township to increase the allowable lot coverage in the Zoning District.
- **“Lot Line Types”** were added.
- **“Lot Types”** were modified and expanded, including defining “Flag Lots” but stating that they are nonconforming. A graphic was also added.
- **“Mobile Home”** was modified to the definition of “Mobile Home” in the Mobile Home Commission Act.
- **“Mobile Home Park”** was modified to the definition of “Mobile Home Park” in the Mobile Home Commission Act.
- **“Ordinary High Water Mark”** was updated to defer to Federal or State regulation if the OHWM is ever adjusted. Also, for other water bodies (non-Great Lakes), the definition was modified to a more common definition, which measures the OHWM at a physical marker (such as vegetation) at the shore.
- **“Public Utility”** was updated to exclude wireless communication facilities, solar energy facilities, and wind energy facilities.
- **“Recreational Vehicle”** was added, and there are camping regulations in Article 6 and personal storage regulations in Article 7.
- **“Retail Sales”** was added to describe the use as it would generally apply.
- **“Setback”** terms were added to clearly define how they are measured.
- **“Service Institution”** was added to describe the use as it would generally apply.
- **“Structure”** was modified to exclude the fence exemptions; however, the regulations in Article 7 exempt agricultural fences from regulation. It was also modified to exclude at-grade paved areas. Although at-grade paved areas are not “Lot Coverage,” they should be classified as structures, even if they are exempt from permitting elsewhere in the Zoning Ordinance.
- **“Tenant House”** was added to include the existing development standard.
- **“Wall,”** like fence, was updated to remove the development standard, which is addressed in the Waterfront Overlay District and in Article 7.
- **“Yard” Definitions** were updated to be more descriptive. A graphic was also added.

Article 3. Zoning Districts and Map.

This article contains many of the existing sections of Article 6 of the Zoning Ordinance. The following major changes have taken place:

- **Interpretation of Zoning District Boundaries** now includes provisions for filled or accreted land.

- A **Permitted Use Table** is included, which lists all of the uses, corresponding Zoning District, corresponding development standard link (if applicable), and whether the use is a Permitted Use or Special Use. The following changes to the land use provisions are as follows:
 - **Adult Foster Care, Family Home** is permitted in all areas where a single-family residence is permitted, which is a requirement of the Michigan Zoning Enabling Act.
 - **Adult Foster Care, Small Group Home** was added based on the requirements of the Michigan Zoning Enabling Act and Adult Foster Care Facility Licensing Act.
 - **Child Care, Group Homes** (i.e., up to 12 children) are required by the Michigan Zoning Enabling Act to be special land uses, subject to certain conditions, in districts that permit single-family residences.
 - **Boat Livery**, which is currently defined, has now been placed as a Special Use in the C-1 district.
 - **Child Care Centers**, which are currently defined, have been added, and are placed as a Special Use in the C-1 district.
 - **Drive-Through Uses** have been added, and are placed as a Special Use in the C-1 district. They are currently not permitted in any district, so this item will require discussion.
 - **Junk Yards**, which are currently defined, have now been placed as a Special Use in the C-1 district. They are currently not permitted in any district, so this item will require discussion.
 - **Winery, Use by Right (currently a "Farm Processing Facility")** is noted as a Permitted Use in A-1.
 - **Campgrounds** have been added to the **Recreational Unit Park** classification.

- **Each Zoning District has a 1-page summary**, which includes the current intent and purpose statements, uses permitted by right and special land uses (copied from the Permitted Use Table), and dimension regulations (copied from the Schedule of Regulations). While these district summaries repeat the Permitted Use Table and Schedule of Regulations, the purpose of these 1-page summaries is to make the Zoning Ordinance more accessible and user-friendly.

