

ARTICLE 7 SITE PLAN REVIEW

7.1 INTENT & PURPOSE

This Article governs the processes and standards for uses and structures which site plan approval is required under this Ordinance. The Article is to specify the documents and/or drawings required, to ensure that a proposed land use or development activity is in compliance with this Ordinance, other local ordinances, and state and federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

7.2 SITE PLAN REVIEW REQUIRED

Required site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical and use changes in the property actually occurs as it was planned and represented by the developer, and approved by the Planning Commission. Site plan review shall be required for the following uses and circumstances:

- A. All new uses and/or structures except one-family or two-family residential units, associated accessory structures to one-family or two-family residential units, and agricultural buildings
- B. Expansion or renovation of an existing use, other than one-family or two-family residential use, which increases the existing floor space more than twenty five (25) percent.
- C. Changes of use for an existing structure or lot.
- D. Other uses as required by this Ordinance.

7.3 STANDARDS FOR SITE PLAN APPROVAL

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

- A. Adequacy of Information: The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B. Site Design Characteristics: All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
- C. Site Appearance: Landscaping, earth berms, fencing, signs, walls, structures and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

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- D. Compliance with District Requirements: The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Article 3, unless otherwise provided in these regulations.
 - E. Privacy: The site design shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and uses.
 - F. Emergency Vehicle Access: All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
 - G. Circulation: Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways. The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian ways in the vicinity of the site. The width of streets and drives shall be appropriate for the volume of traffic they will carry. All streets shall be developed in accordance with any adopted Township private road standards, or if a public road, the County Road Commission specifications.
 - H. Parking: Any off-street parking facility shall meet all applicable design standards of this Ordinance.
 - I. Drainage: Appropriate measures shall be taken to insure that the removal or drainage of surface water will not adversely affect adjoining properties or the capacity of the public drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm water collection, storage and transportation facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Drainage plans shall be subject to review and approval by the Township Engineer.
 - J. Grading: All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development of surrounding property for uses permitted in this Ordinance by limiting topographic modifications that result in a smooth natural appearing slope as opposed to abrupt changes in grade between the project and adjacent areas.
 - K. Soil Erosion and Sedimentation: The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current Antrim County Department of Building Safety standards.

- 92 L. Exterior Lighting: Exterior lighting shall be designed so that it is deflected away from adjoining
93 properties, visual glare is minimized, and so that it does not impede vision of drivers along
94 adjacent streets.
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- 96 M. Public Services: Adequate services and utilities, including water, sewage disposal, sanitary
97 sewer, and storm water control services, shall be available or provided, and shall be designed
98 with sufficient capacity and durability to properly serve the development.
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- 100 N. Screening: Off-street parking, loading and unloading areas, outside refuse storage areas, and
101 other storage areas that are visible from adjacent homes or from public rights-of-way, shall be
102 effectively screened at an adequate height. All walls must be solid and constructed of durable
103 material and cannot be located in required setbacks.
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- 105 O. Danger from Fire and Hazards: The level of vulnerability to injury or loss from incidents involving
106 fire and hazardous materials or processes shall not exceed the capability of the Township to
107 respond to such incidents so as to prevent injury and loss of life and property. In making such an
108 evaluation, the Township shall consider the location, type, characteristics, quantities, and use of
109 materials or processes in relation to the personnel, training, equipment and materials, and
110 emergency response plans and capabilities of the Township. Sites that include significant
111 storage of flammable or hazardous materials or waste, fuels, salt, or chemicals shall be designed
112 to prevent spills and discharges of polluting materials to the surface of the ground,
113 groundwater, and public sewer system.
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- 115 A. Health and Safety Concerns: Any use in any zoning district shall comply with applicable federal,
116 state, county, and local health and pollution laws and regulations with respect to noise, dust,
117 smoke and other air pollutants, vibration, glare, heat, fire and explosive hazards, gases,
118 electromagnetic radiation, radioactive materials, and toxic and hazardous materials.
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- 120 B. Phases: All development phases shall be designed in logical sequence to ensure that each phase
121 will independently function in a safe, convenient and efficient manner without being dependent
122 upon subsequent improvements in a later phase or on other sites.
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- 124 C. Conformance: Site plans shall conform to all applicable requirements of state and federal
125 statutes and the Torch Lake Township Master Plan, and approval may be conditioned on the
126 applicant receiving necessary state and federal permits before the actual zoning permit
127 authorizing the special land use is granted.
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129 7.4 SITE PLAN APPLICATION REQUIREMENTS

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131 An application for site plan review shall be submitted on a form provided by the Township with the
132 required items presented in the table below. Required items shall be demonstrated on the site plan
133 drawings, written narrative/submitted documentation, or both as indicated in the table.
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SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
1.	The date, north arrow, and scale. Scale shall be as follows: < 3 acres: One (1) inch = fifty (50) feet > 3 acres: One (1) inch = one hundred (100) feet	✓	
2.	A boundary survey of the property, to include all dimensions, setbacks, gross and net acreage, and legal description.	✓	
3.	The location and width of all abutting rights-of-way.	✓	
4.	The existing zoning district in which the site is located and the zoning of adjacent parcels.	✓	
5.	The location of all existing and proposed structures and uses on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.	✓	
6.	Description of all existing and proposed structures referenced in item 5.		✓
7.	The location and identification of all existing structures within a two hundred (200) foot radius of the site.	✓	
8.	The location and description of the environmental characteristics of the site prior to development such as topography, soils, vegetative cover, mature specimen trees, drainage, streams, wetlands, shorelands, or any other unusual environmental features.	✓	✓
9.	Natural features that will be retained, removed, and/or modified including vegetation, hillsides, drainage, streams, wetlands, shorelands, and wildlife habitat.	✓	
10.	The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate areas of change.		✓
11.	A landscaping plan with all existing and proposed landscaping, walls and/or fences.	✓	
12.	A grading plan showing the topography of the existing and finished site, including ground floor elevations, shown by contours or spot elevations. Contours shall be shown at height intervals of two (2) feet or less.	✓	
13.	A stormwater management plan showing all existing above and below grade drainage facilities, and proposed plans incorporating low impact development water quality technologies and other best management practices.	✓	✓
14.	Location, type and size of all above and below grade utilities.	✓	
15.	Type, direction, and intensity of outside lighting shown on a photometric plan in compliance with exterior lighting standards.	✓	
16.	Location of any cross access management easements, if required.	✓	

SITE PLAN APPLICATION REQUIREMENTS			
Site Plan Item	Description	Shown on Site Plan	Written Narrative/ Submissions
17.	Location of pedestrian and non-motorized facilities, if required.	✓	
18.	An indication of how the proposed use conforms to existing and potential development patterns and any adverse effects.		✓
19.	The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.		✓
20.	Plans to control soil erosion and sedimentation, including during construction.	✓	✓
21.	The method to be used to serve the development with water.		✓
22.	The method to be used for sewage treatment.		✓
23.	The number of units proposed, by type, including a typical floor plan for each unit, dimensions, and area in square feet.	✓	
24.	Elevations for all building facades.	✓	
25.	The number of people to be housed, employed, visitors or patrons, anticipated vehicular and pedestrian traffic counts, and hours of operation.		✓
26.	Phasing of the project, including ultimate development proposals.	✓	
27.	General description of deed restrictions and/or cross access management easements, if any or required.		✓
28.	The name and address of the property owner.	✓	✓
29.	Name(s) and address(es) of person(s) responsible for preparation of site plan drawings and supporting documentation.	✓	✓
30.	Sealed/stamped drawings from a licensed architect, engineer, or landscaped architect.	✓	

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- A. Upon the recommendation of the Zoning Administrator, the Planning Commission may waive any of the above required items based upon a finding that it is not applicable.
- B. The Planning Commission, Zoning Administrator, or other party authorized by the Township may request any additional information it deems necessary in the review of submitted site plan.
- C. Evidence the plan has been submitted for review to all affected jurisdictions, including but not limited to Antrim County Road Commission, Antrim County Drain Commissioner, local fire and emergency services providers, Health Department of Northwest Michigan, Michigan Department of Transportation (MDOT), Michigan Department of Energy, Great Lakes, and Environment (MDEGLE), and Michigan Department of Natural Resources, where applicable. If an

147 applicable review is not submitted, statement of a date certain for submission or the reason
148 why their review is not applicable must be provided.

