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DATE: May 16, 2018
TO: Planning Commission
FROM: Zach Michels, Director of Planning & Zoning
RE: Zoning Ordinance Review

Zoning Ordinance - Common Use Access Lots & Outdoor Furnaces

The Planning Commission forwarded a draft zoning ordinance to the Township Board on August 22, 2017, with a favorable recommendation. The Township Board has been reviewing the draft document since that time. At recent meetings, the Township Board has decided to remand several sections of the draft document back to the Planning Commission for further attention. Those sections include §16.105: Outdoor Furnaces; §17.30: Wetlands; §17.40: Water Quality and Quantity; and §13.40(G): Common Use Access Lots.

At its March 27, 2018, meeting, the Planning Commission reviewed and made changes to §16.105: Outdoor Furnaces and §17.03: Wetlands. After discussing §13.40: Common Use Access Lots, the Planning Commission created an ad-hoc committee to further study the issue. The committee included Vice-chair Ehman, Secretary Lewis, and Planning Commissioner Nester.

Planning staff did not meet with this committee but has provided some feedback to some questions asked by the committee.

At its April 24th meeting, the Planning Commission decided to review the common use access lots and outdoor furnaces at its May 22nd meeting.

This report provides basic information about the applicable standards in the current Zoning Ordinance, the standards that were forwarded to the Township Board as part of the draft zoning ordinance, changes that the Township Board has made, changes made by the Planning Commission following remandment, and proposed changes by an ad hoc committee established by the Planning Commission. It will also include attachments of the actual text and other useful information.



Common Use Access Lots

The current Zoning Ordinance has defined standards for common use access lots. These are lots that property owners who do not have frontage on a waterbody use to access the waterbody.

Definition

The current Zoning Ordinance does not include a definition in the definition section. However, it does include the intent of these lots, in §12.04(A), as: *“The intent of the Common Use Residential District is to provide opportunities for the shared use of private riparian land by residents of a development project which such riparian land is intended to serve. This district is intended to manage the use of such riparian land and control the type and intensity of use of the riparian land, protect the environmental quality of such land and abutting waterbodies, and protect adjacent land uses from the negative impacts of such common riparian land usage. It is the intent of this Ordinance that, except in the case of open space communities, no land will be used for shared or common riparian purposes unless specifically zoned for such use under the classification of this District.”*

The draft zoning ordinance defines a common use access lot, §35.10(L)(13), as: *“A lot that provides access to a surface waterbody for more than two (2) dwelling units not located on that lot. The access may or may not include mooring of water craft.”* Waterbodies are further defined in §35.10(W)(4), as: *“Any area that normally has water flowing or standing above ground to the extent that evidence of an ordinary high-water mark is established. Lakes, ponds, whether natural or artificial, rivers, streams, and other watercourses and waters characterized by this definition shall be considered as surface waterbodies.”*

The term has been amended by the ad-hoc committee to *“common use riparian lot.”* The definition promulgated by the ad-hoc committee is: *“A lot abutting a waterway with other lot(s) have a deeded or dedicated right to use to gain access to that contiguous waterway.”*

Planning staff has several concerns with the proposed definition language from the ad-hoc committee. While the term *“riparian”* is commonly used to describe any property that related to a waterbody, it specifically means *“relating to or situated on the banks of a river.”* Littoral means *“relating to or situated on the shore of the sea or a lake.”* Although the definition does reference *“a waterway,”* a term that is not defined in the draft zoning ordinance, it is less than ideal to use a specific term in a manner that differs from its literal meaning. Such an application is ripe for disagreement and litigation and should be avoided whenever possible.



Permitted Districts

Uses can be permitted uses or special land uses. Permitted uses are allowed by right within the designated zoning districts. The Planning Commission has limited ability to place conditions on approval, generally related to the site plan. It can also make it more difficult to require a site plan review/approval. When a use is a special land use, it provides the Planning Commission greater authority to place conditions on approval, based on the specific characteristics of the property, the surrounding area, and public comment. It also requires site plan review/approval.

