

CHAPTER II

GENERAL PROVISIONS

General provisions apply to all zones except as noted therein. Where requirements of a general provision and a zone regulation differ, the more restrictive requirement shall prevail.

SECTION 2.01 - ALTERATION OR CONSTRUCTION OF STRUCTURES. Except and as hereinafter specified, no building, structure, premises, or piece and parcel of land in and throughout the Township shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations and provisions herein specified for the zone in which it is located. Exception located in Chapter 6 – Agriculture Section 6.02 J. (*Amendment effective November 6, 2020*)

SECTION 2.02 - BASEMENT DWELLINGS PROHIBITED. Basement dwellings are prohibited in Torch Lake Township except as provided in SECTION 2.05.

SECTION 2.03 - DAMAGED OR TOTAL DESTRUCTION OF NON-CONFORMING BUILDING. Any building or structure, whether it is nonconforming because of the building itself or the lot on which it is located, may be reconstructed to its original configuration in the event it is destroyed or partially destroyed by explosive, fire or other acts of God, if completed within eighteen (18) months after the damage or destruction. Prior to reconstruction, the owner must have the sewage disposal system and water supply ~~evaluated permitted, inspected and approved~~ by the ~~District Health Department Number Three~~ Health Department of Northwest Michigan.

SECTION 2.04 - MOBILE HOMES.

- A. A mobile home may be used in any zone in which a 1-unit dwelling is permitted without application for special approval if the mobile home complies with the definition of "dwelling, 1-unit" as defined in this ordinance. Exception located in Chapter 6 – Agriculture Section 6.02 J.
- B. Under-skirting shall be provided from the floor level to the ground level around the entire perimeter of the mobile home.
- C. All mobile homes shall be secured to a minimum of four (4) tie downs; two (2) tie downs per side or according to HUD requirements, whichever are stricter.

CHAPTER II - VERSION 2 for review January 12, 2021

- D. A mobile home which does not meet the definition of "dwelling, 1-unit" shall not be permitted in any zone within the township except in a seasonal trailer park or mobile home park located in the "PRD or PUD" zone and established pursuant to state law applicable thereto and approved by the Planning Commission or unless used for temporary purposes as hereinafter provided. A variance may be secured from the Zoning Board of Appeals to use a mobile home as a temporary residence for a period not to exceed one (1) year; provided that the ability and intent to erect a home on the premises is shown; provided that the mobile home is located on premises having running water and sewage facilities that have been **permitted, inspected and approved** provided further that on expiration of the one (1) year period, the Zoning Board of Appeals may renew the permit for an additional period of one (1) year upon sufficient showing that the house construction could not be completed in said one (1) year, but has substantially progressed during such period. Said Board may require a performance bond conditioned upon the removal of the mobile home from the premises from the time limited in an amount satisfactory to said Board. Exception located in Chapter 6 – Agriculture Section 6.02 J.

SECTION 2.05 - TEMPORARY DWELLINGS. No cabin, garage, basement, tent or other temporary structure shall be used in whole or in part for dwelling purposes in any zone provided that such structure may be used for a temporary dwelling for a period not to exceed six (6) months upon application to and approval of a permit for such occupancy by the Zoning Administrator upon determination that the following conditions exist and are met (The six month time period may be extended for no more than one additional six month time period by the zoning administrator provided reasonable justification is provided):

- A. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind or other natural calamity or emergency.
- B. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- C. Adequate provision is made for temporary public or private water supply and sewage disposal **that has been permitted, inspected and approved** to and from said structure.
- D. The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of those occupants and the surrounding neighborhood.
- E. Certificate of occupancy must be on file.**

CHAPTER II - VERSION 2 for review January 12, 2021

SECTION 2.06 - ACCESSORY BUILDING. The front, side and rear yard requirements of each zone shall apply to the location of accessory buildings within each zone.

SECTION 2.07 - STORAGE OF VEHICLES AND EQUIPMENT. No area within any zone shall be used for the open space storage, dismantling, accumulation, or abandonment of dismantled, disabled, wrecked or discarded motor vehicles or machinery, fixtures, appliances, junk or any part thereof.

SECTION 2.08 - ESSENTIAL SERVICES. Essential services shall be permitted as authorized or regulated by law and the Ordinances of this Township in any zone, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this Ordinance.

SECTION 2.09 - HIGHWAY INTERSECTION SETBACKS. Rules and restrictions of the State of Michigan and the County of Antrim apply.

SECTION 2.10 - ANIMALS IN ZONED AREAS. It shall be unlawful to keep animals such as horses, cattle, pigs, goats or poultry on any premises in "R-3", "VR", "VB", "C" or "M" zones provided that the keeping of such animals shall be permitted in an "R-1" and "R-2" zone and residential lots in the Agricultural zone where the size of the lot upon which the same shall be kept shall not be less than five (5) acres in area with a minimum width of two hundred (200) feet and where a total enclosure of fencing is provided. This restriction shall not prohibit the keeping of ordinary household pets in any zone.

