

**ONTWA TOWNSHIP
CASS COUNTY**

ORDINANCE NO. _____

ADOPTED: _____

**EFFECTIVE: EIGHT DAYS FOLLOWING
PUBLICATION AFTER ADOPTION**

An Ordinance to adopt various amendments to the Ontwa Township Zoning Ordinance regarding definitions, general provisions, creation of a waterfront overlay district, provisions in several zoning districts regarding mining, kennels, home occupations and home based businesses, roadside stands, setback requirements, site plan procedures and standards, zoning compliance requirements, variance regulations and provisions for fees and escrow accounts; and to repeal all ordinances or parts of ordinances in conflict herewith.

**ONTWA TOWNSHIP
CASS COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
AMENDMENTS TO ARTICLE II, DEFINITIONS**

Article II of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article II remain unchanged.

The definition of “Household Animals” in Section 2.05 is amended to read as follows:

Household Animals. Any domestic animal normally and customarily allowed within, and generally allowed to run freely throughout, the same dwelling unit as the human occupants for pleasure and companionship such as dogs, cats, ferrets, rabbits, pot belly pigs or designer/jewel pigs.

The definition of “Boat Dock or Dock” in Section 2.10 is amended to read as follows:

SECTION 2.10 BOAT DOCK OR DOCK. Any structure or device other than a building, including wharfs, piers, shore stations, permanent piers, boat lifts, canopies, or floats, erected or placed along the shoreline of a body of water which may or may not extend into or over the body of water on which human activity is carried out and alongside which watercraft may be secured for the purpose of loading and unloading passengers and cargo.

A new section, Section 2.11A BOAT LAUNCH, is added to Article II, which section shall be added after Section 2.11, and shall read as follows:

SECTION 2.11A. BOAT LAUNCH. A facility to launch and retrieve watercraft, including motorized boats, canoes, kayaks, personal watercraft, to and from a body of water. Most boat launches also consist of breakwater protection from large waves, parking lots, a dock to assist in launching, toilets, refuse containers and similar amenities.

The definition of “Community Center” in Section 2.16 is amended to read as follows:

SECTION 2.16. COMMUNITY CENTER. A building used as a place of meeting, recreation, or social activity and not operated for profit. Occasional and special event gatherings may from time to time include consumption of alcoholic beverages and meals upon securing any required permits or licensing for such activities from applicable local, County or State agencies.

The definition of “Home Occupation” in Section 2.26 is amended to read as follows:

SECTION 2.26. HOME OCCUPATION OR HOME BASED BUSINESS

HOME OCCUPATION. An occupation conducted entirely within a primary residential dwelling by its occupants as an accessory use.

HOME BASED BUSINESS. An occupation customarily conducted primarily within an accessory building by the dwelling’s occupants as an accessory use.

The definition of “Kennel, Private” in Section 2.29 is amended to read as follows:

SECTION 2.29. KENNEL, PRIVATE. A type of home based business on which more than five (5) more dogs, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding; sale; or adoption

The definition of “Kennel, Public” in Section 2.30 is amended to read as follows:

SECTION 2.30. KENNEL, PUBLIC. Any lot, on which more than five (5) more dogs, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding; sale; or adoption, except for a private kennel. By way of example, animal rescue centers, animal shelters, humane society facilities, and animal control centers are considered public kennels.

A new section, Section 2.30A LANDSCAPING, is added to Article II, which section shall be added after Section 2.30, and shall read as follows:

SECTION 2.30A. LANDSCAPING. The installation and maintenance of areas permanently devoted and maintained to the growing of trees, shrubbery, grass, and other plant material or by the use of such materials as crushed stone, rock, or similar materials.

The definition of “Motor Vehicle” in Section 2.35 is amended to read as follows:

SECTION 2.35. **MOTORIZED VEHICLE.** Every vehicle which is self-propelled that does not run on rails. By way example, a car, truck and motorcycle are all considered motorized vehicles.

The definition of “Park” in Section 2.36 is amended to read as follows:

SECTION 2.36. **PARK.** A noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space for passive or active use. A park may be either improved, which typically includes ancillary constructed or installed facilities, such as playground equipment, restrooms or picnic shelters; or unimproved, which may include interpretive programs and trail systems that take advantage of geological, biological or scenic resources. A boat launch as defined by this Ordinance may be located in a park as a park amenity, but shall not be the sole amenity in a park. A park shall not include a for-profit commercial establishment or for-profit business, whether or not recreation-oriented. Commercial amusement facilities, such as water slides, go-cart tracks, and miniature golf courses shall not be considered parks.

Section 2.39 is deleted in its entirety and now reads as follows:

SECTION 2.39. **RESERVED**

The definition of “Planning Commission” in Section 2.40 is amended to read as follows:

SECTION 2.40. **PLANNING COMMISSION.** The Ontwa Township Planning Commission, created pursuant to the Michigan Planning Enabling Act, PA 33 of 2008, as amended.

The definition of “Sectional or Modular Home” in Section 2.45 is amended to read as follows:

SECTION 2.45. **SECTIONAL HOME.** A dwelling made of two or more modular units factory fabricated and transported to the home site where they are put on a foundation and joined to make a single home and that complies with the standards for dwellings in Section 3.26 of this Ordinance.

A new section, Section 2.45A **SETBACK**, is added to Article II, which section shall be added after Section 2.45, and shall read as follows

SECTION 2.45A. **SETBACK.** The minimum horizontal distance necessary between a building or structure, or any portion thereof, the boundaries of the lot or parcel, or street right-of way, to meet the minimum front, side and rear yard requirements of this Ordinance

The definition of “Structure” in Section 2.48 is amended to read as follows:

SECTION 2.48. **STRUCTURE.** Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. For the purposes of this Ordinance, parking lots, driveways and septic tanks are not considered “structures.”

The definition of “Township Board” in Section 2.50 is amended to read as follows:

SECTION 2.50. TOWNSHIP BOARD. Ontwa Township Board of Trustees.

The definition of “Zoning Board of Appeals” in Section 2.61 is amended to read as follows:

SECTION 2.61. ZONING BOARD OF APPEALS. The Township of Ontwa Zoning Board of Appeals created pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, as amended

SECTION II
AMENDMENTS TO ARTICLE III, GENERAL PROVISIONS

Article III of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article III remain unchanged.