Currently, this use is only permitted in the Common Use Residential (CU) District, as outlined in §12.04: Common Use Residential District, but there are many locations in the Township where common use access lots are considered and continue to exist as a legally nonconforming use.

The draft zoning ordinance that was forwarded by the Planning Commission makes common use access lots a permitted use in Common Use (CU) Districts and a special land use in Recreation Conservation (RC) Districts, Rural Residential (RR) Districts, and all Lake Residential Districts.

The draft language from the ad-hoc committee does not specifically address the districts in which common use access lots are permitted or special uses.

Location

The current Zoning Ordinance requires the common use lot to be contiguous with the development that accesses the waterbody. §12.04(D)(8)

The draft zoning ordinance that was forwarded by the Planning Commission requires the common use access lot to be contiguous with and abut the development. It also notes that an access easement does not satisfy that standard. §13.40(G)(2).

The draft language from the ad-hoc committee requires the common use access lot to be contiguous with the development. It also adds language related to the waterbody frontage in this section, which appears to be an entirely different metric that belongs in its own section.



Lot Depth

A lot depth for common use access lots helps to prevent narrow strips of land from being used in this manner. If the property is too narrow, it is likely to cause problems with parking, storage, etc, that generate negative impacts on adjacent properties.

The current Zoning Ordinance does not specify a minimum lot depth for common use access lots.

The draft zoning ordinance that was forwarded by the Planning Commission requires a minimum lot depth of 100 feet.

The draft language from the ad-hoc committee requires a minimum lot depth of 100 feet.

Lot Area

The current Zoning Ordinance requires a lot area of at least 2 to 5 acres. §12.04(D)(1)

The draft zoning ordinance that was forwarded by the Planning Commission does not specify a minimum lot area. However, a minimum lot area is essentially defined by the minimum lot depth of 100 feet and the minimum length of shoreline, which are more impactful metrics for this type of use.

The draft language from the ad-hoc committee requires a minimum lot area of 8,000 square feet for the first 5 dwelling units using the common use access lot and an additional 2,000 square feet for each additional dwelling unit using the common use access lot.

Number of Dwelling Units

The number of dwelling units with the ability to use a common use access lot is a very important metric with respect to the potential negative impact on the waterbody.

The current Zoning Ordinance limits the number of dwelling units based on the lot frontage and lot width. The minimum width is 400 feet for lots with direct access to a major or minor thoroughfare and 150 feet for other lots for the first dwelling unit and an additional 30 feet for each additional dwelling unit.

The draft zoning ordinance that was forwarded by the Planning Commission requires a shoreline length of 60 feet for the first dwelling unit and an additional 25 feet for each additional dwelling unit.

The Township Board amended this to require a shoreline length of 100 feet for the first dwelling and an additional 30 feet for each additional dwelling unit.



The draft language from the ad-hoc committee with respect to the dwelling unit/lot width is confusing and potentially contradictory with the language earlier in location. To the best of my understanding, it requires a minimum width of 50 feet. However, it then states that a width of 20 feet allows for up to 5 dwelling units with an additional 5 feet for each additional dwelling unit. This would significantly increase the number of dwelling units able to funnel through a property onto a waterbody.

Watercraft Mooring

The maximum number of watercraft per dwelling unit is intended to limit overcrowding of watercraft on the waterbody and is the most important metric to limit the potential negative impacts on the waterbody.

The current Zoning Ordinance places a limit of 1 watercraft per dwelling.

The draft zoning ordinance that was forwarded by the Planning Commission allowed at least 1 watercraft per dwelling unit but allowed the Planning Commission to permit up to 2 watercraft per dwelling during its review if certain criteria were met.

The Township Board amended this to a maximum of 1 watercraft per dwelling.

