

WHITEWATER TOWNSHIP BOARD
AGENDA FOR SPECIAL MEETING – SEPTEMBER 21, 2022
9:00 a.m. at the Whitewater Township Hall
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

At this time, the Board invites everyone to silence their electronic devices.

Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Special Board Meeting

Time: Sep 21, 2022 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/87975033904?pwd=RmUra1kwTS9BRWphamVWQlduV3BzQT09>

Meeting ID: 879 7503 3904, Passcode: 349305

One tap mobile: +13092053325, 87975033904#,*349305# US,
+13126266799,,87975033904#,,,,*349305# US (Chicago)

Dial by your location: +1 309 205 3325 US, +1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York), +1 720 707 2699 US (Denver)

Find your local number: <https://us06web.zoom.us/u/kbljQCJFhR>

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon reasonable advance notice. Contact the Township Clerk at 231.267.5141 Ext. 24 at least 5 days in advance of the meeting.

- A. Call to Order
- B. Roll Call of Board Members
- C. Set/Adjust Meeting Agenda
- D. Declaration of Conflict of Interest
- E. Public Comment. Any person shall be permitted to address a meeting of the township board. Public comment shall be carried out in accordance with the following board rules and procedures:
 - 1. Comments shall be directed to the board, with questions directed to the chair.
 - 2. Any person wishing to address the board shall speak from the lectern and state his or her name and address.
 - 3. Persons may address the board on matters that are relevant to township government issues.

4. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer board member's questions. The chair shall control the amount of time each person shall be allowed to speak, which shall not exceed five (5) minutes.

F. Agenda Items as Listed in the Special Meeting Notice

1. Review details of 7.12.2022 Moratorium on Site Plan Reviews.
2. Discuss Zoning Ordinance Amendments 83 & 84
3. Consider legal support level for various board & commission personnel in their decision making role.

G. Board Comments/Discussion

H. Public Comment

I. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141.

Memo

To: Whitewater Township Board
From: Ron Popp, Supervisor
CC: None
Date: 7-01-2022
Re: Moratorium on Site Plan Reviews and Special Use Permits

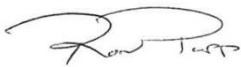
Board Members -

We have known for some time know an issue with certain parts of the Zoning Ordinance exists. Last month a Planning Commission Member urged the Board to take action in the form of a six-month moratorium to get various items, including a planner on board to help get us on the right track. Now once again this month additional public comment supports this idea.

If a moratorium is adopted at this meeting, current approved development will not be affected by this action. Only those projects still in the planning phase *could* be delayed while we get a process in place. The impact will be brief and minimal compared to what current economic factors are doing to the housing market. Failing to act could have forever consequences for our Township.

A motion could look like: Motion to place a moratorium on all Site Plan Reviews, Site Condominium, Planned Unit Development, Special Use Permits, Plat Approvals, and Condominium Conversions in Whitewater Township until January 1, 2023.

Respectfully submitted,



Ron Popp

Supervisor, Whitewater Township

Memo

To: Whitewater Township Board
From: Ron Popp, Supervisor
CC: None
Date: 8-29-2022
Re: Planning Commission Proposed Zoning Ordinance Amendments 83-84-85

Board Members -

The three Zoning Ordinance Amendments mentioned above have been back and forth to the Board since late March early April of 2022. According to Planning Commission Chairwoman, Kim Mangus they are now ready for Board Action. The group included an “Approved Findings of Fact Statement”, which is a step in the right direction for risk mitigation.

The document provided by the PC uses an early form of “redline” document format employing three colors of text to represent Original Text (black), **New or Changed Text (red)**, and **Notes(blue)**. A quick spot check of the black text compared to the website content revealed some variations between the two documents. You may wish to consult the website version of the Zoning Ordinance for original content to obtain the starting point of the ordinance. A clean copy follows each “redline” document as has been standard practice. A copy of meeting minutes brings this business item to a close.

Respectfully submitted,



Ron Popp
FOIA Coordinator
Supervisor, Whitewater Township



Ron Popp <supervisorwhitewater@gmail.com>

ZO amendments #83 and #84 documents

1 message

Kim Mangus <manguspc@yahoo.com>

Sat, Aug 6, 2022 at 12:27 AM

To: Ron Popp <supervisorwhitewater@gmail.com>

Cc: Heidi Vollmuth <heidivourtrustee@gmail.com>

Ron,

Here is the "Clean" and "Redline" copy of the proposed amendment #84 to ZO Article 25 addressing Site Plan Review and Special Land Uses and amendment #83 to Articles 1 - Preamble, 12 - Setbacks, and 14 - Waterfront. The PC has recommended adoption of all amendments by unanimous vote. Additionally, you will find the "Findings of Fact" as approved by the PC for Articles 1, 12, and 14 and a second for Article 25. These should be reflected in the meeting minutes but I thought that it might be helpful to have a copy as approved.

Please note that the attached files have been labeled using the format used by our township attorneys, year, month, day, followed by Article numbers, topic, and version (clean/redline). Any names have been removed as these are documents that have been recommended by the entire PC for adoption by the TB. Please let me know if you have any questions.

Respectfully Submitted,
Kim Mangus

6 attachments**2022.08.03 Articles 1, 12, 14 Forwarded to TB - Redline.docx**

40K

**2022.08.03 Articles 1, 12, 14 Forwarded to TB (clean).docx**

36K

**2022.08.05 Article 25 - SUP Forwarded to TB (Clean).docx**

40K

**2022.08.05 Article 25 - SUP Forwarded to TB (Redline).docx**

41K

**2022.08.06 Approved Findings of Fact - Article 25 Site Plan Review and SUP.docx**

13K

**2022.08.06 Approved Findings of Fact - Articles 1, 12, 14.docx**

13K

Amendments Notes:

The purpose of this amendment is to create an easier to read format, move items to more appropriate locations within the Ordinance, address apartment density and setbacks, address unclear standards, update terms, and address inconsistencies with other portions of the Ordinance.

**WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]**

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at ____:____ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise its preamble, amend Article XXII addressing building sizes, lot sizes and yard requirements, and alter Article XIV to address certain requirements in the Boardman River Valley in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ZONING ORDINANCE WHITEWATER TOWNSHIP, MICHIGAN Ord. No. 6 eff. Dec. 23, 1972. The Whitewater Township Zoning Ordinance's preamble shall be amended to read as follows:

**ZONING ORDINANCE
WHITEWATER TOWNSHIP, MICHIGAN
Ord. No. 6 eff. Dec. 23, 1972**

An Ordinance to establish zoning districts and regulations in the Township of Whitewater, County of Grand Traverse and State of Michigan in accordance with the provisions of Act 184 of Public Acts of 1943, as amended, and act 231 of the Public Acts of 1970, as amended (Natural River Act); 110 of the Public Acts of 2006 as amended; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance; to provide for amendments to this Ordinance; and to provide penalties for the violation of this Ordinance.

Amendment is to update authority to zone legal reference. Old text references outdated sources.

