

CLEVELAND TOWNSHIP
Ordinance No. 2 of 2007
Draft 6: As Amended on September 5th, 2007

A PROPOSED ORDINANCE AMENDING THE CLEVELAND
TOWNSHIP ZONING ORDINANCE TO REGULATE THE
RESIDENTIAL ZONING DISTRICT, TO CREATE A CLUSTERING
OPTION IN THE LOW DENSITY RESIDENTIAL DISTRICT, TO
MOVE SOME STANDARDS INTO THE GENERAL PROVISIONS
SECTION AND ADD RELATED DEFINITIONS

THE TOWNSHIP OF CLEVELAND ORDAINS:

Amendment 1. *The Cleveland Township Zoning Ordinance is hereby amended. Article V shall read in its entirety as follows:*

Section 5.1 - The residential district shall be divided into three (3) zones: High Density Residential, Medium Density Residential and Low Density Residential

Section 5.2 - Uses Permitted: In the Residential District no building nor structure, nor any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one (1) or more of the following specific uses:

- A. One single family detached dwelling with or without a private garage.
- B. One guest house located on the same building lot area as an existing dwelling, and not attached to the dwelling, nor occupied for over six (6) months in any one calendar year. Subject to the following conditions:
 - a. In Medium Density Residential, the required building lot area must be at least 15,000 square feet over the minimum required lot area.
 - b. A guest house shall be a minimum of 500 sq ft but shall not exceed 1000 sq. ft. of dwelling area as defined.
 - c. No building or structure shall be built closer than 20' to any side lot line or 150' to the waters edge.
- C. Home occupation, provided there be no external evidence of such occupation except a name plate not more than four (4) square feet in area, without illumination, and of a character in keeping with the neighborhood, and provided further that said occupation does not require nor effect any change in the external character of the building.
- D. Public or Private Schools

E. Places of Worship

F. Residential Care Facilities: A family day care, foster family home with four or fewer minor children, adult foster care family home, or adult foster care large or small group home shall be a use permitted by right anywhere in the residential district provided that all state licensing standards are met. A family day care group home or foster family group home with more than four children shall only be permitted within the Low Density Residential district provided that all state licensing standards are met.

G. Multiple family dwellings shall only be permitted in the High Density Residential Zone, and may include townhouses and condominiums.

Section 5.3 Building Requirements – Permitted Uses in the Residential District shall adhere to the following requirements:

Residential District	Minimum Lot Area	Minimum Lot Width (feet)	Front Set-Back (feet)	Rear Set-Back (feet)	Side Set-Back (feet)	Water's Edge Setback (feet)	Minimum Dwelling Area (sq. ft)	Maximum Lot Coverage (percent)	Maximum Height Structure (feet)
Low Density	3 acres	200	40	15	10	75	800	25%	35
Medium Density	30,000 (sq. ft)	150	40	15	10	75	800	25%	35
High Density									
Single Family Dwelling	30,000 (sq. ft)	150	40	15	10	75	600	25%	35
Multiple Family Dwelling	40,000, plus 10,000 per unit in excess of 3 units (sq. ft)	150	40	15	10	75	600 per unit	25%	35

A. Dwelling Area: The minimum dwelling area herein referred to shall mean the outside dimensions of such area, exclusive of attached garages, porches, or other accessory structures.

B. Setback Restrictions: No building or structure shall be built closer than forty (40) feet to the nearest right-of-way line of any public street or thoroughfare. Front set-back line shall be measured from the nearest right of way line.

- C. Building Lot Area: The building lot area shall be unbroken by any public road, street or thoroughfare; provided that this shall not prevent the use of any building lot or parcel of land of lesser size that was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance. No portion of any building lot or parcel of land may be used or counted in the calculation of a required building lot area for more than one (1) main building.
- D. Completion: Any dwelling or accessory building or any addition thereto must be completed on the exterior surfaces with suitable finishing material, including painting or staining in the case of wood, within three (3) years from date of issuance of the building permit. An extension may be granted by the Zoning Administrator if proof of hardship is shown.