Section 3.04 is amended to read as follows:

SECTION 3.04. RESTORATION OF UNSAFE BUILDINGS. Subject to the provisions of the Nonconforming Uses Article, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of an original building or structure which is unsafe, on its existing footprint. However, if a structure is destroyed by any means, to the extent that it is twenty-five (25) percent or less than its state equalized value (SEV), it shall not be reconstructed on its existing footprint.

Section 3.06(b) is amended to read as follows:

(b) Existing Lots of Record - A lot which is platted or otherwise of record as of the effective date of this Ordinance, but does not meet the minimum lot area or width requirements of the district in which it is located, may be used for any permitted or special land use in that zoning district, provided the lot can meet the provisions of Sections 3.14 and 3.15. The structure shall be sized, designed and located on the lot to assure maximum compliance with all yard and setback requirements for the Zoning District in which the lot is located.

Section 3.13(c) is amended to read as follows:

(c) In residential zoning districts, fences more than fifty percent (50%) opaque located in a front yard shall not exceed a height of three (3) feet. Fences less than fifty percent (50%) opaque located in a front yard shall not exceed a height of four (4) feet. For a parcel abutting a lake in the LR, Lake Residential District, fences and landscaping located in the front yard (lake side) portion of the lot shall not exceed a height of three (3) feet. The Zoning Administrator, acting upon a written complaint, shall ensure that fences do not unreasonably obstruct views from neighboring properties.

Section 3.14 is amended to read as follows:

SECTION 3.14. DRAINAGE. No premises shall be filled or graded so as to discharge surface runoff on abutting premises or roads in such a manner as to cause ponding or surface

accumulation of such runoff thereon. In reviewing a site plan, the Planning Commission and/or Zoning Administrator shall have the authority to require a professional engineering drainage plan, soil erosion plan, water velocity study or similar information to be submitted for review prior to any plan approval or permit issuance, and the results of such studies or plans may be used as justification to approve or deny a request for a permit. All building or site improvements or modifications shall be designed and constructed to minimize negative impacts on neighboring properties caused by storm water runoff or erosion.

Section 3.17 is amended to read as follows:

SECTION 3.17. KEEPING OF ANIMALS

- (a) It is recognized that the keeping of an unlimited number of domestic animals within residential areas for a considerable period of time detracts from, and in many instances, is detrimental to the healthful and comfortable use of such areas. The keeping of the following domestic animals is permitted, subject to the following regulations and limitations:
 - 1. Container animals, no limitation.
 - 2. Household animals, if there are not more than five (5) such animals, boarded or kept on a single lot, except that a litter of pups or a litter of kittens may be kept for a period not exceeding four (4) months from birth, provided that no more than two (2) such litters shall be permitted on a property within one (1) calendar year.
 - 3. In the A-R district, the keeping of livestock is permitted without restriction, provided that Generally Accepted Agricultural Management Practices are met.
- (b) Special Land Uses. The keeping of livestock in the R-1A, R1, LR or R-2 districts is prohibited unless authorized as a Special Land Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following:
 - 1. The land area where the animals are to be kept.
 - 2. The density of land uses in the vicinity of the site.
 - 3. Whether or not noise, odors, and environmental or groundwater may adversely affect the use of adjoining properties or the surrounding neighborhood or the environment. The Zoning Administrator and the Planning Commission are authorized to require the applicant to conduct any environmental assessment(s) or studies as deemed necessary to determine if adjoining properties may be adversely impacted.
 - 4. Methods by which such animals will be sheltered, fed, and restrained from leaving the premises.
 - 5. The keeping of roosters is be prohibited.

6. In addition to initial authorization from the Planning Commission, the keeping of livestock in any zoning district, except the AR District, shall require a nontransferable permit to be issued by the Zoning Administrator for an initial period of three (3) years and renewable for succeeding periods of three (3) years each thereafter.
7. In granting such permit, or renewing same, the Zoning Administrator shall determine whether or not the permit holder or applicant is in compliance with all requirements of this Ordinance and any requirements, conditions, or restrictions established by the Planning Commission when authorization was granted
8. The keeping of livestock shall meet the following requirements.
 - i. All such land areas used by said non-household animals shall be properly fenced in such a manner to prevent the animals from leaving the property and all such animals shall be maintained and accommodated in a fashion that prevents them from becoming a nuisance to adjoining property or a hazard to public health, safety and welfare.
 - ii. No building or other structure sheltering or housing non-household animals shall be located closer than one hundred and fifty (150) feet to a right-of-way line and one hundred (100) feet from any side or rear property line.

Section 3.19 is amended to read as follows:

SECTION 3.19. HOME OCCUPATIONS AND HOME BASED BUSINESS.

Home occupations and home-based businesses as defined in this Ordinance are permitted in accordance with the requirements of this Section.

It is the intent of this section to insure the compatibility of home occupations and home based business with other permitted uses in the area and with the character of the neighborhood. To this end, a home occupation or home based business shall be clearly subordinate and incidental to the principal residential use of the property and shall be so located and conducted that neighbors, under normal circumstances, would not be aware of its existence.

It is further the intent of this section to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to allow the essential residential character of the residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.

Existing home occupations or home based businesses not meeting the requirements of this Section shall be considered nonconforming uses pursuant to Article XVIII.

A home occupation may be permitted in all residential dwelling units in the “AR”, “R-1A”, “R-1”, “L-R”, “R-2”, and “M-H” zoning districts only upon the review of the Zoning Administrator. Home based businesses may be permitted in the “AR”, “R-1”, “R-1A”, “L-R”, and “R-2”, and “M-H” zoning districts only upon special land use approval by the Planning Commission in accordance with the provisions of Article XIV.