SECTION 2.11 - RESTRICTIONS APPLICABLE TO PROPERTY ABUTTING LAKES, RIVERS, AND STREAMS. All regulations, restrictions and ordinances of Torch Lake Township, Antrim County, Michigan Department of Natural Resources and U.S. Army Corps of Engineers shall apply. All lots shall have a minimum of one hundred (100) feet on the water body.

SECTION 2.12 - HOME OCCUPATIONS, COTTAGE INDUSTRY, AND HOME-BASED BUSINESS.

Home Occupations.

- A. Home occupations are permitted as a use by right in all zoning districts in which 1-unit dwellings are permitted as a use by right.
- B. Home Occupations shall be operated in their entirety within the dwelling. The in-dwelling component of the occupation may occupy no more than twenty-five percent (25%) of the dwelling floor area.

CHAPTER II – VERSION 2 for review January 12, 2021

- C. Home Occupations shall be conducted only by the person or persons occupying the premises as their principal residence.
- D. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.
- E. Home Occupations shall be incidental and subordinate to the principle use of the dwelling which is for residential purpose and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of the Home Occupation other than an unlighted nameplate not to exceed nine (9) square feet in total area. (*Amendment effective February 5, 2011*).
- F. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of a Home Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the dwelling for residential purposes.
- H. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not associated with the conduct of the Home Occupation.
- I. No processes, chemicals or materials shall be used which are contrary to applicable State law. (*Amendment effective February 5, 2011*).

Cottage Industry.

- A. Cottage industries may be permitted as a special use in any zoning district in which 1-unit dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries may be allowed ~~on the basis of individual merit.~~ **approval on a case-by-case basis. (MOTION TABLED FOR FUTURE REVIEW)** The special use permit shall be reviewed for compliance with the original permit by the Zoning Administrator on a periodic basis and upon transfer of the property.
- B. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential

CHAPTER II – VERSION 2 for review January 12, 2021

character of the premises or neighborhood. There shall be no exterior evidence of such industry other than an unlighted nameplate not exceeding nine (9) square feet in area.

- C. A cottage industry may occupy an accessory building provided the floor area contained within the accessory building does not exceed twenty-four hundred (2,400) square feet.
- D. Hours of operation shall be established by the Planning Commission during the review and approval process.
- E. The outdoor storage of vehicles, trailers, goods and/or materials of any kind is prohibited unless screened (tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring properties and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission.
- F. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of cottage industries shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the premises for residential purposes.
- H. Cottage industries initially shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to three additional employees/assistants.
- I. The maximum number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.
- J. The activity will be served adequately by essential public services or facilities.
- K. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

Home Based Business.

- A. A home-based business may be permitted as a special use in any zoning

CHAPTER II – VERSION 2 for review January 12, 2021

district in which 1-unit dwellings are permitted, subject to review and approval by the Planning Commission. Home based businesses will only be allowed on the basis of individual merit. The permit shall be reviewed for compliance with the original permit by the Zoning Administrator on a periodic basis and upon transfer of the property.

- B. Home based businesses shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such business other than an unlighted nameplate not exceeding nine (9) square feet in area.
- C. A home-based business may occupy an accessory building provided the floor area contained within the accessory building does not exceed twenty-four hundred (2,400) square feet.
- D. Hours of operation shall be established by the Planning Commission during the review and approval process.
- E. The outdoor storage of vehicles, trailers, goods and/or materials of any kind is prohibited unless screened (tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring properties and road rights-of-way. The type of screening shall be approved by the Planning Commission.
- F. Home based businesses shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.
- G. Employee or other traffic for the pickup and delivery of goods or equipment shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of home-based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the premises for residential purposes.
- H. Home based businesses initially shall be conducted only by the person or persons residing on the premises. The Planning Commission may allow up to three additional employees.
- I. The maximum number of vehicles that may be parked on the property at any given time shall be established by the Planning Commission during the review and approval process
- J. The activity will be served adequately by essential public services or

CHAPTER II – VERSION 2 for review January 12, 2021
facilities.

- K. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

SECTION 2.13 – LAKE ACCESS AND USE REGULATIONS. (*Amendment effective October 8, 2008*).