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150 D. All site plan drawings shall be submitted in quantities requested by the Zoning Administrator on
151 sheets twenty four (24) inches by thirty six (36) inches, eleven (11) inches by seventeen (17)
152 inches, and in digital PDF format.
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154 7.5 SITE PLAN APPLICATION REVIEW PROCEDURES

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156 A. Pre-Application Conceptual Review: An applicant shall be required to attend a pre-application
157 conceptual review with the Zoning Administrator or Township designee to discuss in general the
158 substantive requirements for the application prior to formal submittal of a site plan review
159 application. The purpose is to gather feedback on the proposed land use and potential
160 requirements by the Township. Feedback provided by the Zoning Administrator and/or
161 Township designee under a pre-application conceptual review is non-binding, subject to change,
162 and is not to be construed as a guarantee for approval. A pre-application conceptual review
163 does not include a completeness or technical review by the Zoning Administrator.
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165 B. Completeness Review: All required application materials shall be presented to the Zoning
166 Administrator's office by the property owner or their designated agent. The Zoning
167 Administrator shall review the application for completeness in order to determine if the
168 application has been properly submitted and the applicant has corrected all deficiencies.
169 Completeness reviews are solely for the purpose of determining whether the preliminary
170 information required for submission of the application is sufficient to allow further processing
171 and shall not constitute a decision as to whether an application complies with the provisions of
172 this Ordinance. Once deemed complete, the application will be placed on the next regularly
173 scheduled Planning Commission meeting.
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175 C. Technical Review: An application determined to be complete will undergo a technical review by
176 the Zoning Administrator or Township designee to determine compliance with applicable
177 standards. This review may include distributing the plan to other local agencies or departments
178 with jurisdiction for comment on any problems the plans might pose and shall result in a report
179 submitted to the Planning Commission with the site plan review application. Once the technical
180 review is complete, the application will be placed on the next regularly scheduled Planning
181 Commission meeting.
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183 D. Zoning Board of Appeals: When a site plan review is dependent on a variance by the Zoning
184 Board of Appeals, the granting of the variance(s) shall be necessary before a determination is
185 made on the site plan review.
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187 E. Administrative Review: The Zoning Administrator may review and make a determination on a
188 site plan review application that meets all the standards provided below. Nothing in this Section
189 shall prohibit the Zoning Administrator or applicant from requesting the site plan review
190 application be submitted to the Planning Commission for a determination.
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192 1. The use is permitted by right in the established zoning district.
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- 194 2. Will result in less than one thousand (1,500) square feet of new building and/or
195 impervious area.
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197 3. Will generate less than five hundred (500) trip ends per day as determined by the
198 proposed land use activity based on the most recent edition of the Trip Generation
199 Manual published by the Institute of Transportation Engineers.
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201 F. Planning Commission Review: All other uses requiring a site plan shall be reviewed by the
202 Planning Commission for a determination.
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204 7.6 SITE PLAN APPLICATION DETERMINATIONS

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206 The Zoning Administrator or Planning Commission shall review the application and make a
207 determination to approve the application, require any conditions it may find necessary, or deny the
208 application.
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- 210 A. Approval: The site plan shall be approved upon determination that it is in compliance with the
211 standards of this Ordinance, other Township planning documents, other applicable ordinances,
212 and state and federal statutes.
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214 B. Conditional Approval: The Zoning Administrator or Planning Commission may approve a site
215 plan, subject to any conditions to address necessary modifications, obtain variances, or
216 approvals from other agencies. Conditions imposed shall meet each of the following objectives:
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218 1. Be designed to protect natural resources, the health, safety, and welfare, as well as the
219 social and economic well-being, of those who will use the land use or activity under
220 consideration, residents and landowners immediately adjacent to the proposed land use
221 or activity, and the community as a whole.
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223 2. Be related to the valid exercise of the police power and purposes which are affected by
224 the proposed use or activity.
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226 3. Be necessary to meet the intent and purpose of the zoning requirements, be related to
227 the standards established in the zoning ordinance for the land use or activity under
228 consideration, and be necessary to insure compliance with those standards.
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230 C. Denial: If the Zoning Administrator or Planning Commission determines that a proposed site
231 plan does not meet the standards of this Ordinance, or otherwise will tend to be injurious to the
232 public health, safety, welfare, or orderly development of the Township, it shall deny the
233 application by a written endorsement which clearly sets forth the reason for such denial.
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235 7.7 RECORD OF ACTIONS

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237 The Township shall keep a record of decisions on all site plans on file in the Clerk's Office. The record
238 shall include the following information:
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- 240 A. Minutes: All minutes from any meeting where the site plan was considered.

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- B. Finding of Fact: The decision on a site plan review shall be incorporated in a finding of fact relative to the land use under consideration and shall specify the basis for the decision and any conditions imposed.

- C. Final Site Plans: One (1) electronic pdf version and two (2) full size print set (24" x 36") of the final site plans stamped by a licensed architect, landscape architect, or civil engineer.
 - 1. Approved site plans shall include any required revisions and the date of the revisions. The print sets shall be marked "Approved" and signed and dated by the applicant and Planning Commission Chair if approved by the Planning Commission, or the Zoning Administrator if administratively approved.

 - 2. Denied site plans shall be marked "Denied" and signed and dated by Planning Commission Chair if denied by the Planning Commission, or the Zoning Administrator if administratively denied.

- D. Development Agreement: An approved site plan shall include a site plan development agreement outlining the approved use, any applicable conditions, and procedural process. The development agreement shall be signed and notarized by the applicant and Planning Commission Chair.

7.8 EXPIRATION & REVOCATION

- A. Expiration: A site plan review approved under this Article shall be valid for a period of one (1) year from the date of approval. If the applicant fails to submit an application for a zoning permit to the Township for the approved site plan review in that time period, then the site plan review approval shall automatically expire. The applicant may request an extension of the permit by submitting a written request for consideration to the Planning Commission before the expiration date. The Planning Commission may grant one (1) extension for a period of up to one (1) year.

- B. Revocation: If a violation of any of the conditions or standards imposed on an approved site plan review is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises, the applicant of the site plan review, and the Planning Commission that such violation exists and that the site plan review approval will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the Planning Commission may revoke the permit. Furthermore, such a violation is hereby declared a violation of this Ordinance, subject to all the remedies and penalties provided for within this Ordinance.