In addition, a home occupation or a home based business shall comply with all of the following regulations:

- (a) Exemptions. Instruction in a fine art or craft is a permitted home occupation in all dwellings in the Township and shall not require approval by the Zoning Administrator or Planning Commission. In addition, family child care, family adult day care or adult foster care family homes or small group homes where for six (6) or fewer persons are received for care are considered residential uses of property and shall not be required to obtain Township approval under this Section.
- (b) Permit Required. Except as otherwise provided in this Ordinance, an annual permit is required for all home occupations and home based businesses in the Township. In addition to an annual permit under this Ordinance, the applicant is required to obtain any and all licenses or permits from local, state or federal agencies.
 - (1) A permit shall be issued if the home occupation or home based business meets all applicable standards of the Zoning Ordinance and if appropriate special use approval is granted where required.
 - (2) In considering a request for a home occupation or home based business, the Planning Commission shall consider all applicable factors applying to the request, including, but not limited to, the standards of this Ordinance, past violations or complaints relating to the proposed use, hours of operation, environmental factors, and other applicable local, State or federal regulations.
 - (3) The Zoning Administrator shall annually inspect home occupations and home based businesses to ensure compliance with the requirements of this Ordinance. Noncompliance with the standards of this Section may be grounds for revocation of a permit authorizing the home occupation or home based businesses in accordance with the processes outlined in this Ordinance. Such revocation may only occur after a public hearing is conducted in accordance with Section 22.03. The applicant shall be provided an opportunity to correct the violation(s).
- (c) General Provisions for Home Occupations and Home-Based Businesses. The following standards shall apply to all home occupations and home based businesses:
 - (1) For purposes of identification, one (1) non-illuminated nameplate or identifying sign not exceeding two (2) square feet in area shall be permitted for a home occupation or home based businesses, and such sign shall not be located in a right of way. No other sign shall be utilized in connection with such home occupation.
 - (2) There shall be no visible change in the exterior appearance of the premises, or other visible evidence of the conduct of such home occupation or home based businesses.
 - (3) In no event shall the use of a dwelling for a home occupation or home based businesses alter the residential character of the dwelling.

- (4) No merchandise or articles for sale shall be displayed on the lot utilized for the home occupation or a home based business. The majority of all activities must be carried on indoors. No visible outdoor storage or display shall be permitted.
 - (5) No equipment or process shall be used in such the conduct of a home occupation or home based business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
 - (6) No home occupation or home based business shall entail the use or storage of explosive, flammable, or otherwise hazardous material unless certified to, by the applicant, to be in compliance with all County, State and Federal laws, licenses, the local fire authority, and approved by the Planning Commission or, where applicable, the Zoning Administrator.
 - (7) No traffic shall be generated by a home occupation or home based business in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home based business or home occupation shall not be located on the street or in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size.
- (d) Home Occupations. Home occupations shall meet the following additional standards:
- (1) The home occupation shall be conducted entirely within the dwelling by members of the family residing in such building and one (1) other person. A home occupation shall not be conducted, in whole or in part, in an accessory building.
 - (2) No home occupation shall occupy more than twenty-five (25) percent of the usable floor area of the dwelling; provided, however, that in no event shall the home occupation occupy more than four hundred (400) square feet.
- (e) Home-based Businesses. Home-based businesses shall meet the following additional standards:
- (1) Special land use approval by the Planning Commission pursuant to Article XIV shall be required for any home based business.
 - (2) The home based business shall only be conducted primarily in an accessory building located on the main property that has been permitted by the Zoning Administrator. The home business shall occupy a garage or accessory building; provided, that the Planning Commission may permit such use in an attached garage or a garage or accessory building located twenty (20) feet or more from an adjoining property.
 - (3) Visits by customers shall be permitted only between the hours of 9:00 a.m. to 8:00 p.m.

Section 3.21 is amended to read as follows:

SECTION 3.21. ACCESSORY BUILDINGS AND STRUCTURES. In any Residential Zoning District an accessory building or structure may be erected, either detached from the permitted principal building or as an integral part of the permitted principal building. Such accessory building or structure shall comply in all respects with the yard requirements of this Ordinance applicable to the permitted principal building and the following requirements:

- (a) No accessory buildings may be built or placed on any lot on which there is no principal building.
- (b) Adjoining lots in a single ownership shall be considered as one lot.
- (c) In the Lake Residential Zone where an owner has acquired a lot directly across a street right-of-way from his principal building lot, an accessory building or accessory use may be erected, provided all yard requirements for a principal building are maintained, and further provided that the applicant provides the Township with a copy of a deed restriction or similar instrument that ensures that the two lots cannot be sold or transferred separately prior to the issuance of any permit or notice to proceed.
- (d) Detached garages and other accessory buildings shall not be erected in any required front or side yard except in the "L-R" District. Pump houses may be erected under the provisions of Section 8.2(d) (Article VIII, Section 2(c)). In all zoning districts, accessory buildings over one hundred forty four (144) square feet shall be at least ten (10) feet from any dwelling and at least ten (10) feet from any other building on the lot. (Ordinance Amendment May 8, 2000)
- (e) Accessory buildings one hundred twenty (120) square feet or less, in the rear yard, are permitted not less than ten (10) feet from lot lines. Larger buildings require not less than ten (10) feet in "LR" and "R-2", not less than ten (10) feet in "R-1A", "R-1" and not less than twenty (20) feet in "AR". (As amended June 11, 2007)
- (f) Where a corner lot adjoins the side or rear lot line of another corner lot, a detached accessory building one hundred twenty (120) square feet or less may be erected five (5) feet from such common side or rear lot line, provided the side street setback is maintained.

Buildings larger than 120 square feet shall meet the setback requirements for the district in which they are located.

- (g) A lot or parcel shall contain no more than one (1) garden shed one hundred twenty (120) square feet or less and one (1) larger detached garage or accessory building. (As amended June 11, 2007)
- (h) **HEIGHT** – For all accessory buildings, except those used for farming:

In "L-R", "R-1A", "R-1" the side walls shall not exceed ten (10) feet from the bottom plate to eave. Roof pitch may match that of the principle building. However, the building should not exceed sixteen (16) feet in height. In "AR" the side walls shall not exceed (12) feet from the bottom plate to eave. Roof pitch may match that of the principle building, however building height should not exceed eighteen (18) feet in height. See page 6, Section 2.11 for definition of building height. (Ordinance Amendment May 8, 2000)

- (i) SIZE – Determined by area of lot, except those used for farming:

In “L-R”, “R-1A”, “R-1” and “AR”, the total ground coverage of an accessory building shall not exceed the following:

1. If the area of the lot is less than one (1) acre, the accessory building shall not exceed seven hundred sixty-eight (768) square feet. Example; 24 ft. X 32 ft.
2. If the area of the lot is at least one (1) acre but less than two-and-one-half (2-½) acres, the accessory building shall not exceed a total of eight hundred sixty-four (864) square feet. Example; 24 ft. X 36 ft.
3. If the area of the parcel is two-and-one-half (2-½) acres or more (except “AR”), the accessory building shall not exceed one thousand two hundred (1,200) square feet in size. Example; 30 ft. x 40 ft.
4. In “AR” district only, if the area of the parcel is between two-and-one-half (2 ½) acres and five (5) acres and not used for farming, the accessory building shall not exceed one thousand nine hundred twenty (1,920) square feet. Example; 32 ft. x 60 ft.