SECTION 2: AMENDMENT TO ARTICLE XII. The Whitewater Township Zoning Ordinance, Article XII shall be amended by amending ARTICLE XII Building Sizes and Yard Requirements to read as follows:

ARTICLE XII

BUILDING SIZES AND ~~YARD~~ SETBACK REQUIREMENTS

12.00 BUILDING SIZES AND ~~YARD~~ SETBACK REQUIREMENTS

12.10 BUILDING SIZES

- A. Each Dwelling or other main building hereafter erected in any district shall have a permanent foundation and a minimum of seven hundred (700) square feet of floor space, not including breezeways, porches and garages, unless specifically exempted elsewhere in this Ordinance.
- B. The floor area of a mobile home shall be that stated as the manufacturer's declared measurements.
- C. Campground cabins shall not exceed six hundred and fifty (650) square feet including covered porches.
- D. All structures, lots, and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance, unless specifically exempted elsewhere in this Ordinance.

12.11 GENERALLY APPLICABLE CONDITIONS: (~~Schedule of Regulations~~) (New name, previously just “Notes” - Numbers changed to letters)

- A. No structure shall be built within the minimum yards required except when expressly allowed elsewhere in the ordinance. **(Relocated)**
- B. Minimum Lot Areas shall be calculated by square foot unbroken by any road, street, or thoroughfare. **(Relocated from table)**
- C. Maximum Structure Height in all districts shall be 35’ or 2 ½ stories above grade. **(Relocated from table)**
- D. Minimum Width to Maximum Depth Ratio regulating lot shape of new parcels shall be 1:4 in all districts. **(Relocated from table)**
- E. Variance provisions for Depth to Width Ratio are found in General Ordinance 26, Land Division Ordinance. **(Relocated)**
- F. **There shall be a 30’ Setback in all directions between multi-family residential structures in any district.** **(New to provide greater distance between structures that may use clustered development or be evaluated as a single complex, and preserve better fire department access to more densely populated housing)**

12.12 RESIDENTIAL DISTRICTS (Table split into new tables by topic)

Color Code: **Black** = original standards **Red** = New or changed text **Blue** = Notes

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
R1	General	100'	20,000	30'	15'	30'	---
R2	Single family	100'	12,000	30'	15'	30'	---
	Two Family	120'	22,000	30'	15'	30'	---
R3	General	120'	11,000 Per Dwelling	30'	15'	30'	---

12.13 AGRICULTURAL AND RECREATION (New table, same standards)

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Ag	General	200'	40,000	30'	15'	30'	----
	Commercial Campground	---	40-acre min	100'	100'	100'	----
RC	General	100'	5 acres	30'	15'	30'	----
	Commercial Campground	----	40-acre min	100'	100'	100'	Limit of 1 site per 2 acres or 1 cabin per 5 acres.

(RC Campground: New addition to table, existing standard)

12.14 COMMERCIAL AND INDUSTRIAL DISTRICTS

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Commercial - C	General	100'	----	50'	* 10'	30'	40% Max. lot coverage
	Multi-family Housing	----	11,000 Per Dwelling	50'	50'	50'	See 12.11.F

*Combination shall total 30% of width but not less than 10' per side.

(Multi-Family: Applying density standard to all districts)

Color Code: **Black** = original standards **Red** = New or changed text **Blue** = Notes

Village -V	General	*	*	*	10'	15'	----
	Multi-family Housing	*	11,000 Per Dwelling	*	*	*	See 12.11.F
(Multi-Family: Applying density standard to all districts)							
*Refer to conditional standards in Article 8.6.							
Industrial - N	General	100'	----	50'	(a)	30'	40% Max. lot coverage
	Multi-family Housing	---	11,000 Per Dwelling	50'	50'	50'	See 12.11.F
(Multi-Family: Applying density standard to all districts)							
(a) Combination shall total 30% of width but not less than 15' per side.							

12.15 RESERVED FOR MARIHUANA RELATED ESTABLISHMENTS

12.16 SPECIAL SITUATIONS (New table, same standards)

Except for the specific requirements stated the regulation for the underlying zone shall remain unchanged.

Situation /Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Frontage on Boardman River and tributaries	200'	----	100' from water's edge Ordinary High Water Mark			See Article 14
Frontage on all other Lakes and Streams	----	----	50' from the water's edge Ordinary High Water Mark			See Article 14
M72 in the Ag District	----	----	100'	----	----	----
Supply Rd.	----	----	100'	----	----	----
Old M-72 in the C District	----	----	30'	0	----	----
Enclosures/structures Enclosure/structures for livestock, domestic animals (except house pets)						
Horses/livestock	----	2 ½ acres	100'	100'	100'	----
Chickens/rabbits	----	2 ½ acres ----	40'	40'	40'	----

Dog Kennels – Sled, Hunting, or Breeding	----	10 acres	200'	200'	200'	----
Existing standard in Article 37.20 (chickens) and 37.30 (dogs) Chart was expanded to provide greater detail, incorporate missing standards in chart, and resolve conflict with other portions of the ordinance.						

~~12.12~~ **12.17** **HARDSHIP**

No requirements contained in this Article shall prevent the use of a lot or parcel of land of lesser size, provided the same was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance; and provided, further, that as to any lot or parcel of land not of legal record or so laid out on the date of passage of this Ordinance, if any conditions shall create a hardship in complying with the restrictions contained in this Article, ~~then the Planning Commission~~ **Zoning Board of Appeals (ZBA)** may grant deviation therefrom after first determining that the same shall not be inimical to the public health, safety or welfare. **(Variance is determined by ZBA not PC)**

SECTION 3: AMENDMENT TO ARTICLE XIV. The Whitewater Township Zoning Ordinance, Article XIV, Section 14.11 Special Requirements for the Boardman River Valley shall be amended to read as follows:

14.11 SPECIAL REQUIREMENTS FOR THE BOARDMAN RIVER VALLEY.

~~The following special requirements shall apply to all properties within fifty (50) feet of the Boardman River and its tributaries.~~

All properties within fifty (50) feet of the Boardman River and its tributaries shall have the following special requirements. (Reworded to improve clarity)

A. A managed vegetative strip shall be maintained within fifty (50) feet of the ~~water's edge~~ **ordinary high water-mark**, as follows: **(Removed outdated term and replaced with current term)**

1. Vegetative strips shall consist of native trees, shrubs, vegetation and other natural materials.
2. Existing native vegetation should be preserved whenever possible.
3. No ponds shall be constructed, no earth moved, surface soils removed or filled for building within the managed vegetative strip.
4. Utility lines shall be installed only as follows:
 - (a) New distribution lines for utilities within the housing setback line shall be placed underground unless overhead lines are less disruptive to the environment.
 - (b) Brushy vegetation shall be restored to the disturbed area in the managed vegetation strip.

(c) Local service lines to private dwellings shall originate from the landward side of the dwelling.

5. Chemical control of vegetation shall be prohibited within the managed vegetative strip.

6. Fencing, grazing, riding trails and soil tilling for farm crops is prohibited within the managed vegetative strip.

7. The use of the managed vegetative strip for stock watering areas and stream crossing of horseback trails is subject to the approval of the Zoning Administrator, who may require a plan from the Soil Conservation District, or ~~Department of Environmental Quality (DEQ)~~ **Michigan Department of Environment Great Lakes and Energy (EGLE), or their successors, where applicable** as part of the requirement for use.

B. Any variance from these standards shall be in accordance with a plan approved by the Zoning Board of Appeals. In evaluating such applications, the Zoning Board of Appeals shall consider all relevant factors pertaining to the purpose of the vegetative strip which is to:

1. Stabilize the river banks.
2. Prevent erosion.
3. Absorb nutrients in water runoff from adjacent lands.
4. Provide shading for the stream to maintain cool water temperature.
5. Screen adjacent man-made structures.