The draft language from the ad-hoc committee does not appear to place an upper limit on the number of watercraft for a common use access lot. However, there is language relating to the waterborne access path for the watercraft, which may limit the number of watercraft. Planning staff is concerned that the Zoning Enabling Act does not likely allow for regulation of watercraft operations within a zoning ordinance (*how they travel across the waterbody*) and that this language is extremely vague in its current iteration and likely to cause dispute during interpretation and application.

State Marina Permit

The current Zoning Ordinance does not include any reference to requiring a state marina permit.

The draft zoning ordinance that was forwarded by the Planning Commission requires common use access lots with watercraft facilities to have a state marina permit. It has been noted that the State does not always issue these permits. It has been planning staff's understanding that in such cases, this requirement becomes moot, but it would be possible to revise the language to make that more clear.

The draft language from the ad-hoc committee does not include any reference to requiring a state marina permit.



Dedication

The current Zoning Ordinance, draft zoning ordinance that was forwarded by the Planning Commission, and the draft language from the ad-hoc committee all include language about dedication of the common use access lot for use by specific properties.

Survey of Other Communities

Planning staff has contacted the surrounding communities with waterbodies to collect the standards and processes they have for common use access lots. Hamburg Township shared their standards, which are located in §9.8 of their Zoning Ordinance. The minimum lot area is the same as the surrounding zoning district or 30,000 square feet, whichever is greater. The minimum water frontage is 150 feet for the first property and 50 feet to 100 feet of water frontage for each additional property, depending on the zoning district. There is a maximum of one boat per dwelling unit.

Required Action

The Planning Commission should prepare and provide a report back to the Township Board concerning this section.

Attachments

The following materials are attached to this report for common use access lots:

- §12:04: Common Use Access Lots (*current Zoning Ordinance*);
- §13.40(G) Common Use Access Lots (*compiled August 7, 2017, as forwarded to the Township Board*); &
- §13.40(G) Common Use Access Lots (*as amended by the Township Board*);
- Draft language from the ad-hoc committee; &
- Hamburg Township standards.

Outdoor Furnaces

Outdoor furnaces are boilers that are located outside of a building. They are connected with pipes to provide heating and/or hot water. They are designed to burn wood and some are designed to burn multiple fuels.

The current Zoning Ordinance does not include any specific language for outdoor furnaces. However, they are considered structures, which means that their installation requires issuance of a zoning permit.

The lack of specific standards in the current Zoning Ordinance causes difficulties for both applicants and planning staff. There is absolutely no guidance as to whether or not these structures should be viewed as accessory buildings and held to those standards, or whether they should be viewed as a general accessory structure and held to those standards. Because the potential negative externalities of these types of structures are unique, they really should have specific standards to guide their placement.



In 2011, the Township spent time working on a significant revision to the Township's Burn Ordinance, which would have included standards for outdoor furnaces, but abandoned that effort.

In order to prepare the draft language included in the proposed Zoning Ordinance, staff consulted with that draft Burn Ordinance, similar ordinances from other communities, and the Michigan outdoor burning model ordinance.

Standards for outdoor furnaces could be included in either a zoning ordinance or police power ordinance, as part of a general burn ordinance or as part an ordinance just for outdoor furnaces. Both approaches have benefits and drawbacks.

Including standards in the draft zoning ordinance would allow for more-timely adoption, and it is a place where people are more likely to look for standards. It would also mean that all legally-nonconforming outdoor furnaces would receive the protection of legally-nonconforming structures if they do not comply with the newly-adopted standards.

Including standards in a police power ordinance would likely require more time for adoption and could make it more difficult for people to find. It would mean that the Township would have the option to require any nonconforming outdoor furnaces already in existence to be brought up to the newly-adopted standards in a reasonable amount of time. The Fire Inspector has indicated a desire to improve the Township's current Burn Ordinance.

It would be possible to adopt standards as part of the draft zoning ordinance and remove them in the future if they were incorporated into a police power ordinance.