In “AR” districts only, if the area of the parcel is greater than five (5) + acres and not used for farming, the accessory building shall not exceed two thousand four hundred (2,400) square feet. Example: 40 ft. x 60 ft.

For purposes of determining square footage of accessory buildings, the measurement shall be length multiplied by the width of the exterior of the building measured from the outside corners of the building frame. (Ordinance Amendment May 8, 2000)

Section 3.24(c) is amended to read as follows:

- (c) Rear Yards - Terraces, steps, uncovered porches, decks with a surface no taller than three (3) feet above grade at the site of the structure, or other similar features shall not be located less than ten (10) feet from the rear lot line or less than six (6) feet from an accessory building. Bays, including their cornices and caves, balconies, and fire places, shall not project more than three (3) feet into a required rear yard. A fire escape, fire tower, balcony or outside stairway shall not project more than six (6) feet into a required rear yard. Normal chimneys, flues, elevator shafts, connecting hallways, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and other similar features may project into a required rear yard.

Section 3.25(b) is amended to read as follows:

- (b) A permit is not required to sell a personal vehicle; however, the vehicle must be titled to a person living at the property and have a current and valid license and registration. No more than four (4) automobiles shall be offered for sale per calendar year.

Section 3.28 is amended to read as follows:

SECTION 3.28. UNCLASSIFIED USES. Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this Ordinance in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use

that involves other features which are not expressly authorized, contemplated or specified in this Ordinance, the Zoning Administrator may determine that the use is unclassified. In the case of an unclassified use, an amendment to classify, permit and regulate the use may be initiated pursuant to Article XXII. Unclassified uses may not be treated as a special land use.

Section 3.30 is amended to read as follows:

SECTION 3.30. LOT LINE ADJUSTMENTS OR LAND DIVISIONS. Any proposed division of land shall be first reviewed by the Zoning Administrator, who shall refer the application to the Planning Commission for a decision. If approved by the Planning Commission, such application for land division shall be reviewed by the Ontwa Township Assessor and if approved, signed and registered/recorded with Cass County. The Planning Commission shall review all requests in a timely manner and apply the standards of the Zoning Ordinance and the principals of the Master Plan in reviewing the proposed land division.

Lot Line Adjustments may be approved and decided upon by the Zoning Administrator after a complete application has been submitted. The Zoning Administrator may opt to refer the matter to the Planning Commission for a decision.

Lot line adjustments and land divisions shall be processed consistent with all applicable Township Ordinances and the Michigan Land Division Act (Act 288 of 1967), as amended.

Section 3.31(3)(O) is amended to read as follows:

- O. Review of applications for wireless communication antenna.
 - 1. An application for collocation, and review of an application for a permit for use of a facility permitted under subparagraph one (1) B., above, shall be completed and a decision shall be made within 60 days of receipt of the application, or else the application shall be deemed approved and the reviewing body shall have made any determination or findings necessary for such approval.
 - 2. For new towers, review shall be completed within 90 days from receipt of the application, or else the application shall be deemed approved and the reviewing body shall have made any determination or findings necessary for such approval.

SECTION III
AMENDMENTS TO ARTICLE IV, MAPPED DISTRICTS

Article IV of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article IV remain unchanged.

Section 4.01 is amended to include a new subsection (l), which reads as follows:

- (l) WF Waterfront Overlay District

SECTION IV
AMENDMENTS TO ARTICLE V
AGRICULTURAL/RESIDENTIAL DISTRICT “AR”

Article V of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article V remain unchanged.

Section 5.02(h) is amended to read as follows:

- (h) Home occupations and home based businesses in accordance with Section 3.19.

Section 5.02(i) is amended to read as follows:

- (i) Removal and processing of topsoil, sand, stone, rock, gravel, lime or other soil or mineral resources when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall consider Article XIV and the following:
 - (1) The size of the property from which such topsoil, sand, gravel or other such materials are to be removed.
 - (2) The amount of topsoil, sand, gravel or other such minerals, which is to be removed.
 - (3) The purpose of such removal.
 - (4) The effect of such removal on adjoining property.
 - (5) The effect of such removal in causing a safety hazard, creating soil erosion, increased storm water run-off problems, or altering the ground water table.
 - (6) The potential for such removal to cause the creation of sand blows, stagnant water pools, or swampy areas.
 - (7) The effect of such removal on the environment and the natural topography, and the potential destruction of any natural resource.
 - (8) Potential traffic congestion and safety related problems because of trucks or other vehicles or means utilized to haul and transport the materials removed.

Review Criteria. In reviewing an application for removal of mineral resources, the Planning Commission shall apply the review standards for special land uses and the requirements of this section. In addition, the Planning Commission shall determine whether or not the applicant has satisfied his/her burden in demonstrating that no very serious consequences would result from the proposed removal. In making this determination, the Planning Commission shall consider the following factors in accordance with MCL 125.3205:

- (1) The relationship of extraction and associated activities with existing land uses.
- (2) The impact on existing land uses in the vicinity of the property.

- (3) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- (4) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- (5) The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- (6) The overall public interest in the extraction of the specific natural resources on the property.

The Planning Commission may require additional special studies or research, such as traffic impact studies, hydrogeological analyses, noise and vibration studies, and similar studies to determine if a mining operation proposed under this Section is consistent with the review criteria of subsection (b) above and this Ordinance.