Section 5.4 Clustering in the Low Density Residential District

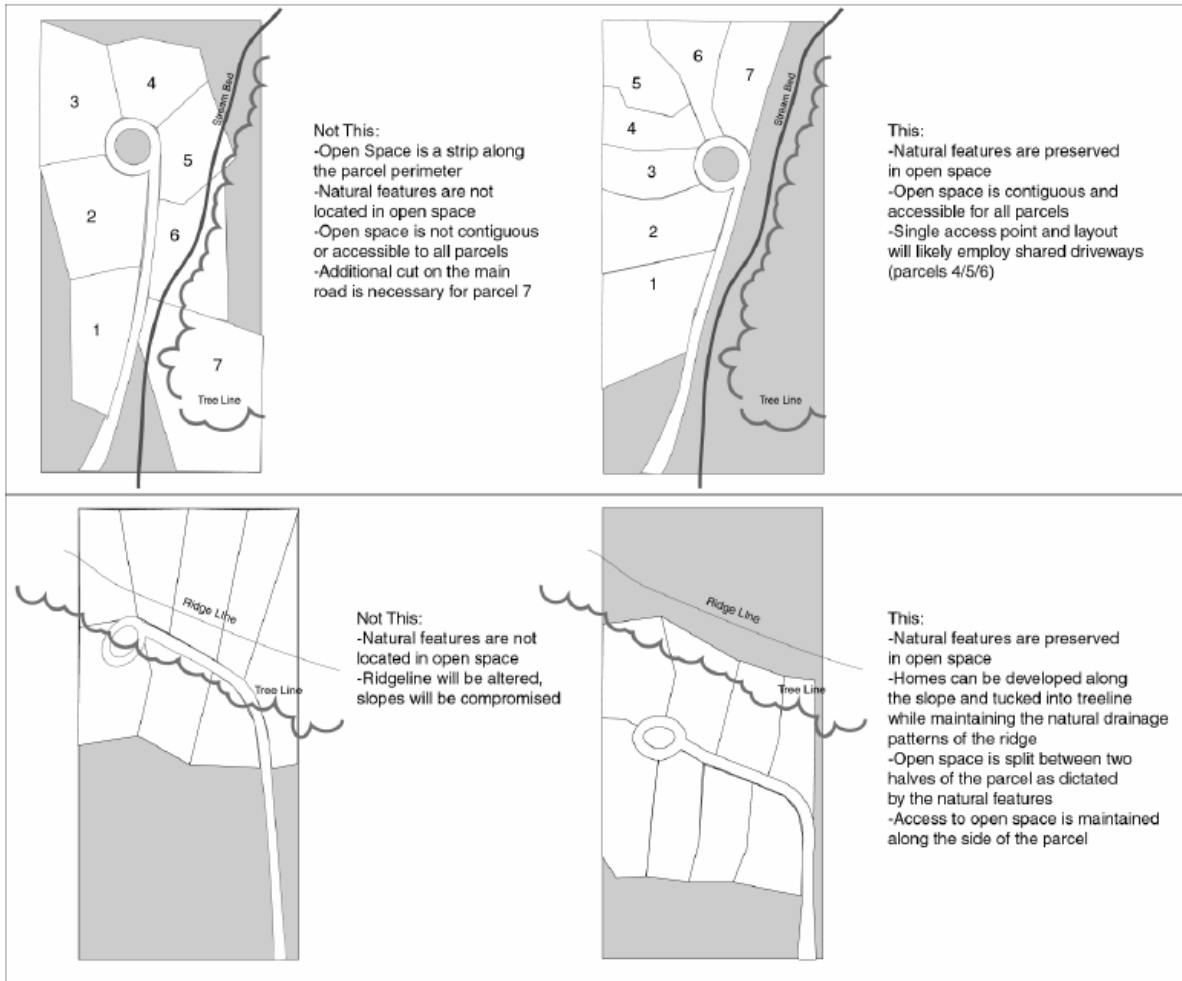
- A. Purpose:
 - a. To allow clustering of residential units and permanent preservation of open space.
 - b. To protect and enhance important habitats and groundwater recharge areas.
 - c. To facilitate high design standards and lower visual and traffic impacts by limiting the number of cuts on county roads, and to lessen the visual impact from country roads and adjacent residential areas.
 - d. To reduce potential negative impact on ridgetops and within viewsheds.
- B. Base Density: The maximum number of base residential units permitted in a clustered development shall be equal to 1 unit per 3 gross acres, where any partial number calculated shall be rounded down to the next whole number. Bonuses may accrue as described below in addition to the allowed base density.
- C. Standards:
 - a. Dimensional Standards: No minimum lot sizes, frontage, or lot width shall be required.
 - b. Building Setbacks: All primary structures in a cluster development shall meet the following setbacks from property lines: 15 feet front, 10 feet side, 10 feet rear, 50 feet from wetlands, and 75 feet from the water's edge.
 - c. Open Space:
 - i. Minimum Required Open Space: A minimum 50% of the parcel shall be designated and maintained as common open space which is readily accessible and available to all of the residents in the cluster development project,
 - ii. Deed Restrictions Required: Open space shall be owned and maintained by the lot owners within the development, therefore, the legal arrangement for this management should be provided for within the deed restrictions for the development. *See Section 5.4 C.g. below.*

