

**Hayes Township**  
**Ordinance Number \_\_\_\_ of 2015**

An Ordinance to amend Articles I, II, III, IV, V and VII of the Hayes Township Zoning Ordinance.

**The Township of Hayes Ordains:**

**Section 1. Amendment of Article I, to add Section 1.07**

Article I of the Hayes Township Zoning Ordinance is hereby amended to add Section 1.07 to read in its entirety as follows:

**Section 1.07 - Jurisdiction**

This ordinance shall apply to the land, buildings, yards, wetlands, woodlands and shoreline within the township, including riparian lands and bottomlands of an inland lake, and shall be concurrent with other governmental entities having jurisdiction thereover. The concurrent jurisdiction of other governmental entities shall not limit the jurisdiction of the Township to regulate lands or activities within the township.

**Section 2. Amendment of Article II, Section 2.02 Definitions**

Article II of the Hayes Township Zoning Ordinance, Section 2.02 Definitions is hereby amended to modify the following definitions, in appropriate alphabetical order, to read in their respective entireties as follows:

**Accessory Building or Structure:** Any building or structure that is customarily incidental and subordinate to the use of the principal or main building or structure, or a structure which is intended to be supplemental to an allowed use to be added in the future; accessory structures shall include but are not limited to, accessory buildings, personal freestanding television and radio reception antennas, satellite dishes and signs. An accessory structure attached to a main building or structure shall be considered part of the main structure.

**Lot Line, Front:** In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the property line separating such lot from such street right-of-way. In the case of a lot having frontage upon a lake, river or stream, the water frontage at the Ordinary High Water Mark shall be considered the front lot line.

**Setback:** The minimum required horizontal distance from the applicable right-of-way line, easement, Ordinary High Water Mark or property line of a lot within which no buildings or structures may be placed, except as otherwise provided in this Ordinance.

**Shoreland Protection Strip:** A strip of land fifty feet in depth landward from the Ordinary High Water Mark, placed so as to be parallel to the body of water.

**Section 3. Amendment of Article II, Section 2.02 Definitions**

Article II of the Hayes Township Zoning Ordinance, Section 2.02 Definitions is hereby amended to add the following definitions in appropriate alphabetical order to read in their entirety as follows:

**Boat:** For purposes of this Ordinance, a boat shall include all motorized watercraft (or any moored or docked motorized sailboat). A boat shall not include windsurfers,

inflatable craft (unless it is motorized), non-motorized canoes and kayaks. Further, a personal watercraft or “jet ski” shall be equal to ½ boat for the purpose of calculating number of boats.

**Boat Parking Space:** A docking space, slip, marina space, mooring, or any other in-water location designed and used to accommodate a boat.

**Marina:** A facility which extends into or over a lake or stream and that is owned or operated to offer service to the public or members of an association for docking, loading or other servicing of recreational watercraft.

**Permeable surface:** Any surface that allows the absorption of water into the ground, including but not limited to: non-compacted gravel, grass paver blocks, pavers without mortar joints, porous paving material or other similar materials that allow water to be absorbed into the ground through its surface.

#### **Section 4. Amendment of Article III, General Provisions, Section 3.02.2 Nonconformities**

Article III of the Hayes Township Zoning Ordinance, Section 3.02.2 Nonconformities is hereby amended to read in its entirety as follows:

2. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a nonconforming use. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition. This Ordinance shall not prohibit the repair, improvement or modernization of a nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided the structure’s spatial envelope (the building footprint and vertical profile) remains the same.

#### **Section 5. Amendment of Article III, General Provisions, Section 3.02 Nonconformities**

Article III of the Hayes Township Zoning Ordinance, Section 3.02 Nonconformities is hereby amended to add a new subsection 9 to read in its entirety as follows:

9. A nonconforming structure may be enlarged or altered, provided that such enlargement or alteration does not increase the degree or extent of the nonconformity of such structure.

#### **Section 6. Amendment of Article III, General Provisions, Section 3.05.7 Accessory Buildings**

Article III of the Hayes Township Zoning Ordinance, Section 3.05.7 Dimensional and Approval Requirements for the Accessory Buildings (chart) is hereby amended to revise the following two cells of the chart:

- The setback for accessory buildings (row 2) for the R-2 and R-3 Zoning Districts (column 5) to read in its entirety as follows:

“Meet district setbacks and must be located closer to the principal structure than to the road right of way <sup>(a)</sup>”
- Approval Requirements (row 6) for the A-1 Zoning District (column 2) to read in its entirety as follows:

“ZA, Zoning Permit”

**Section 7. Amendment of Article III, General Provisions, Section 3.05.8 Accessory Buildings as a Principal Use, except on small parcels**

Article III of the Hayes Township Zoning Ordinance, Section 3.05.8 Accessory Building as a Principal Use is hereby amended to read in its entirety as follows:

8. Accessory Building as a Principal Use, except on small parcels

One (1) accessory building as a Principal Use shall be allowed per lot in all districts when all of the following are met:

- A. Parcel is at least one (1) acre in size.
- B. Parcel meets the lot area and width requirements specified Section 4.13, or is a nonconforming lot of record.
- C. Front and rear minimum setbacks shall be one hundred (100) feet; and side minimum setback shall be twenty-five (25).
- D. Accessory building maximum size and height shall comply with the provisions of the chart in Section 3.05.7.