Operations granted a special land use permit by the planning commission shall meet the following conditions:

- (1) Any change of the natural contour of the land, both during mining operations and at the time of abandonment, shall be maintained as safe to all trespassers and any other persons having reason to be within the area of activity.
- (2) No business or industrial buildings or structures of a permanent nature shall be erected, except where such a building is a permitted use within the district in which the extraction activity is located.
- (3) No storage or truck parking shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any other adjacent property.
- (4) All of the operation shall be screened with a wire fence or uniformly painted wood fence at least six (6) feet in height, with evergreen screen planting on any side adjacent to a residentially zoned property other than the "AR" District.
- (5) No part of the operation or removal shall take place closer than one hundred (100) feet from the nearest property lines.
- (6) As the natural resources are being removed, the property shall be restored by the replacement of topsoil where feasible; and all excavations shall be sloped to a gradient with not more than thirty (30) degree slope or the angle of repose and the contour be caused to blend as nearly as possible with the natural surroundings. The excavation area shall be planted with a suitable ground cover sufficient to control erosion.
- (7) All truck operations shall be directed away from residential streets and utilize county primary roads whenever possible.
- (8) The Planning Commission may require such bond as deemed necessary to insure that

requirements are fulfilled and may revoke permission to operate at any time specified conditions are not maintained.

- (9) Topsoil or sand may be removed from a lot without authorization from the Planning Commission for the purpose of erecting or constructing a building or structure on the lot, provided there is compliance with all other requirements of this Ordinance. In addition, topsoil or sand may be removed from one part of a lot to another part if such action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs, soil erosion or possible future injury to adjoining property, including water runoff.
- (10) The applicant shall secure all necessary permits from the Township, county, state and federal authorities prior to the start of any excavating, mining or construction activities.

Sections 5.02(p) is amended to read as follows:

- (p) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements are met:
 1. A public kennel shall be located on a parcel with at least four hundred (400) feet of frontage and at least five (5) contiguous acres without division by road.
 2. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.
 3. All kennels shall be operated in conformance with all applicable Cass County, township, state and federal regulations.
 4. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
 5. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
 6. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.
 7. Exercise yards must be provided for training or exercising, but shall not be used between the hours of 10:00 p.m. and 7 a.m.
 8. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.
 9. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
 10. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.
 11. The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.

12. All animals must be licensed and maintained in a healthful, careful and humane manner and must be provided with annual veterinary care and up to date annually recommended veterinary vaccinations and medications.
13. Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
14. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
15. Kennels may be inspected at any time by the Zoning Administrator.

Section 5.02(q) is amended to read as follows:

- (q) Commercial roadside market stand provided it meets the following requirements:
1. Any temporary buildings or structures associated with the roadside market must be removed from the site at the end of the temporary use.
 2. A suitable off-street parking area shall be established and approved by the Zoning Administrator.
 3. Only one (1) temporary sign shall be permitted on the site, not to exceed thirty-two (32) square feet in size.

Section 5.04(b) is amended to read as follows:

- (b) Side Yard – There shall be two side yards. No side yard shall be less than twenty-five (25) feet; provided, however, that when a side lot line adjoins a street, a minimum yard of thirty (30) feet is required.

SECTION V
AMENDMENTS TO ARTICLE VI,
RESIDENTIAL DISTRICT “R1-A”

Article VI of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article VI remain unchanged.

Section 6.02(e) is amended to read as follows:

- (e) Home occupations or Home Based Businesses as regulated by Section 3.19.

Sections 6.04(a-b) are amended to read as follows:

- (a) Front Yard - There shall be a front yard of not less than thirty-five (35) feet, except for lots located on a lake, stream or water body, in which case the minimum required front yard setback shall equal the average depth of existing front yards on developed lots within two hundred (200) feet of either side of the subject lot, but in no case shall it be less than thirty-five (35) feet.

- (b) Side Yard – There shall be two side yards. No side yard shall be less than twenty (20) feet; provided, however, that when a side lot line adjoins a street, a minimum of twenty-five (25) feet is required. For non-residential principal buildings, minimum side yards of thirty (30) feet on each side are required, unless specified elsewhere in this Ordinance.

SECTION VI
AMENDMENTS TO ARTICLE VII,
RESIDENTIAL DISTRICT “R-1”

Article VII of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article VII remain unchanged.

Section 7.02(b) is amended to read as follows:

- (b) Home occupations or Home Based Business as regulated by Section 3.19.

Section 7.02(e) is amended to read as follows:

- (e) A private kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements are met:
1. A private kennel shall be located on a parcel with at least four hundred (400) feet of frontage and at least five (5) contiguous acres without division by road.
 2. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.
 3. All kennels shall be operated in conformance with all applicable Cass County, township, state and federal regulations.
 4. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
 5. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
 6. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.
 7. Exercise yards must be provided for training or exercising, but shall not be used between the hours of 10:00 p.m. and 7 a.m.
 8. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.
 9. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
 10. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.
 11. The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.
 12. All animals must be licensed and maintained in a healthful and careful manner and

- humane manner and must be provided with annual veterinary care and up to date annually recommended veterinary vaccinations and medications.
13. Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
 14. A kennel shall comply with all applicable Cass County, township, state or federal regulations.
 15. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor. All animals must receive annual and up to date veterinary care.
 16. Kennels may be inspected at any time by the Zoning Administrator.

Section 7.04(b) is amended to read as follows:

- (b) Side Yard – There shall be two side yards. No side yard shall be less than thirteen (13) feet; provided, however, that when a side lot line adjoins a street, a minimum of twenty (20) feet is required. For non-residential principal buildings, minimum side yards of thirty (30) feet on each side are required, unless specified elsewhere in this Ordinance.

SECTION VII
AMENDMENTS TO ARTICLE VIII,
LAKE RESIDENTIAL DISTRICT “L-R”

Article VIII of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article VIII remain unchanged.

Section 8.02(b) is amended to read as follows:

- (b) Home occupations or Home Based Business, as regulated in Section 3.19.

Section 8.02(e) is amended to read as follows:

- (e) Public parks and community centers, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

Section 8.04 is amended to read as follows:

SECTION 8.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements:

- (a) Front Yard – For lots located on a lake, stream or water body, the minimum required front yard setback shall equal the average depth of existing front yards on developed lots within two hundred (200) feet of either side of the subject lot. In no case shall the front yard setback be less than thirty-five (35) feet. An accessory building shall not be permitted in the front yard (lake side), except as provided in Section 8.02.
- (b) Side Yard – There shall be two side yards. No side yard shall be less than ten (feet);

provided, however, that when a side lot line adjoins a street, a minimum yard of fifteen (15) feet is required. For non-residential principal buildings, minimum side yards of twenty-five (25) feet on each side are required, or as specified elsewhere in the ordinance.