- A. Intent. The following regulations are intended to limit the number of non-riparian or non-littoral land parcels, site condominiums, or condominium units that have legal access to a body of water in order to preserve the long-term quality of the adjacent waters, to promote safety, and to preserve the quality of recreational use of all waters adjacent to the township. These regulations are intended to control funneling activity – the granting or existence of a legal property right benefitting non-riparian or non-littoral land parcels, site condominiums, or condominium units which authorizes the use of a riparian or littoral land parcel, or a portion thereof, to gain access to a body of water, whether such waterfront access is gained by easement; a common element or a limited common element in a condominium development; a covenant running with the land; a lease; or another legally recognized property interest. A riparian or littoral land parcel that is a lawful nonconforming lot of record as defined in Section 4.01. A of this Ordinance shall be allowed to provide the same lake access and shall be subject to the same regulations as riparian or littoral land parcels under this section.
- B. **Shared Waterfront Access.** In all zoning districts any riparian or littoral land parcel providing shared waterfront access shall have no less than a front lot line of 100 feet, or a greater front lot line when so required under this Ordinance, whichever is greater, and shall be no less than the minimum lot area for the zoning district in which located. Except as provided herein, a total of not more than two (2) non-riparian or non-littoral land parcels, site condominiums, or condominium units, wherever located, may be benefited with legal access to a body of water over a riparian or littoral land parcel. For each non-riparian or non-littoral land parcel, site condominium, or condominium unit in excess of the two (2) benefited with the legal right to access a body of water over a riparian or littoral land parcel, the riparian or littoral land parcel providing the shared waterfront access shall have a front lot line with an additional fifty (50) feet and an additional area equal to one-half (½) the minimum lot area for the zoning district in which located.
- C. **Waterfront Use Regulations.** The following use regulations shall apply in all zoning districts to any riparian or littoral land parcel regardless of

CHAPTER II – VERSION 2 for review January 12, 2021

whether the riparian or littoral land parcel provides shared waterfront access:

1. Except as provided in subsection 3 below, no person or entity may erect or maintain or cause to be erected or maintained more than one (1) dock and more than one (1) swim raft or other similar recreational devices or structures for each one hundred (100) feet of the front lot line. The length of the dock shall be limited to the length necessary to reach a continuous water depth of four (4) feet. Any portion of a dock located on any riparian or littoral land parcel which is situated parallel or approximately parallel to the shore of said parcel shall not exceed 50 percent of the front lot line. No dock located on any riparian or littoral land parcel or swim raft or other similar recreational device or structure shall be erected or maintained in a manner which will impede the reasonable use of the waters by the owners of adjoining riparian or littoral land parcels or the general public lawfully using the water surface. The locations of all docks, hoists, permanently moored boats and swim rafts or other recreational devices or structures shall comply with the side yard setbacks from the riparian boundary lines as determined under Michigan law. Docks or swim rafts or other recreational devices or structures shared by the owners of adjoining riparian or littoral land parcels shall be allowed within the setbacks of the common lot line.
 2. Except as provided in subsection 3 below, no person or entity shall moor or cause to be moored in a manner other than temporary mooring or anchorage as an incident of navigation more than three (3) registered watercraft **and (3) hoists** for every one hundred (100) feet of the front lot line. ~~For the purpose of determining the number of registered watercrafts permitted under this Ordinance, no more than four (4) personal watercraft, as defined in this Ordinance, shall be used for such calculations.~~
 3. For each additional 100 feet of the front lot line in excess of the first 100 feet of front lot line provided for in subsections 1 and 2 above, one (1) additional dock **hoist** and one (1) additional swim raft or other similar recreational devices or structures may be erected or maintained and three (3) additional registered watercraft may be moored.
- D. Exception. The above regulations concerning docks, however, shall not apply to public access sites (public road endings) under the jurisdiction of the township.

SECTION 2.14 - DESIGNATION OF CERTAIN SWAMPY WETLANDS. Any parcel or parcels of land within the Township may be so designated if said parcel is generally swampy and satisfies any one of the following minimum requirements:

1. The major portion of the natural ground level is less than six (6) feet

CHAPTER II - VERSION 2 for review January 12, 2021

higher than the water level of an adjoining lake, river or stream.

2. The maximum groundwater elevations are within six (6) feet of the natural ground surface during winter, spring, or periods of prolonged rainfall.
3. The area does not meet the minimum criteria for certification of sewage facilities established by the District 3 Sanitary Code or District 3 Health Department based upon seasonal high-water levels.
4. The soil is predominately made up of "somewhat poorly" drained and/or "poorly drained" organic and/or mineral soils as defined by the Cooperative Soil Survey of the U.S. Department of Agriculture.

SECTION 2.15 - SHORELANDS PROTECTION ZONE. Certain lands in the Township about Lake Michigan and have been designated as "high risk" erosion areas under the Shorelands Protection Act. Construction within any zone shall comply with the rules and regulations adopted under the Shorelands Protection Act and the height, area and width requirements contained within the zone in which the use would otherwise be allowed will be applicable.