**Section 8. Amendment of Article III, General Provisions, Section 3.09 Storm Water Retention**

Article III of the Hayes Township Zoning Ordinance, Section 3.09 Storm Water Retention is hereby amended to read in its entirety as follows:

**Section 3.09 Storm Water Retention**

The property owner of any property which is changed or developed in any manner, shall be required to manage the stormwater such that the post-development runoff shall not increase the quantity, rate or velocity of stormwater leaving the property above the pre-development or natural conditions levels and shall not cause erosion. Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Charlevoix County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the Township Zoning Ordinance and the Charlevoix County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch, i.e.US-31.

**Section 9. Amendment of Article III, General Provisions, Section 3.14.1B Waterfront Regulations**

Article III, General Provisions, Section 3.14.1.B Waterfront Regulations of the Hayes Township Zoning Ordinance is hereby amended, to read in its entirety as follows:

- B. For any new construction or renovation of a nonconforming structure located on a waterfront lot, the establishment, restoration and/or maintenance of a shoreland protection strip shall be required. The shoreland protection strip shall include all of the land area located within fifty (50) feet of the Ordinary High Water Mark abutting or traversing the property in question. The purpose of the strip is to protect the lake by preventing soil erosion, providing a filter for the

removal of pesticides, fertilizers and other potential water pollutants, and to maintain a visual barrier. Within the shoreland protection strip, the following development or use restriction shall apply:

**Section 10. Amendment of Article III, General Provisions, Sections 3.14.2.A and 3.14.2B Waterfront Regulations**

Article III, General Provisions Section 3.14.2.A and 3.14.2.B Waterfront Regulations of the Hayes Township Zoning Ordinance are hereby amended, to read in their respective entireties as follows:

- A. Except as provided herein, no structures, shall be allowed within one hundred (100) feet of the Ordinary High Water Mark on Lake Michigan and Lake Charlevoix, and within eighty (80) feet of the Ordinary High Water Mark of Susan Lake, and such excepted facilities shall meet the side yard setback for the district in which they are located. One at-grade permeable surface patio/deck, not to exceed two hundred (200) square feet may be located landward of the Shoreland Protection Strip following review and approval by the Zoning Administrator. No portion of the at-grade patios/deck shall be located more than two feet above the natural grade. No fill or excavation shall be permitted. Launching ramps and shoreline retaining structures may be permitted with appropriate agency approvals.
- B. Walkways or stairs for water access not exceeding four (4) feet in width shall be allowed, provided such means of access are constructed of permeable surface materials, wood or other natural materials.

**Section 11. Amendment of Article III, General Provisions, Section 3.14.4 Waterfront Regulations**

Article III, General Provisions, Section 3.14.4 Waterfront Regulations, of the Hayes Township Zoning Ordinance is hereby amended, to read in its entirety as follow:

- 4. Docks and Boat Parking on Inland Lakes
  - A. A maximum of one dock shall be permitted for each waterfront lot, except for properties upon which a marina is permitted by all of the following: the Hayes Township Zoning Ordinance, the Michigan Department of Environmental Quality (MDEQ), and the U.S. Army Corps of Engineers (USACE).
  - B. One shared dock serving two (2) adjacent waterfront parcels owned by separate individuals, may be placed on the common shared property line upon filing with Hayes Township a letter of agreement signed by both property owners. No additional docks shall be allowed for the two (2) lots or parcels in addition to the approved one (1) shared dock.
  - C. A shared dock for a multiple family development, such as Planned Unit Development or Condominium project, may be allowed as part of a site plan approval with Planning Commission approval and subject to the requirements of Section 3.14.5 Limitation of Funnel Development.
  - D. Except for lawfully existing club or association marinas and marinas approved under this ordinance, not more than three (3) boat parking spaces may be provided for each one hundred (100) feet of lake frontage at any time in any zoning district in the township. Undocked boats may be stored elsewhere on a residential lot only in conformance with the requirements of this ordinance. Any

boat moored at or stored on a lot within any residential district shall be owned by the owner of the lot and/or a person with the legal right to occupy said lot.

- E. Each dock, and any associated deck, boat hoist, mooring anchor or other means of non-temporary anchorage shall be setback at least fifteen (15) feet from the riparian boundary line as projected into the water under the laws of the State of Michigan.
- F. Dock lighting for safety and navigational purposes are allowed. All lighting shall comply with Section 3.20, and shall be further limited to a maximum height not to exceed four (4) feet, above the dock surface.
- G. Any damage caused to the Shoreland Protection Strip during the process of installing or removing seasonal docks, shall be repaired within 30 days.
- H. All permits required by the MDEQ, USACE, Hayes Township, and other applicable entities must be obtained prior to the construction or modification of docks or marinas.