- (c) Rear Yard - There shall be a rear yard of at least thirty (30) feet. Where the lot is located on a lake, stream or water body, the street frontage is considered to be the rear yard; in such case, accessory buildings are permitted and shall be not less than thirty (30) feet from the street right-of-way.
- (d) Lot Area - There shall be a lot area of at least twelve thousand (12,000) square feet; provided that where public or community sewer is installed, the lot area may be reduced to nine thousand, six hundred (9,600) square feet and provided the new or existing home is connected to the sewer.
- (e) Lot Width - The minimum lot width at the setback line shall be eighty (80) feet.
- (f) Floor Area - There shall be minimum floor area of one thousand (1,000) square feet. Dwellings having more than one story shall have a ground floor area of at least seven hundred (700) square feet.
- (g) Storm-related run-off water from roofs, downspouts, and any paved surface shall not discharge directly into a lake or stream or an adjacent property. Development shall comply with Section 3.14 of this Ordinance.

SECTION VIII
AMENDMENTS TO ARTICLE IX
RESIDENTIAL DISTRICT “R-2”

Article IX of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article IX remain unchanged.

Section 9.04(b) is amended to read as follows:

- (b) Side Yard - There shall be two side yards. No side yard shall be less than (10) feet; provided that where a side lot line adjoins a side street, a minimum side yard of fifteen (15) feet is required. For non-residential principal buildings, minimum side yards of twenty (20) feet on each side are required, or as specified elsewhere in the ordinance.

SECTION IX
AMENDMENTS TO ARTICLE X
MANUFACTURED HOME PARK DISTRICT “M-H”

Article X of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article X remain unchanged.

Section 10.02(b) is amended to read as follows:

- (b) Home occupations or Home Based Business as regulated in Section 3.19.

SECTION X
AMENDMENTS TO ARTICLE XA
MULTI-FAMILY RESIDENTIAL DISTRICT “MFR”

Article XA of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XA remain unchanged.

Section 10A.05(b) is amended to read as follows:

- (b) Every apartment and office building shall be connected to a public sanitary sewer system if it is available. If a public sanitary sewer system is not available, such buildings may be connected to a private septic system certified and approved by the Cass County Health Department.

SECTION XI
AMENDMENTS TO ARTICLE XI
COMMERCIAL/SERVICE DISTRICT “C-1”

Article XI of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XI remain unchanged.

Section 11.02(d) is amended to read as follows:

- (d) Establishments which perform services within a completely enclosed building such as: beauty and barber shops; watch, radio, television, clothing and shoe repair; locksmiths; pet groomers, photo processing outlets; and similar establishments.

Section 11.03(b)(5) is amended to read as follows:

- 5. All vending machines shall be located within a completely enclosed structure.

SECTION XII
AMENDMENTS TO ARTICLE XIA
GENERAL COMMERCIAL DISTRICT “C-2”

Article XIA of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XIA remain unchanged.

Section 11A.03(k)(2)(d) is amended to read as follows:

- (d) Not cause traffic congestion by utilizing service roads, minimizing the number of new curb cuts, and increasing the distances between proposed and existing curb cut.

Section 11A.04(b) is amended to read as follows:

- Front Yard. There shall be a front yard of not less than seventy-five (75) feet. No accessory

building or uses other than parking or authorized signs shall be permitted in the front yard; provided that no parking areas are located closer than ten (10) feet of any road right-of-way line. Landscaping is required in this area.

SECTION XIII
AMENDMENTS TO ARTICLE XII
LIGHT INDUSTRIAL DISTRICT “I-1”

Article XII of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XII remain unchanged.

Section 12.02(w) is amended to read as follows:

(w) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure that the standards of Section 5.02(p) are met.

SECTION XIV
AMENDMENTS TO ARTICLE XIII
HEAVY INDUSTRIAL DISTRICT “I-”

Article XIII of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XIII remain unchanged.

Section 13.02(t) is amended to read as follows:

(t) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure that the standards of Section 5.02(p) are met.

Section 13.04(b) is amended to read as follows:

(b) Side Yard – There shall be two side yards. No side yard shall be less than twenty (20) feet. However, when a side yard abuts a residential zone; the side yard shall be at least fifty (50) feet per side.

Section 13.04(d) is amended to read as follows:

(d) Lot Area - There shall be a lot area of not less than twenty-one thousand seven hundred eighty (21,780) square feet; provided that where a public sewer service is installed, the lot area may be reduced to eighteen thousand (18,000) square feet and provided the new or existing use is connected to the sewer.

SECTION XV
ADDITION OF NEW ARTICLE XIII-A
WATERFRONT OVERLAY DISTRICT

The Ontwa Township Zoning Ordinance is amended to include a new Article XIII-A, which shall be added after Article XIII and reads as follows:

ARTICLE XIII-A – WATERFRONT OVERLAY DISTRICT

SECTION 13A.01 PURPOSE AND INTENT. The purpose and intent of the Waterfront Overlay District is to preserve and protect the safe and healthful conditions on all lands near the edge of all lakes, rivers, tributary streams and wetlands as set forth below. It is further the purpose and intent of this district to ensure that the Township is provided with sufficient information to properly evaluate the impact of proposed developments and land uses on the Township's lakes, rivers, tributary streams and wetlands. These regulations seek to balance the protection of the ecosystem while enabling low-intensity development where appropriate.

SECTION 13A.02 APPLICABILITY. The requirements of this overlay district are in addition to and shall supplement those imposed on the same lands by the provisions of the underlying zoning district. All uses requiring site plan review, special land uses, subdivisions and site condominiums shall be subject to the requirements of this Section. The provisions of this Article do not apply to single-family residential uses and accessory uses ordinarily associated with single-family residences such as accessory buildings and home occupations.