SECTION 2.16 - GENERAL LOT AND YARD AREA REQUIREMENTS FOR ALL ZONE DISTRICTS. (Amendment effective July 28, 2017)

- A. NONDUPLICATION. In determining lot and lot line setback requirements, no area shall be counted as setback area to more than one principal structure or use, and no area necessary for compliance with the open space requirements for one structure or use shall be counted in the calculation of requirements for any other structure or use.
- B. FRONT, SIDE, & REAR LOT LINE SETBACK AREA USES. Every part of every front, side and rear lot line setback area shall be open and unobstructed by structures from the ground up to the sky. No structure may be located within 50 feet of the water's edge of Torch Lake or within 50 feet of the Ordinary High-Water Mark of Lake Michigan. The following exceptions apply to these setback requirements.
 - ~~1. Fences shall be allowed in all setback areas provided that they do not obstruct pedestrian travel along the Lake Michigan shoreline.~~
 1. One stairway per parcel with a maximum width of 48 inches is allowed in setback areas. The stairway may include landing(s) with a width not exceeding 48 inches and an area(s) not exceeding 48 square feet.
 2. Ground level walkways with a maximum width of 48 inches are allowed in setback areas. Walkways may reasonably

CHAPTER II - VERSION 2 for review January 12, 2021

traverse gullies, ditches, dune ridges, and other such depressions at a height more than ground level if they meet Antrim County building code requirements for safety and do not impede pedestrian travel along the shore of Lake Michigan.

3. So as to not impact the dark night sky, lighting on decks, walkways and stairways shall only be illuminated by shielded, downwardly directed types of tread lighting. See Chapter 2, Section 2.28.

- C. DWELLING PER LOT. No more than one (1) dwelling shall be erected on a lot in the R-1 or V zones. In all other zones where residential uses are allowed, a second dwelling may be constructed provided sufficient land is present to meet all frontage, lot area, parking, and setback requirements for each dwelling should the parcel be split at a later date. Where a lot is being developed as a Site Condominium Project, more than one Building Site may be located on a lot provided that sufficient land is present to meet all requirements as though each Building Site were a separate lot.

SECTION 2.17 - WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES. Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwelling, recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system, and with means for collecting and disposal of all human excreta and of all water carried domestic, commercial, industrial, and other wastes that may adversely affect health conditions. The written approval of such facilities by the ~~District Health Department 3~~ Health Department of Northwest Michigan shall be filed with the application for a Zoning Permit as hereinafter provided. Temporary sanitation facilities used for more than two (2) days may be permitted by signed approval by the Zoning Administrator and must be properly screened from public view.

SECTION 2.18 - GRADING. No premises shall be filled or graded so as to increase the amount or velocity of surface water run off onto adjoining parcels.

SECTION 2.19 - USE OF RECREATIONAL VEHICLES AS TEMPORARY DWELLINGS. A one (1) time occupancy of no more than thirty (30) days per year may be permitted for a recreational vehicle if it is self-contained and contains a sanitary system approved by the ~~District Health Department 3~~ Health Department of Northwest Michigan.

SECTION 2.20 LOT WIDTH TO DEPTH RELATIONSHIP. All lot or building sites shall have minimum dimensions at least as deep as wide.

CHAPTER II - VERSION 2 for review January 12, 2021

SECTION 2.21 - LOT OR SITE CONDOMINIUM UNIT CREATION. All lots or building sites hereafter created shall be of sufficient size and configuration to meet the requirements of this Ordinance.

SECTION 2.22 - LOT AND BUILDING SITE CREATION. All lots or condominium building sites proposed to be created which are subject to the provisions of the Subdivision Control Act or the Condominium Act shall require site plan approval pursuant to the requirements of Chapter XVIII.

SECTION 2.23 - HOME OCCUPATION, MEDICAL MARIJUANA. (*Amendment effective February 5, 2011*).

- A. Intent and Purpose. The purpose of this section is to implement land use regulations to address medical marijuana as authorized by the Michigan Medical Marihuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, M.C.L. 333.26423 *et seq.* It is the intent of the Township Board to limit the rights of individuals under this portion of the zoning ordinance to include only those rights created as a result of enactment of the Michigan Medical Marihuana Act on February 5, 2011. It is also the intent of the Board that it chooses to not opt into any of the available options included in the Medical Marihuana Facilities Licensing Act (MMFLA), Public Act 281 of 2016, MCL 333.27101. Therefore, those options included in the MMFLA are hereby prohibited in Torch Lake Township.
- B. Conditions and Regulations. Functioning as a registered primary caregiver of medical marijuana is allowed as a Home Occupation pursuant to Section 2.12 of the Torch Lake Township Zoning Ordinance provided that each of the following standards is met:
1. No use, which purports to have functioned as a registered primary caregiver of medical marijuana prior to the enactment of this Section, shall be deemed to have been a legally established use under the provisions of the Zoning Ordinance and such use shall not be entitled to claim legal nonconforming status.
 2. The registered primary caregiver of medical marijuana shall be licensed in good standing and at all times in compliance with all applicable state laws, rules, and regulations.
 3. Functioning as a registered primary caregiver of medical marijuana shall not be allowed within 1,000 feet of any other home occupation functioning as a registered primary caregiver of medical marijuana or within one thousand (1,000) feet of any of the following uses:
 - a. Any church or place of worship and its accessory structures.
 - b. Any public or private school, having a curriculum including kindergarten or any one or more of the grades one through

