

# ELK RAPIDS TOWNSHIP ZONING ORDINANCE

An Ordinance to provide for the establishment of Zoning Districts in Elk Rapids Township, Antrim County, Michigan in accordance with the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, to provide for the administration of said Ordinance and penalties for the violation thereof. The People of the Township of Elk Rapids do ordain:

## CHAPTER 1

### TITLE, PURPOSE AND DEFINITIONS

#### Section 1.01 - TITLE

This Ordinance shall be known as the Elk Rapids Township Zoning Ordinance adopted May 19, 1979, reformatted, with amendments through November 5, 2002, and as readopted January 14, 2003. 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 they 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.

- A. Conflicts - If any provision of the Elk Rapids Township Zoning Ordinance conflicts with this Zoning Amendment Ordinance, then the provisions of this Zoning Ordinance Amendment shall control.
- B. Effective Date - This Ordinance shall become effective seven (7) days after publication of same. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

#### Section 1.02 - PURPOSE

The fundamental purpose of this Ordinance is to promote the health, safety and welfare of the inhabitants of the Township by:

- A. Promoting the orderly development of the Township.
- B. Encouraging the use of land and resources in the Township in accordance with their suitability.
- C. Promoting the economic progress of the Township and to protect and enhance the property values thereof.
- D. Reducing the hazards to life and property, promoting safety in traffic and providing protection from the spread of fire and other hazards.

- E. Conserving the use of public funds for public improvement and services to conform with the most advantageous use of lands, properties and resources of the Township.

### Section 1.03 - DEFINITIONS

Unless otherwise specified herein, the terms used in this Ordinance shall be defined as follows:

**Access Easement** – A portion of land intended for the sole purpose of ingress/egress to a parcel. For the purpose of this Zoning Ordinance, an access easement shall be considered a private road, as defined herein.

#### **Accessory Structures**

1. **Agricultural Structure** - A structure designed, constructed and used for agricultural purposes and/or for the storage and maintenance of agricultural equipment.
2. **Accessory Structure** - A structure on same lot with and of a nature customarily incidental and subordinate to the principal structure.
3. **Attached Accessory Structure** - An accessory structure attached by a common wall(s), foundation and under the same roofline of the principle structure.
4. **Detached Accessory Structure** - An accessory structure not attached and not made a part of the principle structure.

**Accessory Use** - A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

**Basement** -The floor of a building next below the principal or first floor. A basement shall not be counted as a story for the purpose of height regulations.

**Bed & Breakfast (Tourist Home) Establishments** -A single family building owned and occupied by a person(s) renting out not more than four (4) rooms for compensation to persons who do not stay more than seven (7) consecutive days.

**Billboard** - An outdoor sign advertising services or products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

**Boarding or Lodging House** - A building other than a hotel where, for compensation and by pre-arrangement for definite periods, lodging, meals, or both are provided for three (3) or more but not exceeding twenty (20) persons.

**Building** - Any enclosed rigid structure having a roof supported by columns, walls, or other support used for the purpose of housing or storing of persons, animals or chattels or carrying on business activities or other similar uses.

**Condominium Act** - Michigan Public Act 59 of 1978 as amended

**Condominium Project** - Any land developed under the provisions of the Condominium Act.

**Condominium Unit** - That portion of a condominium project designed and intended for separate ownership interest and use, as described in the Master Deed regardless of type of use.

**Development Plan** - The documents and drawings required by the Zoning Ordinance necessary to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**Dwelling** - A building or portion thereof designed or used as a residence or sleeping place for one or more persons including one or two family or multiple dwellings for residential occupancy but not including house trailers, mobile homes, hotels, boarding and lodging houses, tourists courts, tourist homes, hunting or fishing cabins.

**Dwelling, Single Family** - A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

1. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. It has a minimum width across the main front, side and rear elevation of twenty (20) feet and complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provisions of 1972 P.A. 230 as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards and regulations for construction are different from those imposed by the State building code, then and in that event such Federal or State standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accord with the building code in effect, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local Health Department.

6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to, or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
7. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
8. The dwelling complies with all pertinent building and fire codes. In the case of mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24CFR 3280, and as from time to time such standards may be amended. Additionally, all dwelling shall meet or exceed all applicable roof snow load and strength requirements.
9. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance.
10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**Dwelling, Two Families** - A building consisting of two dwelling units occupied exclusively by two families living independently of each other.

**Essential Services** - Essential services shall mean the erection, construction, alteration or maintenance by public utilities, municipal departments or commissions, or any governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commissions or any governmental agencies or for the public health, safety and welfare.