(a) The Waterfront Overlay District shall consist of all properties within 500 feet of the following bodies of water in Ontwa Township, as illustrated on the Township Zoning Map:

- 1) Pleasant Lake
- 2) Spring Lake
- 3) Cobert Lake
- 4) Eagle Lake
- 5) Christiana Lake
- 6) Juno Laker
- 7) Garver Lake
- 8) Christiana Creek
- 9) Cobus Creek

SECTION 13A.03 WETLANDS. An applicant planning to make any improvements or changes to a regulated wetland within the district must obtain a permit from the DEQ in accordance with Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act, PA 451 of 1994.

SECTION 13A.04 PERMITTED AND SPECIAL LAND USES. Except for those uses that are prohibited in Section 13A.05(b), all land uses permitted by right or by special land uses in the underlying district shall continue to be permitted by right or by special land use in the Waterfront Overlay District, subject to the additional requirements of this Article.

SECTION 13A.05 ADDITIONAL REGULATIONS. The following regulations shall apply to that part of any property that is within the Waterfront Overlay District:

- (a) Lot Coverage. No more than 35% of the area of that part of a lot within the Waterfront Overlay shall be occupied by impervious surfaces. The Zoning Administrator or Planning Commission may permit an applicant to exceed this standard if the applicant demonstrates that uses permitted either by right or special land use would be otherwise unfeasible.
- (b) Prohibited Uses. All uses whose main services require the handling, use, production/manufacturing, creating, or disposal of hazardous, toxic or flammable substances including but not limited to: petroleum products, pesticides, herbicides, solvents, radioactive materials, biological wastes, caustic, corrosive or flammable liquids, or similar materials shall be prohibited on parcels that are entirely or partially in the Waterfront Overlay District.

SECTION 13A.06 SITE PLAN REVIEW STANDARDS

(a) Site Plan Requirements

- 1) Additional Materials Necessary. When site plan review and approval is required for a property that is entirely or partially within the Waterfront Overlay District pursuant to Article XVI of this Ordinance, the site plan shall include the following additional materials, in addition those required by Article XVI:
 - a. The location of the ordinary high water mark, if applicable;
 - b. The location of any 100-year floodplain or special flood hazard areas on the subject property;
 - c. A written narrative describing how the applicant will prevent erosion, manage stormwater runoff and protect wetlands, lakes and streams from erosion and pollution, and generally meet the intent of this Article. If the site plan is approved pursuant to Article XVI of this Ordinance, the written narrative shall become part of and a condition of such site plan approval.
- 2) Additional Review Criteria/Performance Standards. In addition to the considerations of Section 16.05 of this Ordinance, the Planning Commission shall also consider the following criteria when reviewing a site plan for a property that is entirely or partially within the Waterfront Overlay District:
 - a. That the proposed use, including all buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon adjacent bodies of water, streams, wetlands or the groundwater supply.

- b. That as many natural features of the landscape are retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining bodies of water, streams and/or wetland areas.
- c. That any adverse effect of the proposed development and activities emanating therefrom upon adjacent bodies of water, streams or wetlands is minimized to the greatest extent practicable.
- d. That a plan for storm water discharge and soil erosion control has been approved by the appropriate public agency and is designed to minimize adverse effects upon adjacent bodies of water, streams, wetlands or the groundwater supply.
- e. The general relationship to shore and river preservation principles where appropriate, and the extent which the site plan is consistent with the intent and purpose of this Article.
- f. That all applicable local, regional, State and federal regulations are met. Where feasible, all permits shall be submitted to the Township before any earthwork or construction activities take place.

SECTION XVI
AMENDMENTS TO ARTICLE XV
PLANNED UNIT DEVELOPMENT (PUD)

Article XV of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XV remain unchanged.

The first paragraph in Section 15.07(c) is amended to read as follows:

- (c) PRELIMINARY SITE DEVELOPMENT PLAN - SUBMISSION AND CONTENT: Following the above conference or conferences, copies of a Preliminary Site Development Plan and completed application for a PUD rezoning request shall be submitted. The submission must be complete with all required documents and shall be made to the Zoning Administrator at least thirty (30) days prior to the next scheduled Planning Commission meeting. The Zoning Administrator shall present the preliminary site plan to the Planning Commission for consideration at a regular or special meeting. The plan shall be accompanied by a completed application form and fee as determined by the Township Board. The Preliminary Site Development Plan shall contain the following information:

The first paragraph of Section 15.11 is amended to read as follows:

After receiving the PUD rezoning and Preliminary Site Development Plan approval from the Township Board, the applicant shall submit a complete Final Site Development Plan, which includes complete documentation that all of the preliminary site development plan

recommendations or conditions have been met and are ready for final review. Approval by the Planning Commission must be obtained prior to starting any construction.

SECTION XVII
AMENDMENTS TO ARTICLE XVI
SITE PLAN REVIEW

Article XVI of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XVI remain unchanged.

Section 16.02 is amended to read as follows:

SECTION 16.02. SCOPE. A building permit shall not be issued by for any principal use other than a single family home until a site plan has been reviewed and approved in accordance with this Article.

Section 16.03 is amended to read as follows:

SECTION 16.03. APPLICATION PROCEDURES. A complete application for Site Plan Review, plus either a preliminary or final site plan, shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting to the Zoning Administrator. The Zoning Administrator will review the application and plans for completeness, and if complete, shall transmit the site plan to the Planning Commission.

Section 16.04 is amended to read as follows:

SECTION 16.04. PRELIMINARY PLAN REVIEW. Preliminary sketches (ten copies) of the proposed site and development plans may be submitted to the Zoning Administrator for review by the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such plans shall include the following, as deemed necessary by the Building Administrator:

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area. A professional survey may be required by the Zoning Administrator or Planning Commission.
- (c) A generalized map showing any existing or proposed arrangement of:
 - (1) Streets
 - (2) Lot
 - (3) Access points
 - (4) Other transportation arrangements
 - (5) Buffer strip screenings

- (6) Natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills and similar natural assets
- (7) Signs - location and lighting
- (8) Buildings
- (9) Parking areas

(d) A narrative describing:

- (1) The overall objectives of the proposed development.
- (2) Number of acres or square feet allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
- (3) Dwelling unit densities by type.
- (4) Proposed method of providing sewer and water service, as well as other public and private utilities.
- (5) Proposed method of providing storm drainage, or soil erosion. The Zoning Administrator may require a professional stormwater, drainage or soil erosion plan be completed.