- C. Expiration of Application: During the course of any application review, if an applicant has failed to proceed meaningfully towards application complete or application decision for a period of one-hundred and twenty (120) consecutive calendar days, then the application shall be considered abandoned and expire. If the applicant would like to proceed following the one-hundred and twenty (120) days, a new application, documentation, and fee shall be required. This shall be processed as a new application.

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7.9 AMENDMENTS & MODIFICATIONS

A previously approved site plan may be modified subject to the following procedures:

- A. Insignificant Deviations: The Zoning Administrator may authorize insignificant deviations in an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed. A deviation is insignificant if the Zoning Administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
- B. Minor Amendments: The Planning Commission may permit minor amendments to an approved site plan if the resulting use will still meet all applicable standards and requirements of this Ordinance, and any conditions imposed unless otherwise requested to be modified, and do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, demand for public services, or vulnerability to hazards. The Planning Commission may make a decision on minor amendments upon receipt of an application. Minor amendments are those modifications the Zoning Administrator determines will have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, but exceed the extent to which can be approved as an insignificant deviation.
- C. Major Amendments: All other requests for amendments to an approved site plan shall be processed in the same manner as a new application. The Planning Commission may impose new conditions on the approval of an amendment request if such conditions are warranted as described in this Article. The holder of the original site plan approval may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing site plan approval.

7.10 FEES & PERFORMANCE GUARANTEES

Fees and performance guarantees associated with the review and approval of a site plan review application shall be consistent with the requirements in Article 12.

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ARTICLE 8: SPECIAL USE PERMITS

8.1 INTENT & PURPOSE

This Article provides the review procedures and standards instituted to provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses, or which contain unique features. The procedures and standards apply to those special use permit uses which are specifically designated as such in this Ordinance.

8.2 GENERAL STANDARDS

Each application for a special use permit shall be reviewed on an individual basis for conformity and compliance with the standards of this Ordinance, including those for site plan review and the specific standards below:

- A. Will be in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, of drainage structures, refuse disposal, or those persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. Will not be hazardous or disturbing to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public expense for public facilities and services.
- F. Will be in accordance with all required conditions of the district in which it will be located.
- G. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located, and will not be detrimental to existing and/or other permitted land uses in the applicable zoning district.

8.3 SPECIAL USE PERMIT APPLICATION REQUIREMENTS

An application for special use permit approval shall include a complete site plan review satisfying all the standards in Article 7 and a special use permit application on a form provided by the Township.

8.4 SPECIAL USE PERMIT APPLICATION REVIEW PROCEDURES

370 The procedures for a special use permit application review shall follow those for a site plan review in
371 Article 7 with the following modifications:

372 A. Planning Commission Review: The Planning Commission shall:

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- 374 1. Review the application to determine if it satisfies the standards for special use permits,
375 and all other applicable standards of this Ordinance. Administrative review shall not be
376 an option for special use permit applications.
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 - 378 2. Hold a public hearing to consider the proposed special use permit application consistent
379 with the procedures for a public hearing in Article 12.
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 - 381 3. The Planning Commission shall establish a finding of fact make a determination to
382 approve, approve with conditions, or deny the special use permit application.
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384 8.5 SPECIAL LAND USE DETERMINATIONS

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386 A. Approval: The special use permit application shall be approved upon determination that it is in
387 compliance with the standards of this Ordinance, other Township planning documents, other
388 applicable ordinances, and local, state, and federal statutes. Upon approval, a special use permit
389 shall be deemed a conforming use permitted in the district in which it is proposed, subject to
390 any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon
391 which the use is located.
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393 B. Conditional Approval: The Planning Commission may approve a special use permit, subject to
394 any conditions to address necessary modifications, obtain variances, or approvals from other
395 agencies. Conditions imposed shall meet the objectives outlined in Article 7.
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397 C. Denial: If the Planning Commission determines that a proposed special use permit application
398 does not meet the standards of this Ordinance, or otherwise will tend to be injurious to the
399 public health, safety, welfare, or orderly development of the Township, it shall deny the
400 application.
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402 8.6 RECORD OF ACTIONS

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404 All decisions on a special use permit application shall be recorded consistent with the requirements of
405 Article 7 with the addition that the development agreement and final site plans be recorded at the
406 Antrim County Register of Deeds Office and evidence of the record by submitted to the Township Clerk
407 within forty five (45) days.
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409 8.7 EXPIRATION & REVOCATION

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411 The standards and procedures for expiration and revocation of an approved special use permit shall be
412 the same as those for site plan review in Article 7.
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414 8.8 AMENDMENTS & MODIFICATIONS

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416 The standards and procedures for amendments or modifications of an approved special use permit shall
417 be the same as those for site plan review in Article 7, with the exception that a major amendment to an
418 approved special use permit will require a new public hearing following the standards and process in
419 Article 7.

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421 8.9 FEES & PERFORMANCE GUARANTEES

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423 Fees and performance guarantees associated with the review and approval of a special use permit
424 application shall be consistent with the requirements in Article 12.

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457 **ARTICLE 11: ZONING BOARD OF APPEALS**

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459 **11.1 AUTHORITY**

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461 There is hereby established a Zoning Board of Appeals (herein referred to as the “ZBA”), which shall
462 perform its duties and exercise its power as provided for in this Ordinance and the Michigan Zoning
463 Enabling Act, Public Act 110 of 2006, as amended, in such a way that the objectives of this Ordinance
464 shall be served, public health, safety and welfare protected, and substantial justice done.

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466 **11.2 MEMBERSHIP**

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468 The Zoning Board of Appeals shall consist of five (5) members and two (2) alternates appointed by the
469 Township Board for three (3) year terms as follows:

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471 A. One (1) member shall be a member of the Planning Commission, and one (1) member may be a
472 member of the Township Board. An employee or contractor of the Township Board may not
473 serve as a member.

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475 B. Members shall be selected from the electors of the Township and reside within the Township.

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477 C. The members selected shall be representative of the population distribution and of the various
478 interests present in the Township.

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480 D. Members of the ZBA may be removed from office for inefficiency, neglect of duty or
481 malfeasance in office, including failure of a member with a conflict of interest to abstain from
482 deliberations or voting on the matter, after written charges have been filed with the Township
483 Clerk and a public hearing has been held by Township Board.

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485 E. Vacancies shall be filled for the remainder of the unexpired term by resolution of the Township
486 Board.

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488 F. Members shall be appointed not more than one (1) month after the term of the preceding
489 member has expired.

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491 G. A member of the ZBA who is also a member of the Planning Commission or Township Board
492 shall not participate in a public hearing on or vote on the same matter that the member voted
493 on, or will vote on, as a member of the Planning Commission or the Township Board. However,
494 the member may consider and vote on other unrelated matters involving the same property.

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496 H. In the event a ZBA member is elected to Township Board and such election increases the
497 number of Township Board members serving on the ZBA to more than one (1), then such
498 member’s seat on the ZBA shall be deemed vacant. Such vacancy shall be filled for the
499 remainder of the unexpired term by appointment in the same manner as for regular
500 appointments for full terms.