**Family** - An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

**Floor Area** - The total area of floor space within the outside walls of a building excluding porches, breezeways, garages, attic, basement, utility areas, cellar or crawl space.

**Garage - Private** - A detached accessory building or portion of a main building used only for the parking or storage of not more than three (3) passenger automobiles, of which one (1) may be a light delivery or

pickup motor vehicle used by the occupants of the premises of rated capacity not to exceed one and one-half (1 ½) tons.

**Garage - Public** - A building other than a private garage primarily used for the purpose of parking, storing, repairing or equipping motor vehicles therein as commercial use.

## **Grade**

1. **Established Grade** - The average of the natural grade elevations surrounding the proposed structure.
2. **Natural Grade** - The grade as determined by the natural topography that existed before site alteration.

**Greenbelts** - A planting or buffer strip at least ten (10) feet in width on which exists or is planted dense forming evergreens which are maintained sufficient to obscure the view of any activity carried on therein from adjoining property.

If the natural growth along the perimeter of a property meets the above requirement, no added planting shall be required as long as such natural growth continues to obscure such view. When inadequate or no natural greenbelt exists, a planting shall be made on the strip of a minimum of two rows of dense forming evergreen trees such as cedar or spruce at least five (5) feet tall when planted. The trees shall be nursery type stock and shall be spaced a maximum of eight (8) feet apart, and the rows offset so that when looking straight on the maximum width between will be four (4) feet. Such plantings shall be maintained in a healthy, growing condition by the property owner, so that it meets all the requirements as a greenbelt. Any such tree which may die shall be replaced with one of the same variety the size of those on either side.

Additional plantings of deciduous trees and shrubs to enhance the basic planting may be required by the Planning Commission under site plan approval consideration.

**Group Retreat Center** - A single family dwelling including accessory buildings and structures used for professional or educational, meetings, conferences, or seminars and which may provide meals, housing, and recreation for participants during the period of the retreat or program only. All meals, lodging and recreational facilities are provided as a package to guests. Such centers may not be utilized by the general public for meals or overnight accommodations.

**Home Occupation** - An occupation clearly incidental to a residential use by a resident entirely within his dwelling, and not in an accessory building or structure and with the assistance of not more than one (1) non resident employee. Such use shall not occupy more than twenty-five (25) percent of the floor area of the dwelling.

**Housekeeping Cabin Park** - A parcel of land on which, two (2) or more buildings are maintained, offered, or used for dwelling or sleeping quarters for transients and operated as a commercial use, but excluding boarding or lodging houses, motels, and tourist homes.

**House Trailers or Mobile Homes** - Any vehicle or similar portable structure, self-propelled or designed for towing, having no foundation other than wheels or jacks and so designed or controlled as to permit occupancy for dwelling purposes.

**Land Division** - Creation of a lot or lots of a different configuration from the original boundaries.

**Lot** - A parcel of land of sufficient size and configuration to meet minimum zoning requirements for use coverage and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated roadway or on a permitted private road as may be provided by appropriate ordinance. Such lot may consist of:

1. Single lot of record,
2. A portion of a lot of record,
3. A combination of complete lots, lots of record or portions thereof, or,
4. A parcel of land described by metes and bounds provided that in no case shall a division or combination of any residential lot or parcel be created which does not meet the requirement of this Ordinance.
5. A portion of a site condominium development consisting of the property upon which a principal and accessory structures may be constructed along with any limited common areas necessary to insure an area containing the dimensions necessary to comply with the requirements of the district in which the property is located.

**Lot of Record** - A lot which is part of a subdivision recorded in the Office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded, and which is not in single ownership with adjacent properties or is considered as such for tax purposes.

**Master Deed** - The legal document prepared and recorded pursuant to the Condominium Act, within which are, or to which are attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

**Nonconforming Structure** - A structure lawfully existing at the time of adoption of the Zoning Ordinance, or any amendments thereto, that does not conform to the requirements of the zone district in which it is located.

**Nonconforming Lot** - Any lot of record, outlot, or parcel of land lawfully existing at the effective date of this Ordinance, or amendments thereto, which does not meet the land area or dimensional requirements of the zone district in which it is located.

**Nonconforming Use** - A use lawfully existing within a structure or on land at the time of adoption of this Ordinance, or any amendments thereto, and which does not conform to the regulations of the zone district in which it is located.