### **Section 12. Amendment of Article III, General Provisions, Section 3.14.5 Waterfront Regulations**

Article III, General Provisions, Section 3.14.5 Waterfront Regulations of the Hayes Township Zoning Ordinance is hereby amended, to read in its entirety as follow:

- 5. **Limitation of Funnel Development**  
Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit, including any unit located on the waterfront lot, shall use or be permitted to use each one hundred (100) feet of lake or stream frontage as measured along the Ordinary High Water Mark. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational uses of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.

### **Section 13. Amendment of Article III, General Provisions, Section 3.16 Fences, walls and Hedges**

Article III, General Provisions, Section 3.16 Fences, Walls and Hedges of the Hayes Township Zoning Ordinance is hereby amended, to read in its entirety as follow:

#### **Section 3.16 Fences, Walls and Hedges**

Fences, walls, or hedges may be permitted on any property in any District, provided that no fence, or wall exceed a height of six (6) feet, except where specifically allowed by this Zoning Ordinance, and shall be no closer than five (5) feet to the front property line or road right-of-way, and further provided such fence, wall or hedge shall not obstruct sight distances needed for safe vehicular traffic, nor create a hazard to traffic or pedestrians. Fences may be located on the lot line in the side or rear yards. Fences shall not exceed four (4) feet in height within the front yard for a waterfront property. Where a lot borders a lake or stream, fencing shall not be constructed on the waterfront side within the required fifty (50) foot shoreland protection strip; provided however, except when the lot is immediately adjacent to a municipal park located on a lake, a maximum six foot fence shall be allowed, provide the fence is at least 50% open.

## **Section 14. Amendment of Article III, Section 3.20 Outdoor Lighting**

Article III, General Provisions, Section 3.20 Outdoor Lighting of the Hayes Township Zoning Ordinance is hereby amended, to read in its entirety as follow:

### **Section 3.20 Outdoor Lighting**

In order to minimize light pollution, and promote the dark sky principles, all outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all neighboring properties and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.

The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light fixtures; not adversely impact neighboring properties and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.

## **Section 15. Amendment of Article IV, Zoning Districts and Map, Section 4.13 Schedule of Regulations**

Article IV, Zoning Districts, Section 4.13 Schedule of Regulations of the Hayes Township Zoning Ordinance is hereby amended to add a reference to footnote 'g' in the chart, pertaining to the side yard setback for the A-1 district only.

## **Section 16. Amendment of Article IV, Zoning Districts and Map, Section 4.13 Schedule of Regulations to add footnote g**

Article IV, Zoning Districts, Section 4.13 Schedule of Regulations of the Hayes Township Zoning Ordinance is hereby amended to add footnote 'g' to read in its entirety as follows:

- g. The side yard setback for a single family dwelling shall be reduced to twenty-five (25) feet.

## **Section 17. Amendment of Article V, Site Plan Review, Section 5.03.5.A Standards for Granting Site Plan Approval**

Article V, Section 5.03.5.A Standards for Granting Site Plan Approval of the Hayes Township Zoning Ordinance is hereby amended to read in its entirety as follows:

- A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below, unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. These standards are listed in subsection 1-11 listed below.

**Section 18. Amendment of Article V, Site Plan Review, Section 5.03.5.A.10 Standards for Granting Site Plan Approval**

Article V, Section 5.03.5.A.10) Standards for Granting Site Plan Approval of the Hayes Township Zoning Ordinance is hereby amended to read in its entirety as follows:

- 10) All streets shall be developed in accordance with any adopted Township private road standards, or if a public road, the County Road Commission specifications.

**Section 19. Amendment of Article VII, Supplemental Site Development Standards, Section 7.01.15.B.1) Resource Mining, Extraction and Fill**

Article VII, Section 7.01.15.B.1) Resource Mining, Extraction and Fill of the Hayes Township Zoning Ordinance is hereby amended to read in its entirety as follows:

- 1) LEVEL 1 - No Site Plan Review or Permit shall be required if the subject property is not waterfront property and if:
  - a) The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
  - b) The operation involves minor or incidental earth work in connection with a residential building construction, residential site improvements including driveways or agriculture project, i.e. berm, regraded slopes, retention ponds, and/or similar work.
  - c) The fill/extraction operation will not involve more than 200 cubic yards of topsoil, sand, clay, gravel and/or similar material.

**Section 20. Severability.**

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed 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.

**Section 21. Conflicts.**

If any provision of the Hayes Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of this Zoning Ordinance Amendment shall control.

**Section 22. Effective Date.**

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

**Township of Hayes**

By: Ethel Knepp, Supervisor  
Adoption date: \_\_\_\_\_

By: Marlene Golovich, Clerk  
Effective date: \_\_\_\_\_