C. In no case shall a lot or parcel having frontage on the Boardman River or its tributaries be less than two hundred (200) feet wide at the ~~water's edge~~ **ordinary high-water mark** or the building setback line, or be less than two hundred (200) feet deep. **(Re-located from 12.11.2 - Removed outdated term and replaced with current term)**

D. A dock may be constructed parallel to the bank, not exceeding ten (10) feet in length and not protruding in the stream, and when constructed of natural materials such as rocks or logs. **(Re-located from 12.11.4)**

SECTION 4: CONFLICT AND INTERPRETATION. The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided

that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE. All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Whitewater Township, on _____, 2022.

Color Code: **Black** = original standards **Red** = New or changed text **Blue** = Notes

3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on , 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

**WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]**

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at ____:____ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise its preamble, amend Article XXII addressing building sizes, lot sizes and yard requirements, and alter Article XIV to address certain requirements in the Boardman River Valley in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ZONING ORDINANCE WHITEWATER TOWNSHIP, MICHIGAN Ord. No. 6 eff. Dec. 23, 1972. The Whitewater Township Zoning Ordinance's preamble shall be amended to read as follows:

**ZONING ORDINANCE
WHITEWATER TOWNSHIP, MICHIGAN
Ord. No. 6 eff. Dec. 23, 1972**

An Ordinance to establish zoning districts and regulations in the Township of Whitewater, County of Grand Traverse and State of Michigan in accordance with the provisions of Act 110 of the Public Acts of 2006 as amended; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance; to provide for amendments to this Ordinance; and to provide penalties for the violation of this Ordinance.

SECTION 2: AMENDMENT TO ARTICLE XII. The Whitewater Township Zoning Ordinance, Article XII shall be amended by amending ARTICLE XII Building Sizes and Yard Requirements to read as follows:

**ARTICLE XII
BUILDING SIZES AND SETBACK REQUIREMENTS**

12.00 BUILDING SIZES AND SETBACK REQUIREMENTS

12.10 BUILDING SIZES

- A. Each Dwelling or other main building hereafter erected in any district shall have a permanent foundation and a minimum of seven hundred (700) square feet of floor space, not including breezeways, porches and garages, unless specifically exempted elsewhere in this Ordinance.
- B. The floor area of a mobile home shall be that stated as the manufacturer's declared measurements.
- C. Campground cabins shall not exceed six hundred and fifty (650) square feet including covered porches.
- D. All structures, lots, and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance, unless specifically exempted elsewhere in this Ordinance.

12.11 GENERALLY APPLICABLE CONDITIONS:

- A. No structure shall be built within the minimum yards required except when expressly allowed elsewhere in the ordinance.
- B. Minimum Lot Areas shall be calculated by square foot unbroken by any road, street, or thoroughfare.
- C. Maximum Structure Height in all districts shall be 35' or 2 ½ stories above grade.
- D. Minimum Width to Maximum Depth Ratio regulating lot shape of new parcels shall be 1:4 in all districts.
- E. Variance provisions for Depth to Width Ratio are found in General Ordinance 26, Land Division Ordinance.
- F. There shall be a 30' Setback in all directions between multi-family residential structures in any district.

12.12 RESIDENTIAL DISTRICTS

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
R1	General	100'	20,000	30'	15'	30'	---
R2	Single family	100'	12,000	30'	15'	30'	---
	Two Family	120'	22,000	30'	15'	30'	---
R3	General	120'	11,000 Per Dwelling	30'	15'	30'	---

12.13 AGRICULTURAL AND RECREATION

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Ag	General	200'	40,000	30'	15'	30'	----
	Commercial Campground	---	40-acre min	100'	100'	100'	----
RC	General	100'	5 acres	30'	15'	30'	----
	Commercial Campground	----	40-acre min	100'	100'	100'	Limit of 1 site per 2 acres or 1 cabin per 5 acres.

12.14 COMMERCIAL AND INDUSTRIAL DISTRICTS

District	Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Commercial - C	General	100'	----	50'	* 10'	30'	40% Max. lot coverage
	Multi-family Housing	----	11,000 Per Dwelling	50'	50'	50'	See 12.11.F
*Combination shall total 30% of width but not less than 10' per side.							
Village - V	General	*	*	*	10'	15'	----
	Multi-family Housing	*	11,000 Per Dwelling	*	*	*	See 12.11.F
*Refer to conditional standards in Article 8.6.							
Industrial - N	General	100'	----	50'	(a)	30'	40% Max. lot coverage
	Multi-family Housing	---	11,000 Per Dwelling	50'	50'	50'	See 12.11.F
(a) Combination shall total 30% of width but not less than 15' per side.							

12.15 RESERVED FOR MARIHUANA RELATED ESTABLISHMENTS

12.16 SPECIAL SITUATIONS

Except for the specific requirements stated the regulation for the underlying zone shall remain unchanged.

Situation /Use	Minimum Lot Width	Minimum Lot Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Additional Standards
Frontage on Boardman River and tributaries	200'	----	100' from Ordinary High Water Mark			See Article 14
Frontage on all other Lakes and Streams	----	----	50' from the Ordinary High Water Mark			See Article 14
M72 in the Ag District	----	----	100'	----	----	----
Supply Rd.	----	----	100'	----	----	----
Old M-72 in the C District	----	----	30'	0	----	----
Enclosures/structures						
Horses/livestock	----	2 ½ acres	100'	100'	100'	----
Chickens/rabbits	----	----	40'	40'	40'	----
Dog Kennels – Sled, Hunting, or Breeding	----	10 acres	200'	200'	200'	----

12.17 HARDSHIP

No requirements contained in this Article shall prevent the use of a lot or parcel of land of lesser size, provided the same was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance; and provided, further, that as to any lot or parcel of land not of legal record or so laid out on the date of passage of this Ordinance, if any conditions shall create a hardship in complying with the restrictions contained in this Article, the Zoning Board of Appeals (ZBA) may grant deviation therefrom after first determining that the same shall not be inimical to the public health, safety or welfare.

SECTION 3: AMENDMENT TO ARTICLE XIV. The Whitewater Township Zoning Ordinance, Article XIV, Section 14.11 Special Requirements for the Boardman River Valley shall be amended to read as follows:

14.11 SPECIAL REQUIREMENTS FOR THE BOARDMAN RIVER VALLEY.

All properties within fifty (50) feet of the Boardman River and its tributaries shall have the following special requirements.

A. A managed vegetative strip shall be maintained within fifty (50) feet of the ordinary high water-mark, as follows:

1. Vegetative strips shall consist of native trees, shrubs, vegetation and other natural materials.
2. Existing native vegetation should be preserved whenever possible.
3. No ponds shall be constructed, no earth moved, surface soils removed or filled for building within the managed vegetative strip.
4. Utility lines shall be installed only as follows:
 - (a) New distribution lines for utilities within the housing setback line shall be placed underground unless overhead lines are less disruptive to the environment.
 - (b) Brushy vegetation shall be restored to the disturbed area in the managed vegetation strip.
 - (c) Local service lines to private dwellings shall originate from the landward side of the dwelling.
5. Chemical control of vegetation shall be prohibited within the managed vegetative strip.
6. Fencing, grazing, riding trails and soil tilling for farm crops is prohibited within the managed vegetative strip.
7. The use of the managed vegetative strip for stock watering areas and stream crossing of horseback trails is subject to the approval of the Zoning Administrator, who may require a plan from the Soil Conservation District, or Michigan Department of Environment Great Lakes and Energy (EGLE), or their successors, where applicable as part of the requirement for use.