- iii. General Open Space Configuration: Open space shall be located primarily in consideration of the locations of natural features. Open space used toward the minimum 50% required shall be configured such that any one dimension shall generally not be in excess of 5 times the length of the opposite dimension, unless the parcel's configuration or natural features dictate otherwise. Open space used toward the minimum 50% shall be generally contiguous. Minimal spacings between buildings, units, or lots or narrow strips along the parcel's perimeter shall not be calculated toward the required open space. The Planning Commission may relax these standards to best fit the individual situation. See *Figure 5.4 1 below*

The open space configuration shall meet at least one of the following criteria, See *Figure 5.4 1 below*:

1. The required open space is located substantially along the main roadway a minimum of 1/3 of the parent parcel depth;
2. The required open space is located to preserve significant viewsheds onto or through the parcel or along a ridgeline for the benefit of the public;
3. The required open space is configured and designed to allow existing agricultural uses to continue;
4. The required open space will include the parcel's environmentally sensitive lands (such as steep slopes, waterfronts, streambeds, and wetlands);
5. The required open space is located to allow continuity with adjacent open space areas, retaining undeveloped greenways;
6. The required open space is configured to control erosion and maintain natural drainage patterns by limiting development on steep slopes and ridgelines.

Figure 5.4 1



d. Access:

- i. A clustered development approved under this Section shall be served by a maximum of one access point unless the road is serving over 10 parcels.
- ii. Two or three residential units in a clustered residential development approved under this Section may have shared driveways.

- e. Density Bonus: The applicant may increase the allowed number of residential unit by 25% when the parent parcel is 20 acres in area or more, and all requirements of Section 5.4 C. are met. The number shall be rounded down to the next whole number. By example, a 27 acre parcel will be allowed 9 units ($27 \div 3 = 9$) plus

two additional units ($9 * 25\% = 2.25$, rounded down to 2) for a total of 11 units.

- f. Sanitary Waste Disposal: Shared or individual waste water systems may be employed meeting all applicable standards. Facilities may be located within the required open space provided that sufficient easements and deed restrictions are in place and outside regulatory agencies concur.
- g. Guarantee of Open Space: Whether developed as a condominium, a plat, or through metes and bounds descriptions, the proposed open space areas shall be retained in perpetuity through a Master Deed, or other deed restrictions. The open space may be organized as a common element in a condominium, as a designated park in a subdivision, as an easement over metes and bounds parcels, or any other available legal arrangement. Cleveland Township shall be named as an approving authority for any changes to the deed restrictions, **pertaining to the required open space**, and shall not be deeded the land in open space or given any management responsibility.