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502 11.3 ALTERNATES

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504 Alternate members may be called on a rotating basis to sit as members of the ZBA in the absence of
505 regular members. An alternate member may also be called on to serve in the place of a ZBA member,
506 with the same voting rights, for the purpose of reaching a decision on a case in which the member has
507 abstained because of a conflict of interest. The alternate member appointed shall serve in the case
508 involving the conflict of interest until a final decision is made.

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510 11.4 ORGANIZATION

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512 The ZBA shall adopt rules of procedure as may be deemed necessary to properly conduct business and
513 organize meetings, in addition to the following:

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515 A. The ZBA shall elect a Chair, Vice-Chair and Secretary from its membership. A member of the
516 Township Board shall not serve as chair of the ZBA.

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518 B. All meetings of the ZBA shall be held at the call of the Chair at such times as the ZBA may
519 determine.

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521 C. The ZBA shall render decisions upon all matters within a reasonable time.

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523 D. The ZBA may distribute the application materials to the Zoning Administrator or other
524 designated Township consultants to review the application and provide a report to the ZBA that
525 addresses applicable Ordinance issues, whether the issue in question can be resolved by other
526 means defined in this Ordinance, and how the request may affect the Master Plan and any sub-
527 area plans.

528

529 E. The ZBA may request that any or all of the following information be provided to the ZBA by the
530 Township Clerk or Zoning Administrator, where available and applicable to the issue in question:

531

532 1. The history of development on the site in question.

533

534 2. A summary of past Township approvals, orders and decisions related to the site or issue
535 in question.

536

537 3. Whether all outstanding infractions related to this Ordinance or other Township
538 ordinances have been resolved, other than the issue to be addressed by the ZBA.

539

540 F. A concurring vote of a majority of the total ZBA membership shall be necessary to render a
541 decision. The ZBA shall not conduct business unless a majority of its members are present.

542

543 G. The Secretary shall keep minutes of the proceedings, record the vote of each member upon
544 each question, indicate absences and abstentions, and keep records of hearings and other
545 official action. Such minutes shall also be filed with the Township Clerk.

546

547 H. The ZBA shall have the power to require attendance of witnesses, and compel testimony and
548 the production of documents, files and other information pertinent to the matters before it.

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11.5 APPLICATIONS

Applications to the ZBA shall be filed with the Township, and a fee established by Township Board shall be paid at the time the application is filed. Applications shall be accompanied by the following information, where applicable:

- A. Applicant’s name, mailing address, telephone number, and email address.
- B. The address, location and tax identification number for each parcel involved in the request.
- C. Zoning classification of the subject parcel(s) and all abutting parcels.
- D. A plot plan, drawn to scale, with a north-arrow, existing lot lines, street rights-of-way, easements, building and structures, setback dimensions, parking areas, driveways, sidewalks, and other site improvements.
- E. A letter from the applicant summarizing the request and stating the reasons for the request.
- F. Any additional information deemed necessary by the Board to make a determination on the issue in question.
- G. For dimensional variances, any lot lines relevant to the variance must be staked by a professional surveyor prior to the hearing.

11.6 APPEALS OF ADMINISTRATIVE DECISIONS

- A. The ZBA shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the person or body charged with administration or enforcement of the Zoning Ordinance. Such an appeal by the person, firm, or corporation aggrieved, or by an affected officer, department, board, or bureau of the Township shall be made within twenty one (21) days of the action by filing an application with the Township Clerk.
- B. An appeal shall stay all administrative or enforcement proceedings associated with the appeal, unless the County Building Inspector certifies to the ZBA that, by reason of facts stated in the certificate, a stay in the opinion of the County Building Inspector would cause imminent peril to life or property.
- C. The ZBA shall reverse an administrative decision only after finding that the order, requirement, decision, or determination was arbitrary or capricious, based upon an erroneous finding of a material fact, constituted an abuse of discretion, or based upon an erroneous interpretation of the Zoning Ordinance.

11.7 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

595 Where the actual lines of streets, alleys, or property boundaries vary from the portions indicated on the
596 Zoning Map, or some ambiguity exists as to zoning district boundaries, the ZBA shall have the power to
597 interpret the Zoning Map in such a way as to carry out the intents and purposes of this Ordinance and
598 Master Plan. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning
599 Map, the following rules shall apply:

- 600
- 601 A. Boundaries indicated as approximately following the center lines of streets, highways,
602 watercourses, or alleys shall be construed to follow such center lines.
603
 - 604 B. Boundaries indicated as approximately following platted lot lines shall be construed as following
605 such lot lines.
606
 - 607 C. Boundaries indicated as approximately following municipal boundaries shall be construed as
608 following such municipal boundaries.
609
 - 610 D. Boundaries indicated as following railroad lines shall be construed to be midway between the
611 main tracks.
612
 - 613 E. Boundaries indicated as parallel to or extensions of features indicated in subsections “A”
614 through “D” above shall be so construed. Distances not specifically indicated on the Official
615 Zoning Map shall be determined by the scale of the map.
616
 - 617 F. Where physical or cultural features existing on the ground are at variance with those shown on
618 the Official Zoning Map, the Board shall interpret the district boundaries.
619
 - 620 G. Where a district boundary line divides a lot which was in single ownership at the time of passage
621 of this Ordinance, the Board may permit, as a special exception, the extension of the regulations
622 for either portion of the lot not to exceed fifty feet (50’) beyond the district line into the
623 remaining portion of the lot.
624

625 11.8 INTERPRETATION OF ZONING ORDINANCE PROVISIONS

626

627 The ZBA shall have the power to hear and decide requests for interpretations of Zoning Ordinance
628 provisions in such a way as to preserve and promote the character of the zoning district in question and
629 carry out the intent and purpose of this Ordinance, the Master Plan or any applicable planning
630 documents. This shall include use determinations upon appeal of an opinion issued by the Zoning
631 Administrator, and the consideration of expanding a conforming structure for a nonconforming use and
632 the replacement of a nonconforming use with another nonconforming use, subject to the applicable
633 standards in Article 10.
634

635 11.9 VARIANCES

636

637 The ZBA shall have authority in specific cases to authorize one or more dimensional or “non-use”
638 variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or
639 provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice
640 done. Use variances shall be prohibited. A dimensional or non-use variance allows a deviation from the
641 dimensional (i.e., height, bulk, setback) requirements of the Ordinance. The ZBA may grant a requested

642 “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties is
643 when the applicant has demonstrated all of the following:

- 644
- 645 A. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or
646 other non-use matters, will unreasonably prevent the owner from using the property for a
647 permitted purpose or will render ordinance conformity unnecessarily burdensome.
 - 648
 - 649 B. The variance will do substantial justice to the applicant, as well as to other property owners.
650
 - 651 C. The variance requested is the minimum variance needed to provide substantial relief to the
652 applicant and/or be consistent with justice to other property owners.
653
 - 654 D. The need for the variance is due to unique circumstances peculiar to the property and not
655 generally applicable in the area or to other properties in the same zoning district.
656
 - 657 E. The problem and resulting need for the variance has been created by strict compliance with the
658 Zoning Ordinance, not by the applicant or the applicant’s predecessors.
659

660 11.10 EXCEPTIONS

661
662 To hear and decide requests for exceptions and other matters upon which this Ordinance specifically
663 authorizes the ZBA to act. Any exception shall be subject to such conditions as the ZBA may require to
664 preserve and promote the purpose of this Ordinance, and the character of the zoning district in
665 question.
666