B. Any variance from these standards shall be in accordance with a plan approved by the Zoning Board of Appeals. In evaluating such applications, the Zoning Board of Appeals shall consider all relevant factors pertaining to the purpose of the vegetative strip which is to:

1. Stabilize the river banks.
2. Prevent erosion.
3. Absorb nutrients in water runoff from adjacent lands.
4. Provide shading for the stream to maintain cool water temperature.
5. Screen adjacent man-made structures.

C. In no case shall a lot or parcel having frontage on the Boardman River or its tributaries be less than two hundred (200) feet wide at the ordinary high-water mark or the building setback line, or be less than two hundred (200) feet deep.

D. A dock may be constructed parallel to the bank, not exceeding ten (10) feet in length and not protruding in the stream, and when constructed of natural materials such as rocks or logs.

SECTION 4: CONFLICT AND INTERPRETATION. The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE. All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on [REDACTED], 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the [REDACTED] newspaper, a newspaper that circulates within Whitewater Township, on [REDACTED], 2022.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on [REDACTED], 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

**WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]**

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at __:___ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise the process for reviewing site plans and special use permit applications, alter the circumstances where an applicant is required to submit a site plan, and amend the process for accepting and reviewing special use permit applications for property located in the Township; in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ARTICLE XXV SECTION 25.10. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.10 SITE PLAN REVIEW AUTHORIZATION to read as follows:

25.10 SITE PLAN REVIEW / SPECIAL USE PERMIT (SUP) - AUTHORIZATION AND PROCEDURES

A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans and special use permit applications submitted under this Ordinance. Each action taken shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those applications which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department, and Michigan Department of ~~Environmental Quality~~ **Environment Great Lakes and Energy (EGLE)**, or their successors, where applicable. **(Updated name.)**

B. Following approval of a site plan, **or special use permit application, the petitioner applicant shall apply for the appropriate Township, County and/or State permits as may be required by said agencies. comply with all other local and state laws, including any applicable permits or approvals.** **(Attorney's preferred terminology)**

SECTION 2: AMENDMENT TO ARTICLE XXV SECTION 25.11(A). The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.11(A). SITE

PLAN REVIEW: WHERE REQUIRED to remove the requirement that all proposed uses or developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas, submit a site plan for review. Section 25.11(A) shall now read as follows:

A. SITE PLAN REVIEW: WHERE REQUIRED

Site plan review shall be required for any of the following activities:

1. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
2. Development of non-single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for single-family dwellings.
3. All special land uses.
4. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.
5. All site condominiums, condominium subdivisions and PUD's.
6. ~~All proposed uses or developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas.~~ (Article 27 no longer relevant.)

SECTION 3: AMENDMENT TO ARTICLE XXV SECTION 25.21. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Article 25.21: SPECIAL USE PERMIT APPLICATION REQUIREMENTS to read as follows:

(All text in Section 3 of this proposed amendment to Article 25 is new. This new text was developed with the assistance of consultants and township attorneys to address the lack of distinction in standards between Site Plan Review and Special Land Use review procedures. All previous steps are included but new text is more specific to Special Uses. Any provision that is "may" instead of "shall" or that can be "waived" is to accommodate project that don't necessitate that level of detail.)

25.21 SPECIAL USE PERMIT APPLICATION REQUIREMENTS: SPECIAL USES

~~A public hearing shall be required for all special use applications. When an application has been filed in proper form and with the required data, the Zoning Administrator shall immediately place the said application upon the calendar for the hearing and cause notices stating the time, place and object of the hearing to be served.~~

~~One (1) notice that said hearing is to be held shall be published in a newspaper that circulates in the Township and shall be served personally or by mail not less than fifteen (15) days prior to the day of such hearing, upon the applicant, or the appellant, the Zoning Administrator and all persons assessed for any real property within three hundred (300) feet, and to the~~

~~occupants of any structure within three hundred (300) feet of the premises in question. Such notices shall be served personally or by regular mail, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "occupant" may be used in making notification. Any party may appear at such hearing in person or by agent or by attorney.~~

25.21.A. Purpose

This Ordinance divides the Township into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a special use permit.

25.21.B. Authority to Grant Permits

The Planning Commission has the authority to approve, deny or approve with conditions special use permits in accordance with this Ordinance. If approved or conditionally approved by the Planning Commission, the Zoning Administrator shall issue special use permits.

25.21.C. Application and Fee

Application for any special use permit permissible under the provisions of this Ordinance shall be made to the Zoning Administrator by filing a completed special use permit application form, including all required data, exhibits and information, and depositing the required minimum fee. Such application shall be accompanied by the minimum fee as established from time to time by the Township Board. No part of such fee shall be refundable to the Applicant.

If an application of a complex nature is received, the Zoning Administrator may determine that the application requires the assistance of expert(s) resulting in additional costs. Upon the Zoning Administrator's determination that expert review is required requiring additional fees, review of the application shall stop until the applicant has paid a minimum additional fee of up to two thousand five hundred (\$2,500.00) dollars. The applicant shall deposit the additional fee with Whitewater Township which shall keep an accurate accounting of the funds in a separate account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. In consultation with the Township Board, the Zoning Administrator shall use the additional fee to contact and select necessary experts or consultants, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s) or consultant(s) (i.e., legal opinions or studies).

At the next meeting of the Planning Commission, or prior to the next meeting of the Planning Commission the Zoning Administrator in consultation with the Chair of the Planning Commission, shall: a) establish a budget for the services of the expert(s), meeting costs, zoning administration expenses; and b) send an invoice to the applicant for the amount of the budget established with a

request the applicant notify the township within ten (10) days, in writing, that he will withdraw the application, or will proceed and pay the balance of the additional fees based on the budget.

The applicant shall deposit the additional fee with the Township which shall keep an accurate accounting of the funds in the same account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. The Planning Commission shall use the additional fee to pay the services of the expert(s), meeting costs, and zoning administration expenses.

During the application process, the Planning Commission may from time-to-time modify the budget for such costs. Any additional actual costs incurred in processing such application shall be paid before a permit is issued and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual costs incurred by the Township processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the Township's account upon conclusion of the application, those monies shall be returned to the Applicant.

The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

25.21.D. Pre-Application Conference

Applicant(s) may request a meeting with the Zoning Administrator and not more than two (2) members of the Planning Commission before submitting an application. The purpose of the meeting is to discuss special use permit processing procedures, explanation of this Zoning Ordinance, what has been required of similar applications in the past, and to assist the Applicant and Township with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special use permit application. Township officials at this meeting shall not indicate or otherwise commit the Township to any particular action regarding the application.

25.21.E. Information Required in Application

An application for special use permit shall include:

1. The Applicant(s) name(s) and address(s).
2. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
3. The address and a legal description of the property.
4. A project schedule and development plan.
5. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
6. A written statement regarding the project's anticipated effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.