- **Shoreline Overlay District.** There are several sections of the Zoning Ordinance applicable only to shoreline areas that we propose to consolidate in this section. Additionally, Shoreline Overlay regulations were drafted in 2010 with the intent of consolidating these sections and adding new regulations within the overlay area (200 feet from the Ordinary High Water Mark), so the proposed Overlay District is consistent. The Shoreline Overlay District includes the following major provisions
 - The **Shoreline Overlay District** is split into two (2) sub-districts: the **Waterfront Sub-District** (within 60 feet of the shoreline, to be consistent with the waterfront setback requirements) and the **Upland Sub-District** (between 60-200 feet of the shoreline).
 - The **Waterfront Sub-District** limits removal of vegetation, prohibits septic areas where possible, permits limited storage, limits dredging and filling, and requires vegetative buffering where vegetation is possible. Plans submitted for development must contain certification from a Registered Landscape architect.
 - The **Upland Sub-District** requires a 30% tree canopy, where possible. Plans submitted for development must contain certification from a Registered Landscape architect, which must show how a 30% canopy can be achieved over the long term.
 - **Decks** in a required setback must be uncovered, and decks and storage cannot be built on or within 5 feet of a grade greater than 9%.

- The maximum surface area of decks, seating, and storage located in the setback areas are clarified.
 - **Patios** are prohibited in the required front yard and waterfront setback areas.
 - A **walkway** is permitted in the setback, provided it is not wider than 4 feet or steeper than 5%.
 - The **cutting plan** under **Removal of Shore Cover** is proposed to be administered by the Zoning Administrator instead of the ZBA. However, the Zoning Administrator can defer to the Planning Commission, and the cutting plan is required to be certified by a Registered Landscape Architect.
 - For **public road ends**, common docks and other similar structures are prohibited, but public access is not restricted.
- **Airport Overlay District.** This section includes the existing provisions of Section 7.9. We recently acquired some maps and FAA regulations applicable to the Cherry Capital Airport, which will be incorporated in a future draft of the Zoning Ordinance. The overlay district will also be included on the Zoning Map.
 - **Conservation Easement Restricted Farmland.** This is the current standard, though a 33-foot wide access is required for a residence without frontage.
 - **Productive Agricultural Buffer Overlay.** The purpose of this section will be to have a sufficient buffer between productive agricultural uses and adjacent uses. We are currently working with staff regarding how to address this overlay; therefore, the Overlay standards are not yet ready for review. Currently, several sections of the Zoning Ordinance address agricultural setback requirements both for the agricultural operation and the abutting residential development. We are reviewing the possibility of either merging these requirements into the Overlay standards or cross-referencing them as needed.
 - **Neighborhood Overlay District.** The purpose of the Neighborhood Overlay District is to allow smaller established lots to develop buildings that do not meet the minimum side yard setbacks or maximum lot coverage of the underlying zoning district. Based on our review of nonconforming lots in the township, the most difficult compliance standards are the minimum side yard setbacks and maximum lot coverage. A sliding scale is proposed for minimum side yard setbacks and lot coverage; therefore, larger lots must be more compliant with the lot coverage of the underlying zoning district and higher buildings must be more compliant with the side yard setbacks of the underlying zoning district.

Article 4. Schedule of Regulations.

This article is similar to the existing Schedule of Regulations. A purpose statement has been added, and the footnote related to lot width refers to the definition for consistency. As previously stated, although there are no maximum impervious surface requirements proposed, this item may be addressed in a future revision.

Article 5. Supplemental Zoning District Standards.

- **Planned Unit Developments.** Several sections of the Zoning Ordinance address PUD's, and this proposed section consolidates all of these sections. The major changes include the following:
 - A parallel plan is required at the beginning of the process and must demonstrate compliance. This will make the number of allowable units more accurate and realistic.
 - Emphasizing that the setbacks may be modified by the Township to be less than the underlying zoning district.
 - Clarified permitted housing types to explicitly include attached single-family units.
- **Site Condominiums.** Major changes include:
 - Adding requirements for initial information.
 - Deleting lot requirements that are in conflict with the Land Division Ordinance.
 - Adding general provisions for monuments, subdivision of lots, encroachments, relocation of boundaries, performance guarantees, and final documents.

Article 6. Standards Applicable to Specific Uses.