CHAPTER II – VERSION 2 for review January 12, 2021

- twelve, including accessory structures.
- c. Any preschool, child care or day care facility and accessory structures.
 - d. Any public facility, such as libraries, museums, parks, playgrounds, public beach, community centers, and other public space where children congregate.
4. All marijuana plants or products must be contained within the main building in an enclosed, locked facility that permits access only by the registered primary caregiver of medical marijuana or registered qualifying patient. Functioning as a registered primary caregiver of medical marijuana and any associated activities, including but not limited to growing, storage, processing, and the sales of related items shall be done indoors.
 5. No more than one (1) registered primary caregiver of medical marijuana shall be permitted to function as a home occupation servicing qualifying medical marijuana patients within a dwelling.
 6. No more than two (2) qualifying patients are allowed at any one time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation.
 7. Qualifying medical marijuana patient visits are restricted to between the hours of 7 a.m. and 8 p.m.
 8. Consumption of medical marijuana shall not be allowed within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation unless such consumption is by an occupant of a dwelling who is also a registered qualifying patient.
 9. No qualifying patients under the age of eighteen (18) shall be permitted at any time within a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian.
 10. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall display indoors and, in a manner, legible and visible to the qualifying patients:
 - a. Notice that qualifying patients under the age of eighteen (18) are not allowed in the dwelling except in the presence of his/her registered primary caregiver of medical marijuana, parent or guardian
 - b. Notice that no consumption of medical marijuana shall occur at a dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, other than that allowed in Section 2.23.H. above.
 11. A dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation shall not have any outdoor signage evidencing such home occupation.
 12. If a room with windows within a dwelling at which a registered

CHAPTER II – VERSION 2 for review January 12, 2021

primary caregiver of medical marijuana is functioning as a home occupation is utilized to grow medical marijuana, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, must not be visible from adjacent streets or public ways, nor add to the visual light pollution of neighboring properties or the sky above.

13. If the registered primary caregiver of medical marijuana is not the owner of record of the dwelling at which a registered primary caregiver of medical marijuana is functioning as a home occupation, written consent must be obtained from the property owner to ensure their knowledge and consent with the use.
14. Relationship to Federal Law. Nothing within Section 2.23 of the Torch Lake Township Zoning Ordinance, or any companion regulatory provision, is intended to grant nor shall it be construed as granting immunity from federal law.

SECTION 2.24 - SHORT TERM RENTALS. Short term rentals shall not be allowed in the R-1, R-2, or R-3 districts (*Amendment effective July 15, 2014*).

SECTION 2.25 - TEMPORARY STRUCTURES. (*Amendment effective January 21, 2015*)

- A. A temporary structure shall be permitted by the Zoning Administrator in any district for a period not to exceed six (6) months. A permitted structure shall not be more than one (1) story high nor have a floor area greater than four hundred (400) square feet. All such structures must comply with setbacks as set forth in the Zoning Ordinance. A temporary structure must be entirely removed upon permit expiration unless it is lawfully converted to a Temporary Dwelling in accordance with Section 2.05 or an Accessory Building in accordance with Section 2.06 and with a land use permit issued by the Township.
- B. The temporary land use permit shall have a maximum time limit of one-hundred and eighty (180) days; the specific time allowed shall be stated on the permit. Three (3) extensions may be granted by the Zoning Administrator for a period of ninety (90) days each if the applicant demonstrates that progress is being made on construction. The temporary structures shall be removed when a County occupancy permit is issued for the primary building under construction unless it is lawfully converted to a Temporary Dwelling in accordance with Section 2.05 and an Accessory Building in accordance with Section 2.06 with a land use permit issued by the Township.

CHAPTER II - VERSION 2 for review January 12, 2021

- C. Refer to Section 2.19 regarding use of Recreational Vehicles as temporary dwellings with Torch Lake Township.

SECTION 2.26: WINERIES, CIDERIES & MEADERIES. *(Amendment effective July 15, 2015).*

SECTION 2.26.1. - Intent. This Chapter intends to allow and guide the establishing of wineries, vineyards, cideries, meaderies, tasting rooms and sales rooms as well as necessary wine, cider or mead storage facilities.