7. A detailed site plan as specified in Article 25.10 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

25.21.F. Review for Completeness

Upon receipt of the special use permit application, the Zoning Administrator will review the application for administrative completeness. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator and Chair of the Planning Commission shall establish a date to hold a public hearing on the special use permit application.

25.21.G. Notice of Public Hearing

1. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
 - a. The Applicant(s).
 - b. The owner of the property, if different.
 - c. To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
 - d. To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
 - e. The public by notification in a newspaper of general circulation in Whitewater Township.
 - f. The members of the Planning Commission.
 - g. Utility providers, when requested by a utility or otherwise deemed necessary.
 - h. Michigan Department of Transportation, if within 300 feet of a state highway.
 - i. Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.
2. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection 25.21.G of this Ordinance shall not be grounds to challenge the validity of the proposed special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:
 - a. A description of the nature of the special use permit being requested.
 - b. The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
 - c. Where the application documents can be viewed prior to the date of its consideration.

- d. When and where written comments will be received concerning the request.
 - e. The date, time and location of the public hearing where the request will be considered.
 - f. The address at which written comments may be directed prior to Township consideration.
 - g. For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
3. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

25.21.H. Hearing and Decision

The Planning Commission shall hold a public hearing on the special use permit application to receive input from the general public. Anyone who receives notice pursuant to Section 25.21.G may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the public hearing. Such submissions shall be considered advice to the Planning Commission.

The Planning Commission shall either approve, approve with conditions, or deny the application. The decision shall be in writing and clearly state the reasons for the decision. At a minimum the record of the decision shall include:

1. A summary of public comments made at the hearing;
2. Formal finding of facts;
3. The conclusions derived from the facts (reasons for the decision);
4. The decision; and
5. A listing of any conditions upon which issuing a permit is issued.

25.21.I. Special Use Permit Standards

1. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 25.10 through 25.20 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
2. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:

- a. Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
- b. Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
- c. Not create excessive additional public costs for essential public services or facilities.
- d. Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
- e. Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
- f. Be consistent with the intent of this Zoning Ordinance and the Master Plan.
- g. Not create or substantially add to traffic hazards.
- h. Not have significant adverse impacts to environmental, ecological, or natural resources.
- i. Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
- j. Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

25.21.J. Special Land Use Permit Conditions

Special Land Use Permits can be granted with conditions imposed by the Planning Commission consistent with MCL 125.3504 (4). Any conditions, limitations or requirements upon which approval is based shall be based upon findings of fact and be:

1. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
2. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
3. Related to the purposes which are affected by the proposed use or activity;
4. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;
5. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

25.21.K. Record of Special Land Use Permit

Following approval of a SUP the Zoning Administrator shall generate a report incorporating the approved findings, conditions, and any applicable restrictions. This report shall be signed by the applicant and the Chair or Secretary of the Planning Commission and the applicant. A copy of the signed report will be provided to the applicant and retained in the township's files.

A notice of the special use permit shall be recorded with a property description with the Grand Traverse County Register of Deeds. The applicant shall provide proof of recording to the Township. The application and all other information relating to the special use permit shall be filed with the Township by the Zoning Administrator.

25.21.L. Security Requirement

To ensure compliance with relevant sections of the Zoning Ordinance, site plan, and any special use permit conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, in addition to action 25.16 Site Plan Performance Guarantee the Planning Commission, may require a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount and under the conditions permitted by law. Such security shall be deposited with the Township at the time of the issuance of the special use permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to ensure compliance.

25.21.M. Amendment of Special Use Permits

Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond property receiving a special use permit such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the property, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission according to the procedures authorized by this Article for approval of a condominium development.

Major amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor special use permit amendments shall be reviewed by the Zoning Administrator. Major special use permit amendments, requests falling outside the scope of the Zoning Administrator's authority, or any item the Zoning Administrator deems necessary shall be presented to the Planning Commission for their consideration.

25.21.N. Transfer of Special Use Permit

A special use permit, with any and all associated benefits, conditions and required security shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original

landowner (or their heir(s) if the original landowner is deceased), who shall request a return of their required security, if any, from the Township Zoning Administrator. The Zoning Administrator shall contact the new property owner to see if they wish to continue the authorized special use permit by providing the security requirement. Upon the new property owner providing the Township the required security or an affirmative statement they wish to rescind the special use permit, the Zoning Administrator shall return the required security provided by the original property owner to the original property owner.

25.21.O. Construction Code Permits

A special use permit shall be required prior to the issuance of a building permit from the Grand Traverse County Building Department pursuant the then-applicable construction code pursuant to the State Construction Code Act.

25.21.P. Expiration of Special Use Permits

A special use permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent special use permit.
2. If replaced or superseded by a permitted use.
3. If the applicant requests the rescinding of the special use permit.
4. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
5. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance, the special use permit shall be null and void, unless an extension is granted by the Planning Commission.

25.21.Q. Violation of Special Use Permit

Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the special use permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the special use permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the special use permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit the Zoning Administrator shall make a finding that a material violation of the special use permit exists and shall provide written notice to the applicant and the landowner of record, if different parties. The permit holder shall be given a reasonable opportunity to correct the violation(s).

SECTION 4: CONFLICT AND INTERPRETATION.

The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE.

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Whitewater Township, on _____, 2022.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on _____, 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

**WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]**

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at __:___ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise the process for reviewing site plans and special use permit applications, alter the circumstances where an applicant is required to submit a site plan, and amend the process for accepting and reviewing special use permit applications for property located in the Township; in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ARTICLE XXV SECTION 25.10. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.10 SITE PLAN REVIEW AUTHORIZATION to read as follows:

25.10 SITE PLAN REVIEW / SPECIAL USE PERMIT (SUP) - AUTHORIZATION AND PROCEDURES

A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans and special use permit applications submitted under this Ordinance. Each action taken shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those applications which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department, and Michigan Department of Environment Great Lakes and Energy (EGLE), or their successors, where applicable.

B. Following approval of a site plan or special use permit application, the applicant shall comply with all other local and state laws, including any applicable permits or approvals.

SECTION 2: AMENDMENT TO ARTICLE XXV SECTION 25.11(A). The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.11(A). SITE PLAN REVIEW: WHERE REQUIRED to remove the requirement that all proposed uses or

developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas, submit a site plan for review. Section 25.11(A) shall now read as follows:

A. SITE PLAN REVIEW: WHERE REQUIRED

Site plan review shall be required for any of the following activities:

1. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
2. Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for single-family dwellings.
3. All special land uses.
4. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.
5. All site condominiums, condominium subdivisions and PUD's.

SECTION 3: AMENDMENT TO ARTICLE XXV SECTION 25.21. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Article 25.21: SPECIAL USE PERMIT APPLICATION REQUIREMENTS to read as follows:

25.21 SPECIAL USES

25.21.A. Purpose

This Ordinance divides the Township into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a special use permit.

25.21.B. Authority to Grant Permits

The Planning Commission has the authority to approve, deny or approve with conditions special use permits in accordance with this Ordinance. If approved or conditionally approved by the Planning Commission, the Zoning Administrator shall issue special use permits.

25.21.C. Application and Fee

Application for any special use permit permissible under the provisions of this Ordinance shall be made to the Zoning Administrator by filing a completed special use permit application form, including all required data, exhibits and information, and depositing the required minimum fee. Such application shall be accompanied by the minimum fee as established from time to time by the Township Board. No part of such fee shall be refundable to the Applicant.