Currently, the development standards for specific uses are scattered throughout several areas of the Zoning Ordinance. These development standards have been consolidated into a single article. In the Permitted Use Table in Article 3, each land use with an associated development standard includes a hyperlink to the applicable section. While there are several changes, the following are the most significant:

- **Adult Foster Care, Small Group Home.** Number of residents increased to 12 to meet the requirements of the Michigan Adult Foster Care Licensing Act.
- **Bed and Breakfast Establishments.** The Township has been working on Bed and Breakfast amendments for a long time. The changes proposed control on-site use, number of rooms and guests, and events.
- **Child Care Center.** Although the use is defined, there are currently no development standards for the use. We recommend provisions for hours of operation, outdoor recreation area, and additional setbacks. The additional setbacks are for the benefit of the child care center use as well as the adjacent use.
- **Child Care, Group Home.** Provisions were added to comply with the location and development requirements of the Michigan Zoning Enabling Act, as well as best practices for fencing and hours of operation.
- **Drive-Through Uses.** Drive-Through Uses are a new use proposed in the Zoning Ordinance as Special Uses in the C-1 district. If drive-through uses are incorporated into the Zoning Ordinance, this section has best practices for location and site circulation. If Drive-Through Uses are intended to be prohibited, we recommend adding language in the Zoning Ordinance stating so.
- **Dwelling, Single-Family.** While development standards for single-family dwellings are primarily administered through the Building Code, there are a few local requirements proposed, including requiring a foundation and water and sanitary facilities.
- **Dwelling, Single-Family Attached.** We recommend adopting minimum standards for attached single-family residential buildings in order to maintain a single-family residential appearance of the development. Major items include requiring that garages be attached, limiting the number

of attached units per building to 8, alternating building lines for dwelling units to break up the façade, minimum building spacing, requiring outdoor patio areas, and prohibiting stacked flats.

- **Food Processing Plants.** This is an agricultural use that the Township has previously worked on revising. We have incorporated many of the latest proposed revisions, including eligibility criteria, source of produce, data and records, and natural disaster provisions.
- **Golf Courses and Country Clubs.** We recommend that the 75-acre minimum site area also apply to Country Clubs that do not have a golf course.
- **Greenhouses and Nurseries.** These are new regulations, which would apply to greenhouses and nurseries that have on-site retail sales. The proposed regulations address on-site activities, hours of operation, equipment and material storage, and outdoor stacks and piles. However, the intent is to have more relaxed standards for greenhouses and nurseries that are part of an on-site agricultural use.
- **Hotels, Motels, and Tourist Courts.** The maximum height of the building was increased to 35 feet or 2.5 stories, consistent with the C-1 district. The current height limit of 28 feet will encourage flat roofs, which will not be consistent with the character of the township. A larger height, while still capped at 2.5 stories, will provide for better architecture. Finally, the number of guests for an outdoor gathering is limited at 200. While this number can change during the Zoning Ordinance review process, we recommend setting a specific number that can be enforced.
- **Incinerators and Sanitary Landfills.** Although local control of these uses is largely preempted by State Law, we recommend keeping these standards in the event that they could be enforced. We recommend standards for a rehabilitation plan and additional screening.
- **Indoor Recreation.** While not a specific use in the current Zoning Ordinance, we recommend minimum development standards for indoor recreation uses, including those that may be associated with a campground.
- **Junk Yard.** While Junk Yards are currently defined, they are currently not permitted anywhere in the Zoning Ordinance. If the Zoning Ordinance includes Junk Yards as a use, we recommend making it a Special Use in the C-1 district and including development standards to minimize the negative impacts of the use. If Junk Yards are intended to be prohibited, we recommend adding language in the Zoning Ordinance stating so.
- **Kennels.** Proposed regulations include minimum lot size, minimum setbacks, sound control, odor control, and breeding limits. Also, the proposed regulations prohibit the use in subdivisions and site condominiums.
- **Local Food Production Facility.** This is an agricultural use that the Township has previously worked on revising. This is a new use that is similar to Food Processing Plants and existing Farm Processing Facilities. However, Local Food Production Facility is on a smaller scale than a Food Processing Plant and has a retail component. Like Food Processing Plants, there are provisions for sources of produce, data and records, and natural disaster provisions.
- **Mobile Homes on Individual Lots.** References to the Federal law were updated (National Manufactured Housing Construct and Safety Standards Act).
- **Recreational Unit Parks and Campgrounds.** While there are current regulations for Recreational Unit Parks, Campgrounds were added to the use. Proposed changes to site development standards include additional screening, minimum recreational unit site dimensions, and public station facilities for guests.
- **Winery, Use by Right (Currently a “Farm Processing Facility”).** “Winery, Use by Right” is currently a “Farm Processing Facility” in the Zoning Ordinance. Unlike Local Food Production