In addition to the above, said applicant shall submit a fee in accordance with the fee schedule established by the Township Board to cover the normal and specially incurred expenses of the Planning Commission. One half (1/2) of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan.

Section 16.05(c) is amended to read as follows:

- (c) Sewer, water, storm drainage and soil erosion, with reference to location, availability and compatibility.

Section 16.06(c)(8) is amended to read as follows:

- (8) Location and type of drainage, sanitary sewers, storm sewers, detention or retention ponds, and other utilities.

SECTION XVIII
AMENDMENTS TO ARTICLE XIX SIGNS

Article XIX of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XIX remain unchanged.

Section 19.02(k)(1) is amended to read as follows:

- 1. It may not be located within a street right-of-way.

Section 19.02(k)(5) is amended to read as follows:

- (5) The sign is used by a nonprofit organization, church or governmental entity to publicize nonprofit temporary events. No fee shall be required for a nonprofit organization.

SECTION XIX
AMENDMENTS TO ARTICLE XX
ADMINISTRATION AND ENFORCEMENT

Article XX of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XX remain unchanged.

Section 20.02 is amended to include the following introductory paragraph, which reads as follows:

SECTION 20.02 CERTIFICATION OF ZONING COMPLIANCE.

It is the intent and purpose of this Section to establish a process for issuing permits granted pursuant to this Ordinance. A Certificate of Zoning Compliance, issued by the Zoning Administrator pursuant to this Section, shall indicate that the uses and plans for which the Zoning Permit is requested comply with this Ordinance. Upon the issuance of a Certificate of Zoning Compliance, an applicant may erect a building or structure only for which the Certificate of Zoning Compliance has been issued, and only after receiving a Building Permit from the Building Inspector and co-signed by the Zoning Administrator.

Section 20.02(a) is amended to read as follows:

- (a) Certificate Required. It shall be unlawful to construct, enlarge, alter or permit the use or occupancy of a building or structure or change the use of a building until a Certificate of Zoning Compliance has been issued by the Zoning Administrator. The Certificate shall state that the building, structure, lot and use thereof conform to the requirements of the Ordinance.

Further, no excavation shall be initiated, no construction may begin, no building shall be erected, altered, moved, razed and no structural alterations (including but not limited to porches, deck, patios, terraces) shall be initiated until a Certificate of Zoning Compliance has been issued by the Zoning Administrator and where required, a Building Permit has been issued by the Building Inspector. A building permit shall not be issued until a Zoning Compliance permit has been issued pursuant to this Ordinance.

No Certificate of Zoning Compliance shall be issued for any building or land use where the construction, addition or alteration, or use thereof would be in violation of this Ordinance, except upon written authorization of the Board of Zoning Appeals. An application for a Certificate of Zoning Compliance shall be available from the Zoning Administrator.

Section 20.02(b) is amended to read as follows:

- (b) An application for a Certificate of Zoning Compliance shall be filed by the Owner or his or her agent and it shall state the intended use of the land, structure, or building. In order to determine whether a proposed use, building, or structure complies with the requirements of this Ordinance, the Zoning Administrator shall require, at a minimum, the following information as applicable be submitted with the application.
 - (1) Proof of ownership of the lot or premises.
 - (2) Location, dimensions, and size of the lot or premises.
 - (3) Either a Site Plan or a Plot Plan according to the provisions of Article XVI of this Ordinance.
 - (4) For a permit for buildings, a written notice of acceptance or hook up fee receipt is required if public sanitary sewer service is available or required by local or state law. If public sanitary sewer service is not available, a written report from the Cass County Health Department certifying the approval of a private septic system is required.
 - (5) When a public or private water supply system is required by law or proposed by the applicant, either a written notice of acceptance from the Cass County Health Department or other approval from applicable agencies is required. When use of a public water supply is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.
 - (6) A drawing illustrating the location of the building or structure, the distance from all lot lines, the right-of-way of abutting streets, the location and number of parking spaces, and the location and type of use of buildings on adjacent land.

The Zoning Administrator may require additional materials to aid in determining whether a proposed use, building or structure complies with this Ordinance.

A new Section 20.03 is added to Article XX, which section shall read as follows:

SECTION 20.03 FEES AND APPLICANT ESCROWS

- (a) The Ontwa Township Board may establish by resolution, fees for appeals, applications for amendments, special uses, site plan reviews, land use permits, variances, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township Hall and may be altered only by resolution of the Township Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
- (b) If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under subsection (a) above will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit with the Township Treasurer such additional zoning fees in an amount

determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs.

- (c) These additional fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

SECTION XX
AMENDMENTS TO ARTICLE XXI
BOARD OF APPEALS

Article XXI of the Ontwa Township Zoning Ordinance is amended as referenced below. All other parts of Article XXI remain unchanged.

Section 21.08 is amended to read as follows:

SECTION 21.08. VARIANCES PROHIBITED.

No variance in the provisions or requirements of this Ordinance shall be approved by the Board of Appeals unless it finds from reasonable evidence that such variance meets all of the standards below:

- 1) That the requested variance is not contrary to the public interest or to the intent and purpose of this Ordinance.
- 2) That the requested variance is not necessitated by any self-created condition or action taken by the applicant or property owner.
- 3) That there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
- 4) That the variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district. Increased financial return shall not be deemed sufficient to warrant a variance.

Section 21.12 is amended to read as follows:

SECTION 21.12 FEES.

The Township Board may establish fees for applications to the Zoning Board of Appeals in accordance with Section 20.03.

Section 21.15 is amended to read as follows:

SECTION 21.15 MINUTES AND RECORDS

The Secretary or his/her designee shall keep minutes of the Board of Appeals proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The Secretary shall keep records of the Board of Appeals examinations and official actions, all of which shall be filed with the Township Clerk and be a public record. The grounds for determination made shall be so stated in any motion of approval or denial. A copy of each determination shall be sent to the Zoning Administrator and to the Planning Commission. No building permit shall be issued until such copy has been received by the Zoning Administrator.

SECTION XXI
SEVERABILITY AND CAPTIONS

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

SECTION XXII
REPEAL

Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

SECTION XXIII
EFFECTIVE DATE

This Ordinance is ordered to take effect seven (7) days following publication of adoption in The Edwardsburg Argus, a newspaper having general circulation in the Township, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

Teri McNaughton, Clerk
Ontwa Township