If an application of a complex nature is received, the Zoning Administrator may determine that the application requires the assistance of expert(s) resulting in additional costs. Upon the Zoning

Administrator's determination that expert review is required requiring additional fees, review of the application shall stop until the applicant has paid a minimum additional fee of up to two thousand five hundred (\$2,500.00) dollars. The applicant shall deposit the additional fee with Whitewater Township which shall keep an accurate accounting of the funds in a separate account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. In consultation with the Township Board, the Zoning Administrator shall use the additional fee to contact and select necessary experts or consultants, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s) or consultant(s) (i.e., legal opinions or studies).

At the next meeting of the Planning Commission, or prior to the next meeting of the Planning Commission the Zoning Administrator in consultation with the Chair of the Planning Commission, shall: a) establish a budget for the services of the expert(s), meeting costs, zoning administration expenses; and b) send an invoice to the applicant for the amount of the budget established with a request the applicant notify the township within ten (10) days, in writing, that he will withdraw the application, or will proceed and pay the balance of the additional fees based on the budget.

The applicant shall deposit the additional fee with the Township which shall keep an accurate accounting of the funds in the same account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. The Planning Commission shall use the additional fee to pay the services of the expert(s), meeting costs, and zoning administration expenses.

During the application process, the Planning Commission may from time-to-time modify the budget for such costs. Any additional actual costs incurred in processing such application shall be paid before a permit is issued and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual costs incurred by the Township processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the Township's account upon conclusion of the application, those monies shall be returned to the Applicant.

The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

25.21.D. Pre-Application Conference

Applicant(s) may request a meeting with the Zoning Administrator and not more than two (2) members of the Planning Commission before submitting an application. The purpose of the meeting is to discuss special use permit processing procedures, explanation of this Zoning Ordinance, what has been required of similar applications in the past, and to assist the Applicant and Township with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special use permit application. Township officials at this meeting shall not indicate or otherwise commit the Township to any particular action regarding the application.

25.21.E. Information Required in Application

An application for special use permit shall include:

1. The Applicant(s) name(s) and address(s).
2. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
3. The address and a legal description of the property.
4. A project schedule and development plan.
5. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
6. A written statement regarding the project's anticipated effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
7. A detailed site plan as specified in Article 25.10 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

25.21.F. Review for Completeness

Upon receipt of the special use permit application, the Zoning Administrator will review the application for administrative completeness. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator and Chair of the Planning Commission shall establish a date to hold a public hearing on the special use permit application.

25.21.G. Notice of Public Hearing

1. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
 - a. The Applicant(s).
 - b. The owner of the property, if different.
 - c. To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
 - d. To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
 - e. The public by notification in a newspaper of general circulation in Whitewater Township.
 - f. The members of the Planning Commission.
 - g. Utility providers, when requested by a utility or otherwise deemed necessary.
 - h. Michigan Department of Transportation, if within 300 feet of a state highway.
 - i. Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.

2. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection 25.21.G of this Ordinance shall not be grounds to challenge the validity of the proposed special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:
 - a. A description of the nature of the special use permit being requested.
 - b. The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
 - c. Where the application documents can be viewed prior to the date of its consideration.
 - d. When and where written comments will be received concerning the request.
 - e. The date, time and location of the public hearing where the request will be considered.
 - f. The address at which written comments may be directed prior to Township consideration.
 - g. For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
3. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

25.21.H. Hearing and Decision

The Planning Commission shall hold a public hearing on the special use permit application to receive input from the general public. Anyone who receives notice pursuant to Section 25.21.G may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the public hearing. Such submissions shall be considered advice to the Planning Commission.

The Planning Commission shall either approve, approve with conditions, or deny the application. The decision shall be in writing and clearly state the reasons for the decision. At a minimum the record of the decision shall include:

1. A summary of public comments made at the hearing;
2. Formal finding of facts;
3. The conclusions derived from the facts (reasons for the decision);
4. The decision; and
5. A listing of any conditions upon which issuing a permit is issued.

25.21.I. Special Use Permit Standards

1. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 25.10 through 25.20 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
2. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:
 - a. Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
 - b. Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
 - c. Not create excessive additional public costs for essential public services or facilities.
 - d. Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
 - e. Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
 - f. Be consistent with the intent of this Zoning Ordinance and the Master Plan.
 - g. Not create or substantially add to traffic hazards.
 - h. Not have significant adverse impacts to environmental, ecological, or natural resources.
 - i. Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
 - j. Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

25.21.J. Special Land Use Permit Conditions

Special Land Use Permits can be granted with conditions imposed by the Planning Commission consistent with MCL 125.3504 (4). Any conditions, limitations or requirements upon which approval is based shall be based upon findings of fact and be:

1. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
2. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
3. Related to the purposes which are affected by the proposed use or activity;

4. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;
5. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

25.21.K. Record of Special Land Use Permit

Following approval of a SUP the Zoning Administrator shall generate a report incorporating the approved findings, conditions, and any applicable restrictions. This report shall be signed by the applicant and the Chair or Secretary of the Planning Commission and the applicant. A copy of the signed report will be provided to the applicant and retained in the township's files.

A notice of the special use permit shall be recorded with a property description with the Grand Traverse County Register of Deeds. The applicant shall provide proof of recording to the Township. The application and all other information relating to the special use permit shall be filed with the Township by the Zoning Administrator.

25.21.L. Security Requirement

To ensure compliance with relevant sections of the Zoning Ordinance, site plan, and any special use permit conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, in addition to action 25.16 Site Plan Performance Guarantee the Planning Commission, may require a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount and under the conditions permitted by law. Such security shall be deposited with the Township at the time of the issuance of the special use permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to ensure compliance.

25.21.M. Amendment of Special Use Permits

Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond property receiving a special use permit such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the property, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission

according to the procedures authorized by this Article for approval of a condominium development.

Major amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor special use permit amendments shall be reviewed by the Zoning Administrator. Major special use permit amendments, requests falling outside the scope of the Zoning Administrator's authority, or any item the Zoning Administrator deems necessary shall be presented to the Planning Commission for their consideration.

25.21.N. Transfer of Special Use Permit

A special use permit, with any and all associated benefits, conditions and required security shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original landowner (or their heir(s) if the original landowner is deceased), who shall request a return of their required security, if any, from the Township Zoning Administrator. The Zoning Administrator shall contact the new property owner to see if they wish to continue the authorized special use permit by providing the security requirement. Upon the new property owner providing the Township the required security or an affirmative statement they wish to rescind the special use permit, the Zoning Administrator shall return the required security provided by the original property owner to the original property owner.

25.21.O. Construction Code Permits

A special use permit shall be required prior to the issuance of a building permit from the Grand Traverse County Building Department pursuant the then-applicable construction code pursuant to the State Construction Code Act.

25.21.P. Expiration of Special Use Permits

A special use permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent special use permit.
2. If replaced or superseded by a permitted use.
3. If the applicant requests the rescinding of the special use permit.
4. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
5. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance, the special use permit shall be null and void, unless an extension is granted by the Planning Commission.

25.21.Q. Violation of Special Use Permit

Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the special use permit. The Planning Commission may either revoke

or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the special use permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the special use permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit the Zoning Administrator shall make a finding that a material violation of the special use permit exists and shall provide written notice to the applicant and the landowner of record, if different parties. The permit holder shall be given a reasonable opportunity to correct the violation(s).