D. Approval Process

- a. A site plan shall be required. Any cluster development shall be considered a conditional use, and as such shall follow the standards and requirements under Section 4.16, with the exception that any cluster development of less than 20 acres shall be processed as a minor site plan with review and approval required by the Zoning Administrator only.
- b. Master Deed or other deed restrictions shall be reviewed by the Planning Commission. The Planning Commission shall submit the Master Deed or other deed restrictions with recommendations to the Cleveland Township Board for final approval.
- c. Performance Guarantees. The Township Board may require a performance guarantee to ensure conformance with the standards of this Section.

Amendment 2. *The Cleveland Township Zoning Ordinance is hereby amended. A new Section 4.____ shall read in its entirety as follows:*

Section 4. Decks: A deck attached to a dwelling is allowed within the 75' lake setback area given the following conditions:

- A. The deck is no higher off the ground than 24 inches at the highest point of undisturbed earth.
- B. No deck shall extend more than **16 feet off** the dwelling into the 75' setback area.

- C. No deck within **the 75 foot lake setback** shall extend outside the width of the dwelling area surface to which the deck is attached.
- D. Under no conditions shall any deck be closer than 50' to the waters edge.

Amendment 3. *The Cleveland Township Zoning Ordinance is hereby amended. A new Section 4.____ shall read in its entirety as follows:*

Section 4.____ Nonconforming Lots of Record. Where a lot (including parcels or condominium units) of record does not meet the minimum requirements for lot width or area for the zoning district, the lot may be used under the following conditions.

- A. The use is permitted in the zoning district.
- B. The setbacks and all dimensional standards – other than the lot width and lot area standards – are met.
- C. The applicable requirements of any county, state, or federal agencies are met.
- D. The lot was conforming under zoning restrictions in place at the time.

[deleted subitem E.]

Amendment 4. *The Cleveland Township Zoning Ordinance is hereby amended. A new Section 3.____ shall read in its entirety as follows:*

Section 3.____ Residential Care Facilities.

- A. Child Care Organization. A facility for the care of children under 18 years of age, as defined by the State under Michigan Public Act 116 of 1973, Public Act 110 of 2006 as amended or replaced and the associated rules promulgated by the State Department of Human Services.
- B. Adult Foster Care. A facility for the care of adults, over 18 years of age, as defined by the State of Michigan Public Act 218 of 1979, Public Act 110 of 2006 as amended or replaced and rules promulgated by the State Department of Social Services.

Amendment 5. *The Cleveland Township Zoning Ordinance is hereby amended. Section 3.41.Mobile Home shall read in its entirety as follows:*

Section 3.41 Mobile Home: Any self-contained housekeeping unit mounted on wheels, and designed for permanent residence for one or more persons. This does not include self propelled units, house cars and campers.

A mobile home shall be considered a single family dwelling provided the following conditions are complied with:

- A. It must meet the square foot of living requirements for a single-family dwelling. The wheels and axles must be removed and the unit placed on a permanent foundation and fully enclosed in a non-temporary manner.
- B. It shall be attached to a pressure water supply system and sewage disposal system approved by the Leelanau County Building Inspections and Benzie-Leelanau Health Department.

Amendment 6. *The Cleveland Township Zoning Ordinance is hereby amended. A new Section 3.__ shall read in its entirety as follows:*