667 11.11 HEARINGS AND DECISIONS

668
669 The ZBA shall make no determination on a specific case until after a public hearing conducted in
670 accordance with the requirements in Article 12. Each decision of the ZBA shall include a written record
671 of the ZBA’s findings and determinations in the case.
672

673 11.12 FEES

674
675 The Township Board may, from time to time, prescribe or amend a reasonable schedule of fees to be
676 charged to applicants for applications to the ZBA. Such fees shall be paid to the Township at the time of
677 filing the application.
678

679 11.13 LIMITATIONS OF AUTHORITY

- 680
- 681 A. No order of the ZBA permitting the erection or alteration of a structure shall be valid for a
682 period longer than one (1) year, unless a building permit for such erection or alteration is
683 obtained within such period, and such erection or alteration is started and completed in
684 accordance with the terms of such permit.
685
 - 686 B. No order of the ZBA pertaining to the use of a structure or land shall be valid for a period longer
687 than one (1) year unless such use is established within such period, except where such use is

688 dependent upon the erection or alteration of a structure, in which case the one (1) year period
689 shall begin after the certificate of occupancy is issued for the structure.
690

691 C. The ZBA shall not consider appeals of any decisions by the Planning Commission or Township
692 Board regarding requests for approval of amendments, special use permits, or planned unit
693 developments, as defined in this Ordinance.
694

695 D. The ZBA shall not have the authority to alter this Zoning Ordinance or Zoning Map.
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732 ARTICLE 12: ADMINISTRATION, ENFORCEMENT, & VIOLATIONS

733

734 12.1 ZONING ADMINISTRATOR

735

736 A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township
737 Board. The duties of the Zoning Administrator may be delegated by the Township Board to another
738 employee of the Township or a consultant approved by the Township Board. It shall be the duty of the
739 Zoning Administrator to:

740

741 A. Receive applications for zoning permits and issue or deny same.

742

743 B. Inspect buildings, structures, or lots in order to determine compliance with the zoning permits
744 issued in compliance with this Ordinance.

745

746 C. Be in charge of the enforcement of this Ordinance. The Township Board may, in its discretion,
747 instruct the Zoning Administrator to make efforts to obtain voluntary compliance with this
748 Ordinance. The Township Board may instruct the Zoning Administrator in writing, to initiate a
749 criminal complaint or other legal action.

750

751 D. Under no circumstances is the Zoning Administrator permitted to make changes in this
752 Ordinance or to vary its terms in carrying out the Zoning Administrator's duties.

753

754 E. Perform pre-application conferences, completeness reviews and technical reviews for all
755 applications that include a site plan review, and to perform administrative reviews of applicable
756 development applications.

757

758 12.2 ZONING PERMITS

759

760 A. General: No person shall erect, alter, move or demolish a structure, whether temporary or
761 permanent, or to establish a new use or change in use for any parcel, without a zoning permit.

762

763 1. The Zoning Administrator shall issue a zoning permit if the proposed structure or use is
764 in compliance with the provisions of this Ordinance.

765

766 2. The applicant shall furnish permits or approvals from all applicable agencies before the
767 Zoning Administrator may issue a permit.

768

769 3. A copy of each zoning permit will be retained by the Zoning Administrator as a part of
770 the permanent records of the Township.

771

772 4. The Zoning Administrator shall promptly inform the applicant of the denial of a zoning
773 permit if the proposed structure or use does not comply with the provisions of this
774 Ordinance.

775

- 776 5. Issuance of a zoning permit, or approval of a site plan for a permitted use or special use
777 permit does not waive the requirements to comply with all applicable local, state, and
778 federal codes and statutes, including, but not limited to State Construction Code,
779 Electrical Code, Property Maintenance Code, Mechanical Code, and Fire Prevention
780 Code.
781
- 782 B. Exemptions: Ground level decks and accessory buildings less than two hundred (200) square
783 feet shall be exempt from the permit requirements of this ordinance. These structures shall
784 conform to all setback requirements.
785
- 786 C. Application: Each application for a zoning permit shall include the following minimum
787 requirements:
788
- 789 1. Plot Plan: Drawn to scale illustrating:
790
- 791 a) The actual shape, location, and dimensions of the lot.
792
- 793 b) The shape, size, and location of all buildings or other structures to be erected,
794 altered, or moved, and if any building or other structure is already on the lot.
795
- 796 c) The existing and intended use of the lot and of all such structures upon it,
797 including residential areas and the number of dwelling units that the building is
798 intended to accommodate.
799
- 800 d) Such other information concerning the lot or adjoining lots as may be essential
801 to determining that the provisions of this Ordinance are being observed.
802
- 803 2. Property Boundaries: In cases where property boundaries are not clearly indicated by
804 corner markers or other means, the Zoning Administrator may require, at the
805 applicant's expense, the property to be located by a registered surveyor.
806
- 807 3. Evidence of Ownership: All applications for zoning permits under the provisions of this
808 Ordinance shall include the landowner's signature authorizing the application for the
809 permit and be accompanied with proof of ownership of all property affected by the
810 coverage of the permit. Proof of ownership shall be established by one of the following
811 means: current title policy, or commitment, abstract or attorney's opinion of title, or
812 such other evidence of ownership as the Zoning Administrator determines acceptable.
813
- 814 4. Supporting Documentation: In the event the Zoning Administrator feels additional
815 information is required before determining the suitability of an application for a zoning
816 permit, the Zoning Administrator may request that the applicant submit such additional
817 information such as building plans, surveys, deed descriptions, soil suitability tests,
818 surface water disposal surveys, erosion control surveys, excavation disposal plans,
819 easements, and permits from other governmental agencies.
820
- 821 D. Voiding Permit: Any permit granted under this Section shall become null and void after one (1)
822 year from the date of granting such permit unless the development proposed shall have passed
823 its first construction code inspection. The applicant shall have the option of extending the

824 permit by a maximum of one (1) year upon written notice to the Zoning Administrator. Said
825 notice shall be filed no later than five (5) working days following the expiration of the permit. If a
826 zoning permit expires, the applicant will have to reapply as a new application.

827
828 E. Inspection: The developer of the property is solely responsible for meeting the conditions and
829 terms of the zoning permit and this Ordinance.

830
831 F. Expiration of Application: During the course of any application review, if an applicant has failed
832 to proceed meaningfully towards application complete or application decision for a period of
833 one-hundred and twenty (120) consecutive calendar days, then the application shall be
834 considered abandoned and expire. If the applicant would like to proceed following the one-
835 hundred and twenty (120) days, a new application, documentation, and fee shall be required.
836 This shall be processed as a new application.
837

838 12.3 FEES

839
840 The fees for applications, permits and other requests shall be established by the Township Board. Fees
841 must be paid before any review of an application is performed or a permit is issued. Certain applications,
842 permits and requests are subject to the Torch Lake Township Escrow Policy, as defined in that policy.
843

844 12.4 PERFORMANCE GUARANTEES

845
846 To ensure compliance with the Ordinance and any conditions imposed, the Planning Commission and/or
847 Township Board may require that a cash deposit, irrevocable letter of credit, certified check, or surety
848 bond acceptable to the Township covering the estimated cost of improvements be deposited with the
849 Township Clerk to ensure faithful completion of the improvements. The performance guarantee shall be
850 deposited at the time of the issuance of the zoning permit.