SECTION 4: CONFLICT AND INTERPRETATION.

The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE.

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Whitewater Township, on _____, 2022.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on _____, 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

Approved Findings of Fact

Article 1:

Whereas the reference to Act 184 and 231 are outdated

Whereas Township Zoning is currently derived from Act 110 of the Public Acts of 2006

The Planning Commission recommends approval of the proposed amendment to section 1 of this amendment.

Article 12:

Whereas Article 12 contains housekeeping errors in need of update.

Whereas waterfront guidelines should be more appropriately located in Article 14, Waterfront.

Whereas there are standards not in agreement with other references in the ordinance.

Whereas multi-family standards should be equally applied in all districts

Whereas improved organizational structure should improve clarity and more easily accommodate future amendments.

The Planning Commission recommends approval of the proposed amendment to section 2 of this amendment.

Article 14:

Whereas waterfront guideline should be more appropriately located in Article 14, Waterfront.

Whereas outdated terminology should be updated

The Planning Commission recommends approval of the proposed amendment to section 3 of this amendment.

Approved Findings of Fact – Site Plan Review and Special Land Uses

Section 1 and 2: Article 25 Site Plan Review:

Whereas Special Land Use standards should be clearly distinguished from Site Plan Review standards.

Whereas Site Plan Review contains housekeeping errors in need of update.

The Planning Commission recommends approval of the proposed amendment to section 1 and 2 of this amendment.

Section 3: Article 25 Special Land Uses

Whereas Special Land Use standards should be clearly distinguished from Site Plan Review standards.

Whereas improved clarity and specificity in standards benefits the public, current residents, potential future residents and township administration alike.

The Planning Commission recommends approval of the proposed amendment to section 3 of this amendment.

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
with public participation via Zoom
July 6, 2022

Call to Order at 7:05 p.m.

Roll Call: Present: Jacobson, Keaton, Mangus, Wroubel

Absent: Darrow

Unfilled seats: One commission member and the Township Board Representative

Also in attendance: Recording Secretary MacLean

Set / Adjust Agenda: Move all new business items ahead of unfinished business - consensus

Declaration of Conflict of Interest: None

Public Comment:

Connie Hymore quoted zoning ordinance and comment on survey, community wants.

Vicki Beam commented on Baggs Road project, lot sizes, road intersection

Mangus noted amendment number changes from previous public hearings.

Public Hearing:

1. Zoning Ordinance Amendment #83

- a. Open public hearing on Amendment #83 regarding Article 1-Preamble, Article 12- Building Sizes and Yard Requirements and Article 14-Waterfront Property at 7:15 p.m.
Published in the Record Eagle on June 19, 2022
- b. Presentation – Zoning Administrator: n/a
- c. Correspondence received from Vicki Beam.
- d. Public comment in favor : none
- e. Public comment in opposition:
Linda Slopsema commented on setbacks, campground density, clarification
- f. Public comment who has not yet commented:
Randy Mielnik, 9304 Wheeler Oaks, commented on clarification of campground information, confusion regarding mixed use in campgrounds
Vicki Beam commented on industrial district clarification, campground density.
- g. Close public hearing at 7:30 p.m.

2. Zoning Ordinance Amendment #84:

- a. Open public hearing on Amendment #84 regarding Article 25-Site Plan Review and Special Use Permits at 7:31 p.m.
Published in the Record Eagle on June 19, 2022
- b. Presentation – Zoning Administrator: n/a
- c. Correspondence – none received
- d. Public comment in favor: none
- e. Public comment in opposition: none
- f. Public comment who has not yet commented: none
- g. Close public hearing at 7:33 p.m.

3. Zoning Ordinance Amendment #85

- a. Open public hearing on Amendment #85 regarding Medical Marihuana Amendments including Article 3-Definitions, Article 6-Residential R1, Article 9-Industrial N, Article 10-Agricultural A-1, Article 25.22 E Site Plan Review and Special Land Uses and Article 37-Supplementary Provisions at 7:34 p.m.
Published in the Record Eagle on June 19, 2022
- b. Presentation – Zoning Administrator-n/a
- c. Correspondence received from Linda Slopsema and Randy Mielnik.
- d. Public comment in favor: none

e. Public comment in opposition:

Randy Mielnik commented on larger grow facilities, ordinance deficiencies, winter lighting, security access, odor control.

Linda Slopsema commented on the visits to other facilities in other communities in their industrial districts, not spreading out for ease of administration and police enforcement, expanding the industrial district and odor control.

Vicki Beam noted odors in Kalkaska and do what is best for our community.

f. Public comment who has not yet commented: none

g. Close public hearing at 7:49 p.m.

Approval of Minutes:

MOTION by Jacobson, second by Keaton to approve June 1, 2022, meeting minutes.

Roll call: Mangus-yes; Jacobson-yes; Keaton-yes; Wroubel-yes; Darrow-n/a. All in favor. Motion carried.

Correspondence: East Bay Township Master Plan Review notice.

Reports:

Zoning Administrator Report, Hall: n/a Mangus noted that Hall has indicated to her that he continues to receive a lot of inquiries regarding short term rentals.

Chair's Report, Mangus: None.

Township Board Rep, . None assigned.

ZBA Representative, Wroubel: No cases in June.

Committee Reports: None.

Additional Items: None.

New Business before Unfinished Business.

New Business:

1. Zoning Ordinance amendment process worksheet combining state and local requirements.
2. Special Meeting – joint meeting with the Board for a closed session with township attorneys 6 or 7 p.m. July 19 (first choice) or the 21st as a backup date.
3. Zoning Ordinance MS Office Word copy project. In an attempt to get an editable version of the ordinance Mangus is requesting each commissioner select a couple articles and go through the two versions (the old Word version and the online pdf version) and compare word for word / line by line. Highlight on the white if it does not match the yellow, sign and date at the top of the page.

Unfinished Business:

1. Zoning Ordinance Amendment #83: Article 1-Preamble, Article 12-Building Sizes and Yard Requirements and Article 14-Waterfront Property discussion of attorney recommendations.
Article 1 – consensus as presented.
Article 12 – consensus to make changes: change inch (") to feet ('); correct references; change title from "... Yard Requirements to Setback Requirements"; under Additional Standards add "See Article 14"
Article 14 – consensus to make all setbacks 50' whereas the Boardman currently has a 100' setback, vegetative strip of 50', clarification, 14.11 sentence structure.

Continue public hearing discussions at the August meeting.

2. Zoning Ordinance Amendment #84: Article 25, Site Plan Review and Special Use Permit Amendment (postpone to the August 3 meeting)
3. Zoning Ordinance Amendment #85: Medical Marihuana Amendment to Articles 3, 6, 9, 10, 25.22 and 37. (postpone to the August 3 meeting)

4. Marihuana proposed Zoning Ordinance amendment – Adult Use (Recreational)
(postpone to the August 3 meeting)
5. Master Plan Review – status
(postpone to the August meeting)

Next meeting: Special Meeting, possibly July 19, to schedule with Board and attorneys

Next Regular Meeting is scheduled for August 3, 2022, 7 p.m.

Next meeting agenda: Public hearing items discussions and decisions, adult use marihuana ordinance, master plan review

Public Comment:

Name not given thanked the commission for the work, listen to the residents.