SECTION 2.26.2. Regulations. Wineries, cideries, meaderies and associated uses are permitted as a Permitted Use within the Agricultural (A) District, provided that:

- A. Wineries, Meaderies and Cideries, must be licensed by the U.S. Treasury, Bureau of Alcohol, Tobacco & Firearms; and the Michigan Liquor Control Commission, and is in compliance with the regulations of the Michigan Liquor Control Commission, the Michigan Department of Agriculture & Rural Development, and the Michigan Department of Environmental Quality, and in compliance with Health District of Northwest Michigan regulations.
- B. The lot area is at least ten (10) acres. The minimum lot width shall be at least three hundred and thirty (330) feet.
- C. Wineries, meaderies and cideries parcels shall have a minimum of five (5) planted acres of fruit or other wine, cider and mead-related crops maintained pursuant to generally accepted management practices.
- D. The total land area covered by buildings and structures used for beverage processing, storage and sales does not exceed two (2) percent of the contiguous lot area. If the total land area covered by buildings and structures used for wine processing, storage and sales, exceeds thirty thousand (30,000) square feet, the project is subject to the site plan review process.
- E. The above ground portion of any individual building shall not be greater than twenty thousand (20,000) square feet.
- F. All buildings shall be set back at least fifty (50) feet from any lot line. If a building is open to the public, that building shall be set back at least one hundred (100) feet from any adjoining lot line. For buildings that are already on-site at the time of the application, these set back requirements may be reduced by the Planning Commission provided that any use of any

CHAPTER II – VERSION 2 for review January 12, 2021

such existing building do not adversely affect neighboring property. As a condition of granting a setback reduction, the Planning Commission may require landscaping, berms or buffering which is designed to reduce any adverse impacts on neighboring property.

- G. Retail sales of wine, cider, mead and/or related beverages; wine, cider, mead- related products; and limited food service as permitted by this Ordinance are considered accessory uses. Indoor retail sales and food service areas shall occupy no more than twenty-five (25%) percent of the floor area devoted to wine, mead or cider processing and storage, or no more than four thousand (4,000) square feet, whichever is less.
- H. Food provided for sale shall be limited to hors d'oeuvres and snacks which must be prepared off-site. No food shall be prepared on-site for retail sale or for activities associated with wineries, meaderies and cideries as authorized by this Ordinance. A winery, meadery or cidery may sell products by the glass as authorized and regulated by the Michigan Liquor Control Commission. Sale of food at wineries, meaderies and cideries in the Agricultural Zone only shall not exceed 50% of the gross sales of licensed products.

SECTION 2.26.3. Activities Associated with Wineries, Meaderies and Cideries (i.e., Associated Activities).

Subject to compliance with Michigan regulations (i.e., outdoor service, specific purpose, dance, and/or entertainment permits and/or food establishment license) and the requirements listed below, the following activities are permitted as accessory uses at a winery, meadery or cidery; wine, cider, mead appreciation and/or education seminars, fundraising benefits for a legal entity that has tax-exempt, non-profit status under State and Federal law, weddings, private parties, harvest festivals, wine, mead or cider appreciation member activities, agricultural research and similar uses. These accessory uses may be undertaken provided:

- A. Parking area must be off-road, forty (40) feet from all lot lines and screened and maintained from neighboring property. Light sources shall be downward directed and shielded to prevent light being directed off the premises.
- B. The owner/operator must have a written statement from the Health Department of Northwest Michigan indicating the maximum number visitors that can be accommodated with existing permanent on-site toilet facilities. Additional portable toilets must be provided for any guests

CHAPTER II – VERSION 2 for review January 12, 2021

exceeding the aforementioned number. This statement must be filed with the zoning administrator. Only one statement need be filed as long as the existing permanent on-site toilet facilities do not change.

- C. Food or non-wine, cider or mead-related beverages provided for the activity must be prepared off site.
- D. Any music or entertainment provided related to the activity must be for background purposes and not a featured item of the activity. Noise emanating from any activity or event shall not result in the unreasonable interference with the comfortable use and enjoyment of another's property.
- E. Outside activities shall be completed during daylight hours.
- F. Prior to a winery, meadery or cidery engaging in any activities associated with wineries, meaderies or cideries—as described above, an Applicant shall obtain all required Michigan permits and Site Plan Review approval of the Planning Commission for Winery, Meadery or Cidery Associated Activities pursuant with this Section and Chapter XVIII of the Torch Lake Township Zoning Ordinance. Only one Site Plan Review is required prior the commencement of the first activity. If the Site Plan is approved, no other reviews are required provided that the information or circumstances described in the Site Plan approval have not changed. In addition to the requirements of Section 18: Site Plan Review a Winery, Meadery or Cidery Site Plan must contain the following information.
 - 1. Existing uses on adjacent properties (especially churches and schools as defined by and 436.1107(7) and MCL 436.1111(8), respectively and distance of dwellings within five hundred (500) feet of the property boundary.
 - 2. Existing and proposed structures with maximum capacity of each building where guests have access as established by the Fire Marshall.
 - 3. Location of temporary toilet facilities, which may be required.
 - 4. The size of the function and the number of expected guests on the property at one time shall be determined at the sole discretion of the Planning Commission based on parcel size, proximity to adjacent neighbors and the ability of the applicant to demonstrate that there will be no unreasonable adverse impact on the neighbors