851
852 The Township shall not require the deposit of the performance guarantee until it is prepared to issue the
853 zoning permit. If requested by the applicant of the site plan review, the Township shall rebate any cash
854 deposits in reasonable proportion to the ratio of work completed on the required improvements as
855 work progresses.
856

857 12.5 TAXES & OTHER MONIES OWED (CHECK WITH ATTORNEY)

858
859 When the Township receives an application for any new or amended zoning permit, site plan review,
860 special use permit, any other application, or any request for a permit or approval required by this
861 Ordinance, the applicant shall be required to present a signed statement from the Township Treasurer
862 that all real and personal property taxes, fees, penalties, fines, assessments, general assessments, and
863 other monies owed to the Township are current and paid up to date. The Township Treasurer's signed
864 statement shall cover the accounts of all named applicants and all properties upon which the application
865 or request is made. The Township shall take no action on any application or request until the applicant
866 or requesting party acquires the Township Treasurer's signed statement that all of the above monies
867 owed are current and paid up to date. The Township shall make no final decision on any application or
868 request if any of the above monies owed become delinquent or remain unpaid during consideration.
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870 12.6 PUBLIC HEARINGS

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The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act, PA 110 of 2008, as amended, and the following:

A. Notice of the public hearing shall be:

1. Posted at the place the hearing will be held.
2. Published in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the public hearing.
3. Sent by mail or personal delivery not less than fifteen (15) days before the date of the public hearing to:
 - a) The applicant, owner(s) of property for which approval is being considered, all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.
 - b) All occupants of structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that one (1) occupant of each unit or spatial area shall receive notice if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner, who shall post the notice at the primary entrance to the structure.
4. Posting the notice on the Torch Lake Township website is encouraged but does not alleviate the notice of public hearing requirements listed above.

B. The notice shall include all the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

12.7 VIOLATIONS & PENALTIES

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- A. Nuisance Per Se: Any uses, land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Municipal Civil Infraction: Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined above or who violates or fails to comply with any provision of this Ordinance, or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this Section shall exempt the offender from compliance with the provisions of this Ordinance.
- C. Penalties: Any person who shall violate any provision of this Ordinance in any particular, who creates or maintains a nuisance per se, or who fails to comply with any of the regulatory measures or conditions of the Zoning Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed five hundred dollars (\$500.00), and each day such violation continues shall be deemed a separate offense.
- D. Enforcement Official: The Zoning Administrator, or other Township Board designee, is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- E. Nuisance Abatement: In addition to enforcing this Ordinance as a municipal civil infraction the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

961

962 **ARTICLE 13: AMENDMENTS & SEVERABILITY**

963

964 **13.1 AMENDMENTS**

965

966 The Township Board may, after recommendation from the Planning Commission, amend, supplement,
967 or change the provisions of this Ordinance or Official Zoning Map. Such actions shall be consistent with
968 the Michigan Zoning Enabling Act, P.A. 110 of 2008, as amended, and the following:

969

970 **13.1.1 Initiation Of Amendment**

971

972 Amendments to the provisions of this Ordinance may be initiated by the Township Board, Planning
973 Commission, Zoning Administrator or by petition from one (1) or more residents or property owners of
974 the Township. An amendment to the Official Zoning Map (rezoning) may be initiated by the Township,
975 Planning Commission, Zoning Administrator or by the titleholder for the property subject to the
976 proposed amendment. No fee shall be charged for amendments initiated by the Township Board,
977 Planning Commission, or Zoning Administrator.

978

979 **13.1.2 Application**

980

981 An amendment to this Ordinance, except those initiated by the Township Board, Planning Commission
982 or Zoning Administrator, shall be initiated by submission of a complete and accurate application to the
983 Township, along with the required fee established by Township Board. In the case of an amendment to
984 the official Zoning Map, the following information shall accompany the application and fee:

985

- 986 A. A legal description and street address of the subject property, together with a survey and
987 location map identifying the subject property in relation to surrounding properties.
- 988
- 989 B. The name and address of the owner of the subject property, and a statement of the applicant's
990 interest in the subject property, if not the owner in fee simple title.
- 991
- 992 C. The existing and proposed zoning district designation of the subject property and surrounding
993 properties.
- 994
- 995 D. A written description of how the requested amendment meets the criteria stated in this Section.
- 996

996

997 **13.1.3 Amendment Review Procedure**

998

999 Proposed amendments to this Ordinance or Official Zoning Map shall be reviewed in accordance with
1000 the following:

1001

- 1002 A. Completeness Review: Upon receipt of an application to amend this Ordinance, the Zoning
1003 Administrator shall review the application to confirm all required material has been submitted.
1004 The Zoning Administrator shall notify the applicant of any outstanding items.
- 1005

- 1006 B. Technical Review: Prior to Planning Commission consideration, the proposed amendment and
1007 application materials shall be distributed to appropriate Township officials for review and
1008 comment. The Zoning Administrator may also submit the application materials to designated
1009 Township consultants for review.
1010
- 1011 C. Public Hearing: Once reviewed and final language of the zoning amendment has been
1012 determined, if applicable, the Planning Commission shall hold a public hearing for all proposed
1013 amendments in accordance with the procedures in Article 12. Nothing shall limit the ability of
1014 the Planning Commission to hold multiple public hearings or a public hearing prior to the final
1015 language if they desire.
1016
- 1017 D. County Planning Commission Review and Recommendation: Following the public hearing, the
1018 Planning Commission shall submit the proposed amendment including any Zoning Map changes
1019 to the County Planning Commission for review and recommendation. If the recommendation of
1020 the County Planning Commission has not been received within thirty (30) days after the receipt
1021 of the proposed amendment, it shall be conclusively presumed that the County has waived its
1022 right to review.
1023
- 1024 E. Planning Commission Consideration and Recommendation: Subsequent to the County Planning
1025 Commission review, or public hearing if the County waives its right to review, the Planning
1026 Commission shall review the proposed amendment, together with any reports and
1027 recommendations from staff, consultants, other reviewing agencies, and any public comments.
1028 The Planning Commission shall identify and evaluate all relevant factors and shall report its
1029 findings and recommendation to the Township Board. In considering an amendment to the
1030 Official Zoning Map (rezoning) or Ordinance text, the Planning Commission shall consider the
1031 following factors in making its findings and recommendations, although not all standards must
1032 be met in order to recommend approval of an amendment:
1033
- 1034 1. Consistency with the Master Plan’s goals, policies, and future land use map, including
1035 planned timing or sequence of development. If conditions have changed since the
1036 Master Plan was adopted, the consistency with recent development trends in the area
1037 shall be considered.
1038
 - 1039 2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the
1040 site’s physical, geological, hydrological, and other environmental features.
1041
 - 1042 3. Compatibility of all the potential uses allowed in the proposed district(s) with
1043 surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics,
1044 infrastructure, and potential influence on property values.
1045
 - 1046 4. Capacity of available utilities and public services to accommodate the uses permitted in
1047 the district(s) without compromising the health, safety, and welfare of Township
1048 residents or burdening the Township or Antrim County with unplanned capital
1049 improvement costs or other unplanned public expenses.
1050
 - 1051 5. Capability of the road system to safely and efficiently accommodate the expected traffic
1052 generated by uses permitted in the zoning district(s).
1053