When considering what standards to adopt, the Planning Commission should be aware that similarly-situated properties need to receive equal protection (*based on size, zoning district, etc*) and that these types of uses can create negative externalities that should be mitigated. If there is a desire to ban it from certain zoning districts, it would then not be possible for property owners to receive variances for outdoor furnaces because Dexter Township cannot grant use variances. It is also useful to remember that it is possible to create smaller lots in the Agriculture (A) District than in the Rural Residential (RR) District, in some situations.

At its meeting on March 27th, the Planning Commission adopted a motion to change this from "*outdoor furnaces*" to "*outdoor wood furnaces.*" Because there are models that are designed to burn multiple types of fuels, planning staff recommends that it be changed back to the more generic "*outdoor furnaces*" to reduce any confusion and to ensure that these standards are applicable to wood and multi-fuel furnaces.



Required Action

The Planning Commission should prepare and provide a report back to the Township Board concerning this section.

Attachments

The following materials are attached to this report for outdoor furnaces:

§16.105: Outdoor Furnaces (*as amended by the Planning Commission on March 27, 2018*);

Redlines indicate changes from the previous version that was forwarded by the Planning Commission on August 22, 2017, and reviewed by the Planning Commission on March 27, 2018.

05.16.2018

Section 12.04: CU: COMMON USE RESIDENTIAL DISTRICT

- A. Intent:** The intent of the Common Use Residential District is to provide opportunities for the shared use of private riparian land by residents of a development project which such riparian land is intended to serve. This district is intended to manage the use of such riparian land and control the type and intensity of use of the riparian land, protect the environmental quality of such land and abutting water bodies, and protect adjacent land uses from the negative impacts of such common riparian land usage. It is the intent of this Ordinance that, except in the case of open space communities (Article 17), no land will be used for shared or common riparian purposes unless specifically zoned for such use under the classification of this District.
- B. Permitted Principal Uses:**
1. Recreation sites dedicated to common use for residents of a platted subdivision or condominium subdivision or other similar entity, or otherwise dedicated to common use under deed restrictions of record, and provided such recreation sites are restricted in use to outdoor open space recreation including, bathing beaches, playgrounds, scenic sites, pedestrian and bicycle trails, access routes other than public or private roads, and similar uses of an open space character.
- C. Permitted Accessory Uses:**
1. Accessory uses and structures customarily incidental to and subordinate to the permitted principle use of the recreation site.
- D. Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the Common Use Residential District unless otherwise modified by the provisions of Article 17: Open Space Community Overlay District; Article 18: General Provisions; or as varied pursuant to Article 4: Zoning Board of Appeals.
1. **Minimum Lot Area:** The minimum lot area for lots which abut, and gain direct access to, a major or minor thoroughfare shall be five (5) acres. All other lots, including lots which gain access by a private road or public road in a platted or condominium subdivision, shall have a minimum lot area of two (2) acres.
 2. **Minimum Lot Frontage and Lot Width:** The minimum lot frontage and width for lots which abut, and gain direct access to, a major or minor thoroughfare shall be four hundred (400) feet. All other lots, including lots which gain access by a private road or public road in a platted or condominium subdivision, shall have a minimum lot frontage and width of one hundred fifty (150) feet.
 - a. A riparian lot in a CU District shall have an additional thirty (30) feet of frontage for each residential lot which is granted use of such CU District lot, including condominium units.
 3. **Minimum Yard and Setback Requirements:**
 - a. **Front yard:** See Section 18.23.
 - b. **Side yard:** Fifteen (15) feet.
 - c. **Rear yard:** Thirty (30) feet.
 4. **Maximum Lot Coverage:** Five (5) percent.
 5. **Maximum Height:** Eighteen (18) feet.
 6. **Watercraft Mooring:** No more than one (1) water craft mooring, including but not limited to a motor boat, sail boat or jet ski, shall be provided for each dwelling unit permitted access to such riparian lot in a CU District.
 7. **Site Plan Approval:** No use of, or construction on any lot in a CU District shall occur prior to the submittal and approval of a site plan pursuant to Article 6 of this Ordinance. In addition to the site plan submittal requirements of Section 6.03(B), the applicant shall submit a copy of the proposed registered deed identifying all lots and dwelling units that have rights to the use of the CU lot and any other proposed deed provisions regarding limitations on the use of or construction upon the CU lot.
 8. One or more lot lines of the CU lot shall be contiguous to and abut the development parcel upon which the residents who share the use of the CU lot reside. An easement or narrow strip of land between the CU lot and the development parcel shall not be interpreted to meet this requirement.
 9. Applicable provisions of **Article 19: Nonconforming Uses, Lots, and Structures; Article 22: Signs; Article 24: Environmental Standards;** and other provisions of this Ordinance as may be applicable.
 10. An owner of non-riparian land shall not access, use, or otherwise cross over riparian land in this District except in compliance with the requirements of this District and Ordinance.