**Ordinary High Water Mark**

1. **For Inland Lakes** - The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland, and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has a level established by law it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.
2. **For East Arm of the Grand Traverse Bay** - The average Ordinary High Watermark for the East Arm of the Grand Traverse Bay shall be the Ordinary High Watermark (OHW) elevation, I.G.L.D. 1985 (International Great Lakes Datum)

**Owner(s)** - Shall mean any combination of persons who have equitable or legal title to the premises, dwelling, or dwelling unit.

**Planning Commission** – For the purposes of this Ordinance the term Planning Commission is the Elk Rapids Township Planning Commission as authorized by PA 33 of 2008, as amended.

**Principal Use** - The primary and predominant use or intended use of the premises according to the zone requirements, including permitted accessory uses.

**Private Road** - Any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties.

**Residential Mini-Storage** - A parcel of property containing a building or series of buildings each divided into two or more independently accessed storage spaces for use in the long term storage of an individual or family’s personal and household property (as opposed to the storage of commercial or industrial material which would be considered warehousing for the purpose of this ordinance) with no commercial activities permitted on the property other than the renting out of individual storage units.

**Seasonal** - Any use of such a nature that the activity cannot or should not be performed during each calendar month.

**Sign** - An outdoor sign, display, figure, painting, drawing, message, placard, poster, billboard or other thing which is designated, intended or used to advertise or inform.

**Single Ownership** - A lot of record, on or before the effective date of the Zoning Ordinance, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at that date owned by the same owner or the same owner in joint tenancy in common or entireties with any other person or persons; or where such adjacent lot or lots were not owned by the same owner or any person or persons with whom he may be engaged in a partnership or joint venture; or where such adjacent lots were not owned by any corporation in which the owner owned fifty-one(51) percent or more of the stock issued and outstanding.

**Site Condominium Unit** - Individual Principal Building with associated accessory structures not physically attached to other principal or accessory structures

**Special Exception (Special Use)** – A use that meets the intent and purpose of the zoning district, but which requires the review and approval of the Planning Commission in order to ensure that any adverse impacts on adjacent properties or public services and facilities that may be generated by the use can be, and are, mitigated; as prescribed in Section 19.07.

**Structure** - A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner, and any construction, including dwellings, garages, building, mobile homes, decks, signs and sign boards, tower, poles, antennas, stand pipes or other like objects, but not including fences.

**Structural Change or Alteration** - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

**Structure Height** – The vertical distance measured from the established grade, as determined in Section 2.02, to the highest point of the roof surface.

**Tasting Room** - A facility where the following activities take place; (1) tasting of fresh and/or processed agricultural produce such as wine, fruit wines, and non-alcoholic fruit juices; (2) retail sales of winery products by the bottle for off-premises consumption; and (3) sales of wine by the glass for on premises consumption.

**Variance** - A deviation from the terms of this Ordinance granted by the Board as Authorized by the enabling statute, upon findings of practical difficulties and unnecessary hardship, as prescribed in Section 18.06.

**Warehousing** - Uses which feature any of the following, indoor or outdoor storage, wholesale sales, or the distribution of bulk materials, supplies, manufactured products or uses which are characterized by frequent heavy truck traffic, but which does not include production or manufacturing on the property.

**Winery** - A state-licensed facility where agricultural fruit production is maintained, juice is processed into wine, stored in bulk, packaged, and sold at retail or wholesale to the public with or without the use of a wine tasting facility. The site and buildings are used principally for the production of wine. A winery may also include a tasting room.

**Yards** - Minimum yard dimensions are measured from the lot line or road right of way when the lot line is contained within the right of way. In the case of a site condominium development, the borders of adjoining building sites shall contain a minimum of twice the distance of the yard requirement for the district in which the property is located.

1. **Front Yard** - The minimum distance between the front line of any building and/or structure or any projection thereof and the front lot line, unoccupied and extending for the full width of the lot. In the case of any building and/or structure which front on a lake, the front yard shall be that area which lies between the front line of any building and/or structure or any projection thereof and the high water mark, unoccupied and extending for the full width of the lot. In the case of any building and/or structure or any projection thereof which fronts on a lake the front yard and rear yard shall each have a minimum setback from the lake and the road side of fifty (50) feet.
2. **Rear Yard** - The minimum distance between the rear lot line and the rear line of any building and/or structure or any projection thereof, unoccupied and extending the full width of the lot.
3. **Side Yard** - The minimum distance between the side lot line and the side line of any building and/or structure or any projection thereof unoccupied and extending for the full length of the lot.