CHAPTER II – VERSION 2 for review January 12, 2021

from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission.

5. There is adequate provision for the temporary event parking of vehicles so that there is no parking on public roads and adequate setbacks from adjacent properties are maintained. Parking associated with a winery, meadery or cidery must possess, provide and maintain safe ingress and egress from and to a public road. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
6. Should a planned event or associated activity at a winery, meadery or cidery require the erection of temporary structures, such as tents, these temporary structures shall be erected and dismantled and removed from the winery, meadery or cidery within a timely manner following the completion of an event.
7. The Planning Commission shall require a planted buffer between adjacent properties and parking or building if it is determined that such a buffer is necessary to mitigate and/or minimize adverse impacts on adjacent properties.

SECTION 2.26.4. Winery, Meadery and Cidery Associated Activity Log:

- A. An Applicant, who receives a Site Plan and Special Land Use approval for a winery, meadery or cidery shall maintain a written log of all Associated Activities for each calendar year. The log shall contain at least the following:
 1. A description of the type of each gathering that was held at the winery, meadery or cidery during the preceding calendar year, such as wine, cider or mead appreciation and/or education seminars, vineyard harvest festival, non-profit benefit, wedding, etc.
 2. For each Associated Activity, the date of occurrence, group identity, times and number of guests.
- B. As a condition of the conditional land use permit for the winery, meadery or cidery the Applicant shall keep each log for three (3) years and shall permit the Zoning Administrator to review and copy any or all of the logs upon request. There shall be no more than two (2) requests per calendar year for any logs. Information obtained from the logs shall be used for planning purposes, administrative or enforcement purposes only.

CHAPTER II – VERSION 2 for review January 12, 2021
SECTION 2.27: FENCES (Effective June 1, 2018).

Purpose. Fences are meant to protect the Township's rural character, protect property values and provide privacy, protection and security.

SECTION 2.27.1 General requirements:

- A. For Commercial, Village Business and Industrial Districts, when located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
 - 1. Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
 - 2. Equipment at Grade: When located on, or close to the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
- B. For districts within which outdoor storage is allowed, it must be screened on all sides by a solid wall or fencing.
- C. Public utility substations where allowed shall be screened on all sides by a solid wall or fencing, and landscaping.
- D. All fences in all zoning districts shall be well-maintained, kept in good condition and repaired as necessary.
- E. The outer face of fences (i.e., the face away from the use which is to be fenced-in) shall be the smooth side of the fence with posts, supports, etc. on the interior.

SECTION 2.27.2 Residential (R1& R2), Multi-family Residential (R3) and Village Residential (VR) Districts:

- A. No side lot fence, gate or screen shall be placed closer than fifty (50) feet from the water's edge of Torch Lake or the federal ordinary high-water mark of Lake Michigan.
- ~~B. No fences are allowed on lakeshore residential parcels along the water's edge.~~

CHAPTER II – VERSION 2 for review January 12, 2021

- B.** Side yard fences and gates may be continuous or in sections and shall not be greater than eight (8) feet in height. Vegetation should not be removed to conform to the foregoing setback requirement.
- C.** A continuous gate across a driveway is permitted. Such fences and gates shall be constructed of “see-through” materials/style, i.e., shall not be solid and shall possess 40 percent or more opacity.
- D.** When a residential lot borders a lake shore, a side lot fence shall not exceed four (4) feet in height and shall be constructed of “see-through” materials/style, i.e., shall not be solid and shall possess 40 percent or more opacity.
- E.** Solid fencing, not to exceed eight (8) feet in height, is permitted along the side of a lot bordering a public road that ends at the water’s edge or ordinary high-water mark. If a natural fence is planted in this location, its height is not limited.
- F.** Fences and gates adjacent to private or public road easements shall not be closer than ten (10) feet from a road easement and shall not be greater than four (4) feet in height.

SECTION 2.27.3. Agricultural (A-1) and Timber Reserve (TR) Districts:

- A.** Fences used for residential purposes within the A-1 and TR Districts shall comply with Section 2.27.2.
- B.** Fences used for horticultural or agricultural purposes:
 - 1. Woven wire, chain link, or similar fences used to enclose parcels are not limited in height.
 - 2. Barbed wire and/or electric pulse fencing are permitted when used for controlling animals.