End of Article 12

(F) **Marinas:** Marinas shall meet the additional standards outlined below.

- (1) *State Marina Permit:* Marinas shall have marina permit from the State of Michigan.
- (2) *Setbacks:* Buildings used for fiberglass repair and engine maintenance shall be at least forty (40) feet from all lot lines.
- (3) *Drydock Screening:* Areas used for the outdoor storage of boats shall be screened from adjacent residential districts, streets, and waterbodies.

(G) **Common Use Access Lots:** The intent of common use access lots is to provide for the shared use of private riparian or littoral lots by residents of a development, to discourage the funneling of lake or river access for multiple lots or residences through narrow access points, establish a balanced and orderly relationship between development and the amount of shoreline available for use by residents, and to assure responsible access for lakefront and riverfront developments. Common use access lots shall meet the additional standards outlined below.

- (1) *Application:* This Section shall apply to common areas created as part of a residential subdivision or site condominium, multiple-family dwelling, retirement community, mobile home park, mixed-use development with a residential component, or neighborhood association.
- (2) *Location:* Common use access lots shall be contiguous with and abut the development being served. An easement between the access lot and the development shall not meet this standard.
- (3) *Lot Depth:* Common use access lots shall have a depth of at least one hundred (100) feet.
- (4) *Number of Dwelling Units:* The maximum number of dwelling units that may use a common use access lot shall not exceed the table below. Shoreline length shall not include any artificially created shoreline, such as harbors, boat wells, or canals.

Table 13.40(G)(4): Number of Dwelling Units	
Number of Dwelling Units	Length of Shoreline
a. First unit	60 feet
b. Each additional unit	25 feet per additional dwelling unit

- (5) *Watercraft Mooring:* The maximum number of watercraft moorings for the common use access lot, including, but not limited to, motorboats, sailboats, or jet skis, shall be approved by the Planning Commission in consideration of the characteristics of the common use access lot and the potential negative impacts on the surrounding area. There shall be no more than two (2) watercraft moorings per dwelling unit.
- (6) *State Marina Permit:* Common use access lots that provide watercraft mooring or installation of a dock shall have a state marina permit.
- (7) *Dedication:* The common use access lot shall be dedicated for the use of owners and occupants of the development. Deed restrictions must specify the lots/dwelling units that may use the common use access lot and moor, store, or launch boats.

(F) **Marinas:** Marinas shall meet the additional standards outlined below.

- (1) *State Marina Permit:* Marinas shall have marina permit from the State of Michigan.
- (2) *Setbacks:* Buildings used for fiberglass repair and engine maintenance shall be at least forty (40) feet from all lot lines.
- (3) *Drydock Screening:* Areas used for the outdoor storage of boats shall be screened from adjacent residential districts, streets, and waterbodies.