Tom McElwee commented on the public hearing suggestions. Mangus explained the public hearing process.

Vicki Beam commented that we are at a critical time in our township.

Sue Mielnik noted that Compare Right is a program that does the comparison in two Word documents, page numbering.

Commission Discussion/Comments: None

Continuing Education: None.

Adjournment: 9:13 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
w/ public participation via Zoom
August 3, 2022

Call to Order at 6:0 p.m.

Roll Call: In person: Darrow, Jacobson, Keaton, Mangus, Wroubel

Absent: Steelman

Unfilled seat: Township Board Representative

Also in attendance: Zoning Administrator Hall via Zoom, Recording Secretary MacLean

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None

Public Comment:

Vicky Beam commented on representation of community, site condos, zoning ordinance, Baggs Road project.

Linda Slopsema commented on marihuana tours, water and noise concerns, ordinance not ready, industrial district, zoning, campground sites.

Public Hearing: None

Approval of Minutes:

MOTION by Jacobson, second by Keaton to approve July 6, 2022, meeting minutes.

Roll call: Wroubel-yes; Darrow-yes; Jacobson-yes; Keaton-yes; Mangus-yes; Steelman-n/a.

All in favor. Motion carried.

Correspondence: Included in packet. Mangus noted the article from the Traverse City Ticker.

Reports:

Zoning Administrator Report, Hall: noted that the township board has placed a moratorium on site plan review, site condominiums, special uses, not accepting applications. The adult use referendum passed. Can recommend to the board to adopt or not adopt the adult use marihuana (it has had the public hearing already). There will be two ZBA cases in August, both are non-conforming properties that wish to make changes.

The report to the board indicates that the moratorium items need to be addressed right away.

Article in MI Planning email – not all zoning is conducive to affordable housing and will include in the next packet.

Chair's Report, Mangus: Will cover in the agenda.

Township Board Rep., None assigned.

ZBA Representative, Wroubel: No cases in July. There are two on the schedule for August 25, 2022.

Committee Reports: None.

Additional Items: None.

Unfinished Business:

1. Article 1, Preamble amendment: Findings of fact: Whereas, the reference to Act 184 and 231 are outdated. Whereas, Township Zoning is currently derived from Act 110 of the Public Acts of 2006. The Planning Commission recommends approval of the proposed amendment to section 1 of this amendment. Consensus.

Article 12, Building Sizes and Yard Requirements amendment: Findings of fact: Whereas, Article 12 contains housekeeping errors in need of update. Whereas, waterfront guidelines should be more appropriately located in Article 14, Waterfront. Whereas, there are standards not in agreement with other references in the ordinance. Whereas, multi-family standards should be equally applied in all districts. Whereas, improved organizational structure should improve clarity and more easily accommodate future amendments. The Planning Commission recommends approval of the proposed amendment to section 2 of this amendment. Consensus

Article 14, Waterfront Property amendment: Findings of Fact: Whereas, waterfront guidelines should be more appropriately located in Article 14, Waterfront. Whereas, outdated terminology should be updated. The Planning commission recommends approval of the proposed amendment to section 3 of this amendment. Consensus.

MOTION by Keaton, second by Jacobson to forward Zoning Ordinance Amendment #83 to the township board to adopt as amended based on the stated findings of fact.

Discussion: Change from "DEQ to EGLE or their successors".

Roll call: Darrow-yes; Jacobson-yes; Keaton-yes; Mangus-yes; Steelman-n/a; Wroubel-yes.

All in favor. Motion carried.

2. Article 25, Site Plan Review and Special Land Use Permit amendment discussion ensued.

Section 1 and 2, Article 25, Site Plan Review: Findings of fact: Whereas, Special Land Use standards should be clearly distinguished from Site Plan Review standards. Whereas, Site Plan Review contains housekeeping errors in need of update. The Planning Commission recommends approval of the proposed amendment to sections 1 and 2 of Article 25 of this amendment.

Section 3, Article 25, Special Land Uses: Findings of fact: Whereas, Special Land Use standards should be clearly distinguished from Site Plan Review standards. Whereas, improved clarity and specificity in standards benefits the public, current residents, potential future residents and township administration alike. The Planning Commission recommends approval of the proposed amendment to section 3 of Article 25 of this amendment.

MOTION by Jacobson, second by Keaton to forward Zoning Ordinance Amendment #84 to the township board to adopt as amended based on the stated findings of fact.

Roll call: Jacobson-yes; Keaton-yes; Mangus-yes; Steelman-n/a; Wroubel-yes; Darrow-yes.

All in favor. Motion carried

3. Article 25 Medical Marihuana Amendment discussion and consensus of changes.

Article 25 Medical Marihuana findings of fact: Whereas, Medical Marihuana has been established by the Whitewater Township Board of Trustees as a permitted land use in Whitewater Township by special use permit. Whereas, the Whitewater Township Zoning Ordinance does not contain standards for the consideration, evaluation, approval or denial of Medical Marihuana Grow and Process Special Use Permits within the township. The Planning Commission recommends approval of the proposed amendment establishing Medical Marihuana Grow and Process establishments as a special use.

Request to have the attorney come up with the definition of premises.

PC to 8:39 what to do. Mangus.

Mangus indicates the quantities of changes to the Medical Marihuana Amendments to Article 25 warrants another public hearing.

Postpone the rest of this section to the next meeting.

4. Proposed Adult-Use Marihuana zoning ordinance amendment discussion. Based on the vote in favor of the referendum the Planning Commission will send this to the board as it is. Consensus to send this with the Medical Marihuana Amendment to the Board with a recommendation to not adopt based on the referendum vote.
5. Planning Consultant discussion is at the board level at this time.
6. Master Plan review status: Consensus to delay work on the master plan and public input until we have the planning consultant.
7. Zoning Ordinance Word document project discussion. Consensus to review the whole zoning ordinance and readopt in chunks.

New Business:

1. PC Training and continuing education is required. The Zoning Administrator has been providing education. Will bring back more information next month.
2. Prioritize next projects: First finish everything that has gone to public hearing, then campground standards,

Article 5-Districts, Zoning Ordinance Word document. Master Plan when we have a consultant then as previously discussed adult use marihuana.

Next Regular Meeting is scheduled for September 7, 2022, 7 p.m. Schedule an additional meeting in September.
Next meeting agenda medical marihuana zoning ordinance, adult use marihuana zoning ordinance,

Public Comment:

Connie Hymore, Baggs Road, commented on the master plan and zoning ordinance interpretation, general ordinance availability.

Vicky Beam indicated that training is needed, TC Ticker article, communication with developer, gaping holes in zoning ordinance, ZA attendance at meetings.

Karin Boyd, Baggs Road, commented on a planner.

Commission Discussion/Comments:

Continuing Education: N/A

Adjournment: 9:20 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary

Memo

To: Whitewater Township Board of Trustees
CC: None
Date: 9-19-2022
Re: Legal Support for Board and Commission Members

Board Members –

The marihuana issue continues to provide learning experiences for all. As the lawsuit North Point Farms v Whitewater Township has been dismissed, counsel for the plaintiff provided a draft complaint against the PC Chairperson. This memo is meant to begin a conversation to determine the Board's interest in providing legal services to those who serve the community.

No motion is made at this time pending attorney information and Board discussion.

Respectfully submitted,



Supervisor, Whitewater Township