- 1054 6. The apparent demand for the types of uses permitted in the district(s) in relation to the
1055 amount of land currently zoned and available in the Township and surrounding
1056 communities to accommodate the demand.
1057
- 1058 7. The boundaries of the proposed district(s) in relationship to the surrounding area and
1059 the scale of future development on the site.
1060
- 1061 8. The requested rezoning will not create an isolated or incompatible zone in the
1062 neighborhood.
1063
- 1064 9. Other factors deemed appropriate by the Planning Commission and/or Township Board.
1065
- 1066 F. Township Board Action: The Township Clerk shall forward a copy of the proposed amendment,
1067 findings, and recommendation from the Planning Commission to the Township Board for
1068 consideration and final action.
1069
- 1070 1. The Township Board may adopt, reject, or modify the proposed amendment or may
1071 refer the amendment back to the Planning Commission for revision or further
1072 consideration.
1073
- 1074 2. The Township Board may, at its discretion, hold additional public hearings on the
1075 proposed amendment. If major changes are made to the amendment, a public hearing
1076 shall be required. Furthermore, the Township Board shall hold a public hearing if
1077 requested by an interested property owner. Any public hearing held by the Township
1078 Board shall follow the procedures in Article 12.
1079

1080 13.1.4 Effective Date

1081
1082 A notice of adoption of an approved amendment shall be published in a newspaper of general
1083 circulation in the Township within fifteen (15) days of adoption. The amendment shall become effective
1084 eight (8) days after being published or at a date stated by the Township Board, whichever is greater.
1085

1086 13.1.5 Reapplication

1087
1088 Whenever an application for an amendment to this Ordinance has been rejected by the Township
1089 Board, a new application for the same amendment shall not be accepted by the Township for a period of
1090 one (1) year unless the Zoning Administrator determines that one (1) or more of the following
1091 conditions has been met:
1092

- 1093 A. There is a substantial change in circumstances relevant to the issues or facts considered during
1094 review of the application.
1095
- 1096 B. New or additional information is available that was not available at the time of the review.
1097
- 1098 C. The new application is materially different from the prior application.
1099

1100 13.2 CONDITIONAL REZONING

1101

1102 13.2.1 Intent & Purpose

1103

1104 It is recognized that there are certain instances where it would be in the best interests of the Township,
1105 as well as advantageous to property owners seeking a change in zoning classification, that certain
1106 conditions could be proposed by property owners as part of a request for rezoning. This is especially
1107 true since the Township must consider all potential uses which may be made of property when
1108 considering a traditional rezoning request, some of which may be inappropriate for a particular piece of
1109 property considering items such as, but not limited to, the surrounding land uses, the Master Plan,
1110 available infrastructure, and natural features. It is the intent of this Section to provide a process
1111 consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, PA 110 of 2006, as
1112 amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use
1113 and/or development of land as part of the rezoning request. It is not the intent of this Section to provide
1114 for rezonings that are inconsistent with the Township Master Plan or surrounding land uses, nor is it the
1115 intent to provide a mechanism for circumventing any requirements of this Ordinance.

1116

1117 13.2.2 Conditional Rezoning Standards For Approval

1118

1119 The following standards shall be used as a basis upon which conditional rezoning requests will be
1120 reviewed and approved. The applicant's offer of conditions may not authorize uses or developments not
1121 permitted in the requested new zoning district.

1122

1123 A. Standards for Rezoning: The owner's offer of conditions shall bear a reasonable and rational
1124 relationship to the property for which the conditional rezoning is requested. Further, the
1125 Planning Commission and Township Board shall, at a minimum, consider all the following
1126 standards in rendering a decision on a request for conditional rezoning, although not all
1127 standards must be met in order to approve a conditional rezoning:

1128

1129 1. Will the proposed rezoning be in accordance with the basic intent and purpose of this
1130 Ordinance?

1131

1132 2. Is the proposed rezoning consistent with the Township Master Plan?

1133

1134 3. Have the conditions changed since the current zoning was adopted, or was there a
1135 mistake in the zoning ordinance that justifies a rezoning?

1136

1137 4. Will the rezoning correct an inequitable situation created by the zoning ordinance rather
1138 than merely grant special privileges?

1139

1140 5. Will the amendment set an inappropriate precedent?

1141

1142 6. Is the requested rezoning consistent with the existing or planned surrounding land uses?

1143

1144 7. If the rezoning is granted, could all requirements in the proposed zoning classification be
1145 complied with on the subject property?

1146

1147 8. Would the proposed rezoning be consistent with the trends in land development in the
1148 general vicinity of the subject property?

1149
1150 9. Would the proposed rezoning have a negative impact on public services, utilities, or
1151 roads?

1152
1153 10. Would the proposed rezoning negatively impact natural features on the site, such as
1154 woodlands or wetlands?

1155
1156 B. Other Required Approvals:

1157 1. Any use or development proposed as part of an offer of conditions that would require a
1158 special use permit under the terms of this Ordinance may only be commenced if a
1159 special use permit for such use or development is ultimately granted in accordance with
1160 the provisions of this Ordinance.

1161
1162 2. Any use or development proposed as part of an offer of conditions that would require a
1163 variance under the terms of this Ordinance may only be commenced if a variance for
1164 such use or development is ultimately granted by the Zoning Board of Appeals in
1165 accordance with the provisions of this Ordinance.

1166
1167 3. Any use or development proposed as part of an offer of conditions that would require
1168 site plan approval under the terms of this Ordinance may only be commenced if site
1169 plan approval for such use or development is ultimately granted in accordance with the
1170 terms of this Ordinance.

1171

1172 13.2.3 Application & Offer Of Conditions

1173

1174 An owner of land may voluntarily offer in writing conditions relating to the use and/or development of
1175 land for which a conditional rezoning is requested. This offer may be made either at the time the
1176 application for conditional rezoning is filed, or additional conditions may be offered at a later time
1177 during the conditional rezoning process as set forth below. For a request to be considered for a
1178 conditional rezoning, the following items shall be submitted to the Township:

1179

1180 A. An application on a form provided by the Township and any applicable fees.

1181

1182 B. A written proposal explicitly describing the proposed conditional rezoning.

1183

1184 C. A conceptual site plan that includes all the following items:

1185

1186 1. Applicant's name, address, and telephone number.

1187

1188 2. Scale, north arrow, and dates of submission and revisions.

1189

1190 3. Zoning classification of applicant's property and all abutting parcels.

1191

1192 4. Existing lot lines, building lines, structures, parking areas, driveways, and other
1193 improvements on the property and within one hundred feet of the property.