SECTION 2.27.4. Industrial, Village Business and Commercial Districts:

- A.** Unless otherwise specified or determined by the Zoning Administrator or Planning Commission at the time of site plan review, fencing and screening is to be six (6) feet in height.

CHAPTER II – VERSION 2 for review January 12, 2021

- B. A solid wall or fencing is to be located on the side and rear property lines of any site that abuts another zoning district or land use.

SECTION 2.27.5. Exceptions to fencing and screening requirements.

- A. Buildings abutting property lines. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
- B. Invisible pet fencing. Pet fencing using buried electric barrier technologies are exempt from this Section.
- C. Safety fencing. Safety fences, permanent or temporary, e.g., surrounding swimming pools, excavations, and similar features shall be exempt if erected for safety purposes only.
- D. Temporary fencing, i.e., portable, snow, construction-related barriers, and garden fences, etc. are exempt from this Section.
- E. Garden fences. Garden fences and fences erected for keeping small animals are exempt from Section 2.27.
- F. Location adjustment. Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Zoning Administrator.
- G. Existing screening. Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.
- H. Planning Commission and Zoning Administrator modification. Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission or Zoning Administrator first makes a written finding that specifically identified characteristics of the site

CHAPTER II – VERSION 2 for review January 12, 2021

or site vicinity which would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

- I. Zoning Board of Appeals. The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering requirements as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

SECTION 2.27.6. Materials for Screening Fences. Fences used as screening between parcels may consist of masonry walls, excluding fences within the R-1, R-2 and R-3 regulated under Section 2.27.2(d) and 2.27.2(e). Sheet metal, metal piling material and earthen berms are not allowed.

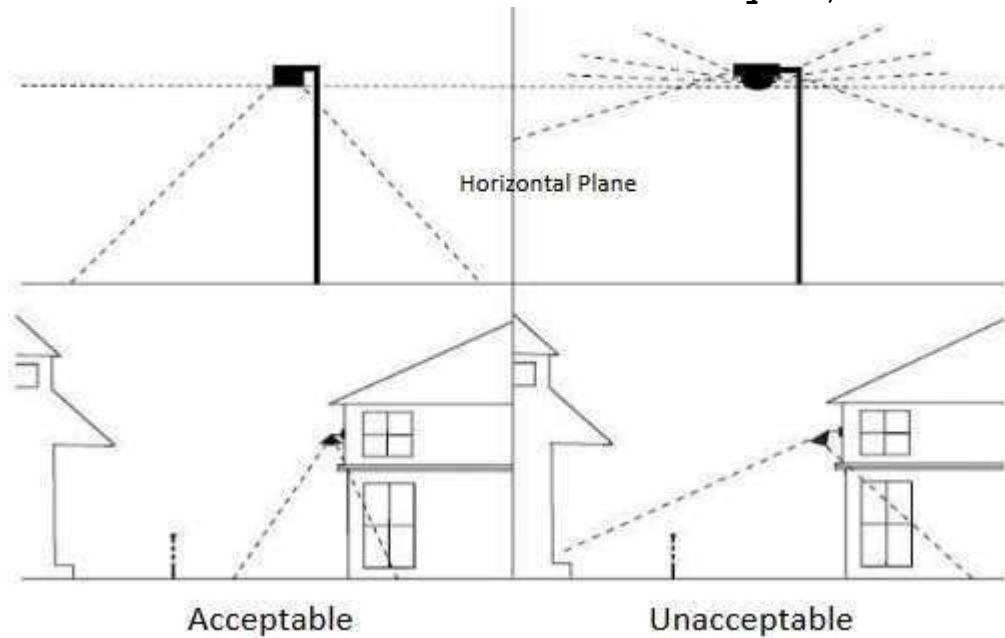
SECTION 2.27.7. Vegetated Buffer. A vegetated buffer shall be required for any commercial or industrial use that abuts a residential use on either the side or rear setback. In all instances, this may be provided as part of the side or rear setback requirements.

SECTION 2.28. LIGHTING. *(Effective November 6, 2020)*

Intent: To preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow,” and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties.

- A. Exterior lighting shall be shielded, arranged so that it projects and illuminates in a downward direction, positioned so as not to adversely affect any neighboring residence and is shielded to prevent light being directed off the premises. See illustration. Lighting should not add visual light pollution of neighboring properties or the dark night sky above.
- B. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.
- C. Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site. See illustration.

CHAPTER II - VERSION 2 for review January 12, 2021



- D. Illuminating the American Flag and lighting associated with agricultural operations are exempt.
- E. There shall be no permanent lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.