(G) **Common Use Access Lots:** The intent of common use access lots is to provide for the shared use of private riparian or littoral lots by residents of a development, to discourage the funneling of lake or river access for multiple lots or residences through narrow access points, establish a balanced and orderly relationship between development and the amount of shoreline available for use by residents, and to assure responsible access for lakefront and riverfront developments. Common use access lots shall meet the additional standards outlined below.

- (1) *Application:* This Section shall apply to common areas created as part of a residential subdivision or site condominium, multiple-family dwelling, retirement community, mobile home park, mixed-use development with a residential component, or neighborhood association.
- (2) *Location:* Common use access lots shall be contiguous with and abut the development being served. An easement between the access lot and the development shall not meet this standard.
- (3) *Lot Depth:* Common use access lots shall have a depth of at least one hundred (100) feet.
- (4) *Number of Dwelling Units:* The maximum number of dwelling units that may use a common use access lot shall not exceed the table below. Shoreline length shall not include any artificially created shoreline, such as harbors, boat wells, or canals.

Table 13.40(G)(4): Number of Dwelling Units	
Number of Dwelling Units	Length of Shoreline
a. First unit	60-100 feet
b. Each additional unit	25-30 feet per additional dwelling unit

- (5) *Watercraft Mooring:* The maximum number of watercraft moorings for the common use access lot, including, but not limited to, motorboats, sailboats, or jet skis, shall be ~~approved by the Planning Commission in consideration of the characteristics of the common use access lot and the potential negative impacts on the surrounding area. There shall be no more than two~~ one (2) watercraft moorings per dwelling unit.
- (6) *State Marina Permit:* Common use access lots that provide watercraft mooring or installation of a dock shall have a state marina permit.
- (7) *Dedication:* The common use access lot shall be dedicated for the use of owners and occupants of the development. Deed restrictions must specify the lots/dwelling units that may use the common use access lot and moor, store, or launch boats.

Lot, Common Use Riparian: A lot abutting a waterway which other lot(s) have a deeded or dedicated right to use to gain access to that contiguous waterway.

The intent of common use access lots is to provide for the shared use of private riparian or littoral lots by residents of a development for recreational, educational, and social purposes, to discourage the funneling of lake or river access for multiple lots or residences through narrow access points, establish a balanced and orderly relationship between development and the amount of shoreline available for use by residents, and to assure responsible access for lakefront and riverfront developments. Common ~~use~~ Use Riparian access lots shall meet the additional standards outlined below.

(1) Application: This Section shall apply to common areas created as part of a residential subdivision or site condominium, multiple-family dwelling, retirement community, mobile home park, mixed-use development with a residential component, or neighborhood association.

(2) Location: Common Use Riparian access lots shall be contiguous with and abut the development being served and have a minimum waterbody frontage of 100 feet. ~~An easement between the access lot and the development shall not meet this standard.~~

(3) Lot Depth: Common Use Riparian access lot s shall have a depth of at least one hundred (100) feet.

(4) Size of Common Use Riparian access lot~~Number of Dwelling Units:~~ The maximum number~~For each unit~~ of dwelling units that may use a Common Use Riparian access lot, a minimum of 8,000 sq. ft. for the first five dwelling units and 2000 sq. ft. for each additional dwelling unit.

~~not exceed the table below. Shoreline length shall not include any artificially created shoreline, such as harbors, boat wells, or canals.~~

~~Number of Dwelling Units~~

~~Number of Dwelling Units~~

~~Length of Shoreline~~ (5) Width of Common Use Riparian access lot: is as noted in the LR District except that the waterbody frontage width shall be at least 20 feet for the first five (5) dwelling units with access and 5 feet for each additional dwelling unit with access, and any need to be more to accommodate paragraph (6) below..