1194

- 1195 5. Proposed lot lines and lot dimensions, and general layout of proposed structures,
1196 parking area, driveways, and other improvements proposed for the property.
1197
1198 6. Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
1199
1200 7. Location of existing drainage courses, floodplains, lakes and streams, wetlands, and
1201 woodlands.
1202
1203 8. All existing and proposed easements.
1204
1205 9. Location of sanitary sewer or septic systems, existing and proposed.
1206
1207 10. Location and size of water mains, well sites and building service, existing and proposed.
1208
1209 11. A conceptual plan showing the specific proposed use(s) of the property.
1210

1211 13.2.4 Conditional Rezoning Application Submission Procedures
1212

- 1213 A. Pre-Application Conference: Prior to filing an application for a conditional rezoning, the
1214 applicant must informally meet with the Zoning Administrator, and other representatives as
1215 deemed necessary by the Township, to discuss the proposed development. The pre-application
1216 conference is intended to be informative and advisory in nature and affords the applicant the
1217 opportunity to discuss the land use and planning policies of the Township. The applicant must
1218 present a conceptual plan for the contemplated conditional rezoning at or before the pre-
1219 application conference. Any and all statements made by the Township employees, attorneys,
1220 agents or representatives at the preapplication conference have no legal force and are not
1221 legally binding promises, commitments or contracts.
1222
1223 B. Completeness Review: Upon receipt of an application to amend this Ordinance, the Zoning
1224 Administrator shall review the application to confirm all required material has been submitted.
1225 The Zoning Administrator shall notify the applicant of any outstanding items.
1226
1227 C. Technical Review: Prior to Planning Commission consideration, the proposed amendment and
1228 application materials shall be distributed to appropriate Township officials for review and
1229 comment. The Zoning Administrator may also submit the application materials to designated
1230 Township consultants for review.
1231

1232 13.2.5 Conditional Rezoning Application Review
1233

1234 Complete conditional rezoning applications shall be reviewed following the procedures outlined below:
1235

- 1236 A. Public Hearing: The Planning Commission shall set and hold a public hearing for all proposed
1237 conditional rezoning requests in accordance with the procedures in Article 12.
1238
1239 B. Planning Commission Review and Recommendation: After the public hearing and consideration
1240 of the standards for conditional rezoning set forth in this Section, the Planning Commission may
1241 recommend to the Township Board approval as presented or denial of the conditional rezoning.

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- C. Township Board Review and Approval: After receipt of the Planning Commission’s recommendation, the Township Board shall review the Planning Commission’s recommendation consistent with the standards of this Section and deliberate upon the requested conditional rezoning and may approve or deny the conditional rezoning request. If the applicant initiates additional or different conditions not considered by the Planning Commission subsequent to the recommendation of the Planning Commission, then the Township Board shall refer such proposed additional or different conditions to the Planning Commission for review and recommendation within a time specified by the Township Board, and the Township Board shall then proceed to deny or approve the conditional rezoning.

- D. Amendment of Conditions: The offer of conditions may be amended during the process of conditional rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner and confirmed in writing. An owner may withdraw in writing all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission’s public hearing on the original conditional rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

13.2.6 Approval

If the Township Board finds the conditional rezoning request and offer of conditions acceptable, the offer of conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the standards of this Section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance codified in this Ordinance adopted by the Township Board to accomplish the requested conditional rezoning. The statement of conditions shall:

- A. Be prepared in a form recordable with the Antrim County Register of Deeds.

- B. Contain a legal description of the land to which it pertains.

- C. Contain a statement acknowledging that the statement of conditions runs with the land, and is binding upon successor owners of the land, unless the property is rezoned pursuant to Section 13.2.10.

- D. Incorporate by attachment the conceptual plan which formed the basis of the conditional rezoning.

- E. Contain the notarized signatures of all the owners of the property proceeded by a statement attesting to the fact that they are the only parties having an interest in the property, and that they voluntarily offer and consent to the provisions contained within the statement of conditions.

- F. The statement of conditions may be reviewed and approved by the Township attorney, with the applicant to pay all costs associated with such review and approval.

1290 G. The approved statement of conditions shall be filed by the owner with the Antrim County
1291 Register of Deeds within forty five (45) days after approval of the conditional rezoning. The
1292 owner shall provide the Township with a recorded copy of the statement of conditions within
1293 forty five (45) days of receipt.

1294
1295 H. Upon the conditional rezoning taking effect, and after the required recording of the statement
1296 of conditions, use of the land so rezoned shall conform thereafter to all the requirements
1297 regulating use and development within the new zoning district as modified by any more
1298 restrictive provisions contained in the statement of conditions.

1299

1300 13.2.7 Compliance With Conditions

1301

1302 Any person who establishes development or commences a use upon land that has been conditionally
1303 rezoned shall continuously operate and maintain the development or use in full compliance with all the
1304 conditions set forth in the statement of conditions. Any failure to comply fully with the conditions
1305 contained within the statement of conditions shall constitute a violation of this Ordinance and be
1306 punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject
1307 to judicial abatement as provided by law.

1308

1309 13.2.8 Time Period For Establishing Development Or Use

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1311 The approved development and/or use of the land pursuant to building and other required permits
1312 must be commenced upon the land within eighteen (18) months after the effective date by publication
1313 of the conditional rezoning, and must thereafter proceed diligently to completion. This time limitation
1314 may, upon written request, be extended an additional eighteen (18) months by the Township Board if:

1315

1316 A. It is demonstrated to the Township Board's sole satisfaction that there is a strong likelihood that
1317 the development and/or use will commence within the period of extension and proceed
1318 diligently thereafter to completion, and

1319

1320 B. The Township Board finds that there has not been a change in circumstances that would render
1321 the conditional rezoning with statement of conditions incompatible with other zones and uses in
1322 the surrounding area or otherwise inconsistent with sound zoning policy.

1323

1324 13.2.9 Reversion Of Zoning

1325

1326 If approved development and/or use of the rezoned land do not occur within the time frame specified in
1327 this Section, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2).

1328

1329 13.2.10 Subsequent Rezoning Of Land

1330

1331 When land that is conditionally rezoned with the statement of conditions is thereafter rezoned to a
1332 different zoning classification, or to the same zoning classification but with a different or no statement
1333 of conditions, whether as a result of a reversion of zoning pursuant to this Section, or upon application
1334 of the landowner, or otherwise, the statement of conditions imposed under the former zoning
1335 classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall

1336 record with the Antrim County Register of Deeds a notice that the statement of conditions is no longer
1337 in effect.

1338

1339 13.2.11 Amendment Of Conditions

1340

1341 A. During the time period for commencement of an approved development or use specified
1342 pursuant to This Section, or during any extension thereof granted by the Township Board, the
1343 Township shall not add to or alter the conditions in the statement of conditions.

1344

1345 B. The statement of conditions may be amended thereafter in the same manner as was prescribed
1346 for the original conditional rezoning and statement of conditions.

1347

1348 13.2.12 Township Right To Rezone

1349

1350 Nothing in the statement of conditions or in the provisions of this Section shall be deemed to prohibit
1351 the Township from rezoning all or any portion of land that is subject to a statement of conditions to
1352 another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and
1353 the Michigan Zoning Enabling Act. (PA 110 of 2006, as amended).

1354

1355 13.2.13 Failure To Offer Conditions

1356

1357 The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of
1358 an offer of conditions shall not affect an owner's rights under this Ordinance.

1359

1360 13.3 SEVERABILITY

1361

1362 If any article, Section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be
1363 invalid or unconstitutional by any court of competent jurisdiction, the Township intends said portion to
1364 be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The
1365 Township further states that it would have passed and adopted what remains of this Ordinance
1366 following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

1367

1368 13.4 REPEAL

1369

1370 The prior Township of Torch Lake, Michigan Zoning Ordinance, adopted by the Township Board of the
1371 Torch Lake Township on _____, as amended, is hereby repealed in its entirety.

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