Section 3.__ Building Height

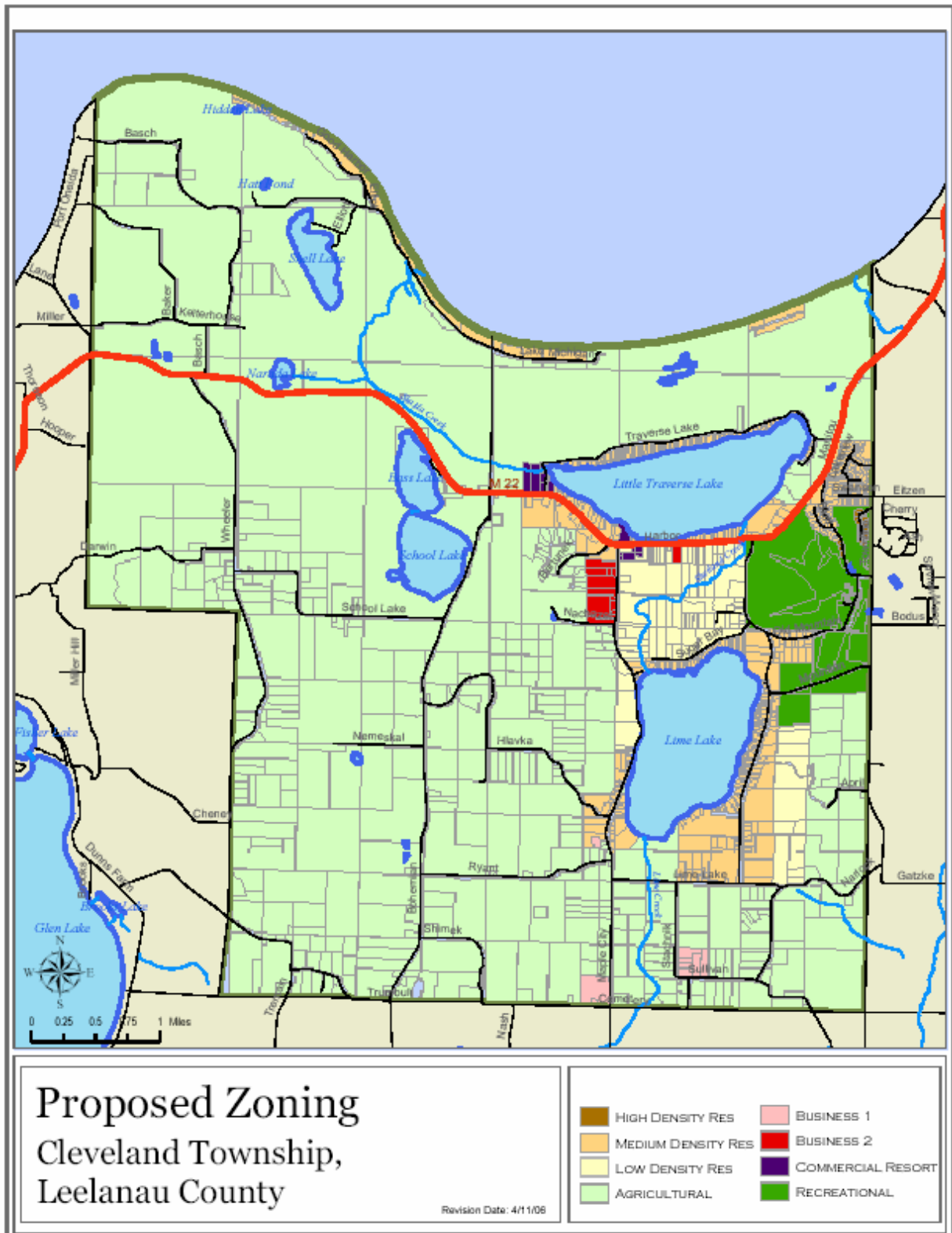
The vertical distance from the average of the highest and lowest finished grade along the perimeter wall of the building to the highest point of the roof surface.

Amendment 7 *The Cleveland Township Zoning Ordinance is hereby amended. Section 3.17 Dwelling shall read in its entirety as follows:*

Section 3.17 Dwelling

Any building or part thereof, occupied as the home, residence or sleeping place of one or more persons either permanently or transiently, except automobile trailers, cabins, or mobile homes, unless the mobile home meets the dwelling requirements defined in Section 3.41.

Amendment 8. The Cleveland Township Zoning Ordinance is hereby amended. A new Zoning Map shall be incorporated into the Zoning Ordinance:



Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

TOWNSHIP OF CLEVELAND

By: _____

Its: Supervisor

By: _____

Its: Clerk