~~.a.~~

~~First unit~~

~~60 feet~~

b.
Each additional unit
25
feet per
additional dwelling unit
(5)

~~(6) Watercraft Mooring and Dockage: The maximum number of watercraft moorings for the Common Use Riparian access lot is limited by the area of the side lot lines extended into the waterbody for 200 feet in which area all ingress and egress of moored watercraft must occur, so there, including, but not limited to, motorboats, sailboats, or jet skis, shall be approved by the Planning Commission in consideration of the characteristics of the common use access lot and the is no potential negative impacts on the surrounding riparian neighbors area.~~

~~There shall be no more than two (2) watercraft moorings per dwelling unit.
(6)~~

~~(State Marina Permit:~~

~~Common use access lots that provide watercraft mooring or installation of a dock shall have a state marina permit.~~

~~(7) Dedication: The Common Use Riparian access lot shall be dedicated only for the use of owners and occupants of the development. Deed restrictions must specify the lots/dwelling units that may use the common use access lot and moor, store, or launch boats and store boats if a permitted use of the Common Use Riparian Lots .~~

~~Lot, Common Use Riparian: A lot abutting a waterway which other lot(s) have a deeded or dedicated right to use to gain access to that waterway.~~

- c. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart; and reinforcement shall be provided for piers more than six (6) feet above ground level.
 - d. In mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, the standards in subparagraphs (a), (b), and (c) of this subsection shall be complied with.
- D. The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area.
- 1. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968.
 - 2. The placement of mobile homes shall be prohibited.
 - 3. The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

9.6.5. Warning and Disclaimer of Liability.

- A. The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.
- B. These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the Township or any officer or employee thereof be liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made thereunder.

Section 9.7. Engineering and Design Standards

Proposed development shall conform to the adopted Hamburg Township Engineering and Design Standards. These standards set minimum design requirements intended to help protect the health, safety, and environmental resources of the Township.

Section 9.8. Common Use (Keyhole) Ordinance

9.8.1. Intent. Special use provisions in accordance with Section 3.5. of the Hamburg Township Zoning Ordinance are established to regulate land uses adjoining water bodies in any Zoning District. The purpose of these regulations is to protect the public health safety and welfare which could be threatened by the over-usage of inland lakes, and avoid situations which may create a nuisance, impair important irreparable natural resources and destroy property values. These regulations are intended to reinforce the implementation of the Michigan Inland Lakes and Streams Act (Public Act 346 of 1972).

9.8.2. Common Use Lot (Keyhole) Defined. A common use riparian lot (keyhole) shall be defined as any private site, platted lot or other parcel held in common by a subdivision, association, similar agency or group of individuals, or held in common by virtue of the terms of a plat of record; which provides common use riparian access to non-riparian lots or land owners.

9.8.3. Applicability. These regulations shall apply to the following common use lots:

- A. Those lots created after the effective date of this ordinance.
- B. Those lots of record existing prior to the effective date of this ordinance that did not provide common use access to a water body (riparian rights to non-riparian land owners) prior to the effective date of this ordinance.
- C. Lots that have been providing common use access to a water body for a defined geographical area or a specific number of lots through an association or subdivision/condominium deed prior to the effective date of this ordinance, and where it is proposed to expand the geographical area or number of lots that are provided common use access to a water body through said common use access lot.

Lots of record existing prior to the effective date of this ordinance that have been providing common use access to a water body for a defined geographical area or a specific number of lots may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Natural Resources under the Michigan Inland Lakes and Streams Act (Public Act 346 of 1972).

9.8.4. Uses Subject to Special Use Permit. The following uses shall be permitted in any district upon approval of the Planning Commission and subject to conditions as specified under 3.5.

- A. Recreational sites, including bathing beaches, playgrounds, boat launching sites, and other recreational areas.
- B. Scenic sites.
- C. Trails, bicycle paths and access routes, other than dedicated streets.
- D. Boat docks provided that all of the requirements of 9.8.7 are met.

9.8.5. Area and Bulk Requirements. Waterfront sites dedicated to common use shall conform in all respects to the area and bulk requirements of the adjacent districts which they are intended to serve.