Facilities and Food Processing Plants, it allows more accessory uses such as tasting rooms, dwellings, Township wide events, and guest activities. Because of the potential for accessory uses to dominate the site, there are minimum requirements for arable land and agricultural production land area. There are also additional requirements for the sources of produce.

- **Winery, Chateau.** This is another agricultural use that the Township has been working on. A Winery Chateau is similar to a Winery, Use by Right (i.e., Farm Processing Facility), but it includes provisions for lodging, a larger tasting room area, and additional guest activities. For these reasons, Chateau Winery uses are Special Uses in the A-1 district.
- **Wireless Communication Facilities.** The wireless communication standards of Sections 7.12 and 8.7.3(11) of the current Zoning Ordinance were merged into a single section to make administration easier. The Michigan Zoning Enabling Act was amended in 2012 to make it much easier for wireless communication providers to collocate antennas and construct new towers. At the same time, it severely limited a municipality's ability to regulate them and provide adequate time for a comprehensive review. The proposed revisions include applicable procedures based on the type of activity proposed, which is consistent with the Zoning Enabling Act. The maximum height is limited to 120 feet, design requirements were added for the tower and equipment building, and screening requirements were added. Other provisions were added for access, structural integrity, maintenance, removal, and application.

Article 7. General Provisions.

The purpose of this article is to consolidate general standards applicable throughout the township that do not fit into other articles of the Zoning Ordinance. Sections with major changes are as follows:

- **Storage of Recreational Vehicles.** The Zoning Ordinance currently has no regulations on outdoor storage of recreational vehicles. We recommend minimum setback standards and requiring the vehicle to be registered to the lot owner or occupant.
- **Supplementary Height Requirements.** We recommend capping ornamental structures at 50% above the maximum height, though we recommend allowing the Township to grant a Special Use permit for higher ornamental structures. We do not recommend that the ZBA grant variances for ornamental structure height because there will not likely be a practical difficulty.
- **Clear Vision Area.** We recommend clear vision areas at driveway and road intersections.
- **Accessory Buildings and Structures.** The ZBA has a long history of interpreting the intent of the Zoning Ordinance for accessory buildings and structures. We have included many of these provisions, with the dates cited in the margins. Although we propose that only shoreline lots be able to have detached accessory buildings in a front yard, we can remove this provision altogether if it will unnecessarily create too many nonconformities.
- **Fences and Walls.** We recommend provisions for retaining walls, transparency requirements for fences in a front yard or waterfront yard, maximum overall height, and design (finished side facing outside and prohibiting certain materials). The proposed regulations would not apply to agricultural fences and decorative fences not more than 18 inches in height.
- **Swimming Pools.** While swimming pools are also covered under the Building Code, we recommend including Zoning Ordinance regulations for setbacks, permitting, location, and barriers. While the barrier requirements are similar to the Building Code, we recommend having them in the Zoning Ordinance in the event that the Building Code is ever amended to not require a barrier.

- **Accessory Solar Energy.** With improved technology, solar energy has become more efficient and cost-effective over the years. We recommend minimal standards for roof-mounted and ground-mounted systems, such as maximum height, location, setbacks, screening, and removal. The ground-mounted systems are limited to an output of 10kW or less, so the number of panels would be limited.

NEXT STEPS

We look forward to discussing the proposed Articles 1 through 7 with you on April 18, 2016. For those items that require additional revision and discussion, we will work with staff to revise them and reintroduce them at a future meeting.

Respectfully submitted,

McKENNA ASSOCIATES

A handwritten signature in black ink that reads "Patrick J. Sloan". The signature is written in a cursive, flowing style.

Patrick J. Sloan, AICP
Principal Planner

Enclosures

cc: Leslie Sickterman, AICP, PCP, CNU-A, Principal, Mission North, LLC