9.8.6. General Requirements.

- A. The deed to such lot or parcel shall specify the non-riparian lots or parcels which shall have rights to its use.
- B. Such riparian lot or parcel shall have a minimum frontage of 150 feet, measured by a straight line which intersects each side lot line at the water's edge; a minimum lot depth of 100 feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge; and a minimum area of 30,000 square feet.
- C. For uses other than boat docks, such riparian lot shall have the minimum amount of riparian frontage identified in the following table for each non-riparian lot served:

Zoning District	Riparian frontage per lot served
WFR	50 feet/lot
NR	100 feet/lot
All other districts	75 feet/lot

Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

9.8.7. Boat Docks.

- A. The maximum number of boats which can be docked, moored or stored at a common use riparian parcel shall be one boat for the required riparian frontage identified in the following table:

Zoning District	Riparian frontage per boat
WFR	50 feet/boat
NR	100 feet/boat
All other districts	75 feet/boat

Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

- B. The boat dock facility must obtain a permit for marina operation from the Michigan Department of Natural Resources in accordance with Administrative Rules of the Michigan Inland Lakes and Streams Act (P.A. 346 of 1972, as amended). Design for a boat dock facility shall meet all of the Michigan Department of Natural Resources standards for marinas.

Section 9.9 Natural Features Setback Requirements

§16.105 - OUTDOOR WOOD FURNACES

Outdoor wood furnaces shall meet the standards outlined below, in addition to other applicable standards of this Ordinance.

- (A) **Location:** Outdoor wood furnaces shall be located ~~in the side or rear yard~~ on the same lot as the building it is providing heat to. They shall be located in a side or rear yard and may be located in a front yard if they meet the setbacks for the principal building for that zoning district and are fully screen from view by fencing, vegetation, topography, or some combination of those.
- (B) **Setbacks:** Outdoor wood furnaces shall be at least twenty (20) feet from all buildings, at least forty (40) feet from all ~~buildings and~~ lot lines, and at least two hundred (200) feet from ~~adjacent~~ dwellings on adjacent lots.
- (C) **Clear Zone:** An area at least thirty (30) feet around the outdoor wood furnace shall be kept free of ignitable materials or debris, other than fuel for the outdoor furnace.
- (D) **Chimney Height:** The chimney shall extend at least fifteen (15) feet above the ground. If there are any dwelling units within five hundred (500) feet, the chimney shall extend at least (20) feet above the ground. The Director of Planning and Zoning may approve or require a greater or lesser height to comply with manufacturer specifications, if necessary:
- ~~(1) Specifications: To comply with manufacturer specifications;~~
- ~~(2) Smoke Dispersal: To obtain an adequate height to effectively disperse smoke; or~~
- ~~(3) Nuisance: If the smoke from a lower chimney does not create a nuisance for neighboring properties.~~
- (E) **Fuel:** Outdoor wood furnaces shall only burn materials manufactured or intended for use in the outdoor wood furnace.
- (F) **Smoke:** The outdoor wood furnace shall not create a smoke nuisance to neighboring properties.

§16.110 - GARAGE SALES

Garage sales, yard sales, rummage sales, moving sales, and similar sales shall meet following standards outlined below.

- (A) **Number:** Each property shall have a maximum of three (3) sales per year.
- (B) **Duration:** Each sale shall have a maximum duration of three (3) days.
- (C) **Goods:** Items offered for sale may include items from multiple individuals but shall not include goods purchased for the intent of resale at a sale.
- (D) **Hours:** Sales shall be limited to the hours between 8:00 am and 6:00 pm.

§16.115 - SALES OF VEHICLES, WATERCRAFT, & TRAILERS

Sales of motor vehicles, recreational vehicles, watercraft, and trailers shall meet the following standards. This Section shall not apply to approved and licensed, commercial sales operations.

- (A) **Owner or Occupant:** The sale of motor vehicles, recreational vehicles, watercraft, and trailers shall be limited to the property owner or a resident.