# CHARTER TOWNSHIP OF HIGHLAND
# ORDINANCE NO. Z-040

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF HIGHLAND ZONING ORDINANCE (CHAPTER 25 OF THE GENERAL CODE OF ORDINANCES) BY REVISING ARTICLE 2 - RULES OF CONSTRUCTION AND DEFINITIONS TO MODIFY DEFINITIONS OF KENNELS AND LANDSCAPING; ARTICLE 5 - SITE PLAN REVIEW PROCEDURES AND STANDARDS TO CLARIFY APPROVAL AUTHORITY AND PROCESS FOR LAND USE APPLICATIONS; ARTICLE 8 - GENERAL PROVISIONS TO ADDRESS LANDSCAPING, GENERATORS, FENCING, AND SWIMMING POOL REGULATIONS; AND ARTICLE 9 - DISTRICT SPECIFIC REGULATIONS REGARDING THE METHODOLOGY FOR CALCULATING SETBACK REQUIREMENTS FOR THE ORDINARY HIGH WATER MARK IN THE LV ZONING DISTRICT.

THE CHARTER TOWNSHIP OF HIGHLAND ORDAINS:

**Section 1.** *Amend* **Article 2 RULES OF CONSTRUCTION AND DEFINITIONS** *as follows:*

*Amend* **Sec. 2.12 – Definitions beginning with the letter "K"** *by modifying the definition of* "*Kennel*" *as follows*:

*Kennel.* Any building, structure, enclosure, or premises where three (3) or more dogs or cats, six (6) months of age or older, are kept for the business of boarding, breeding, sales and/or sporting purposes including not-for-profit rescue operations.

*Amend* **Sec. 2.13 – Definitions beginning with the letter "L"** *by modifying the definition of* "*Landscaping*" *as follows*:

*Landscaping.* The following definitions shall apply in the application of this Ordinance:

A. *Berm.* A landscaped mound of earth which blends with the surrounding terrain. Berm is illustrated in Figure 2.7.
B. *Buffer.* A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses. Buffer is illustrated Figure 2.7.
C. *Greenbelt.* A landscaped area which is intended to provide a transition between a parcel and public road right-of-way. Greenbelt is illustrated in Figure 2.8.
D. *Opacity.* The state of being impervious to sight. Opacity is illustrated in Figure 2.9.
E. *Plant material.* A collection of living evergreen and/or deciduous, woody-stemmed trees or ornamental, shrubs, vines and ground cover.
F. *Screen.* A structure ~~providing enclosure~~ such as a fence and provides a visual barrier between the area enclosed and the adjacent property. A screen may also consist of shrubs or other living materials.
G. *Flatwork.* Concrete, asphalt, paving stones, wood, or similar materials laid horizontally on the ground such as driveways, sidewalks and patios.

**Section 2.** *Amend* **Article 4 DISTRICT REGULATIONS** *as follows*:

*Amend footnote E. to* Section 4.15 Schedule of Regulations, Table 4.1 Schedule of Regulations *as follows:*

E. Any structure~~, yard, pen, or other area~~ where farm animals are kept must be setback ~~fifty (50)~~ thirty (30) feet from any residential ~~building or structure~~ ~~on the same lot and fifty (50) feet from any building or structure~~ dwelling unit on an adjacent lot. Animal owners are liable for damage their animals may inflict on neighboring properties, and are advised to maintain a suitable setback from the property line, considering the behavior of their animals and the nature of the adjoining properties.

**Section 3**. *Amend* **Article 5 SITE PLAN REVIEW: PROCEDURES AND STANDARDS** *as follows:*

*Amend* **Sec. 5.02 – Uses subject to site plan review** *as follows:*

*Add subsection 5.02.A.7 as follows:*

7. An adjacent residential neighbor requests Planning Commission evaluation of any proposed modification of screening requirements such as a landscape buffer, a solid wall or fence, including replacement after initial development.

TABLE 5.1. ELIGIBLE USES AND REQUIRED REVIEW PROCESS

| Situation/Uses | | Required For: | | |
|---|---|---|---|---|
| | | Full Site Plan | Sketch Plan | Admin. Review |
| **A.** | **New Development** | | | |
| | Multiple-family dwellings | PC | | |
| | Single-family developments not eligible for administrative approval under the Michigan Land Division Act (mcl. 560.101 et al.) | PC/TB | | |
| | Construction of any non-residential use or building | PC | | |
| | Establishment of Special Land Uses in all zoning districts, except where specifically noted elsewhere in this table | PC/TB | | |
| | Wireless Communications Facilities, construction, alteration or enlargement | PC | | |
| | Construction of essential public service buildings and storage areas | PC | | |
| | Golf courses and public/private parks | PC | | |
| | Minor changes during construction such as changes in landscape species to a similar variety, realignment of a driveway or road due to an unanticipated & undocumented constraint during construction, or to improve safety or protect natural features | | | ZA |
| | Minor changes during construction required by outside agencies | | | ZA |
| | ~~RCD Initial Review~~ | | ~~PC~~ | |
| | ~~RCD Final Review~~ | ~~PC~~ | | |
| | Class A Farm Market | | | ZA |
| | Class B Farm Market | PC | | |
| | Class C Farm Market Event Venue | PC/TB | | |
| **B.** | **Expansions** | | | |
| | An increase in the floor area up to 25% of the existing floor area or 1,000 s.f. for a use requiring site plan approval | | PC | |
| | An increase in the floor area greater than that specified above | PC | | |
| | An increase in parking or loading area of up to 25% or 6,000 s.f. of paved area whichever is greater without any building changes | | | ZA |

| | | | | |
|---|---|---|---|---|
| | An increase in parking or loading area over 25% or 6,000 s.f. of pavement area without any building changes | | PC | |
| | Changes to building height that do not add additional floor area | | | ZA |
| | Any change or expansion of non-residential use | | PC | |
| | Collocation on existing wireless communication facilities | | | ZA |
| | Expansion of an approved wireless communication ground equipment enclosure | PC | | |
| | Installation of new wireless communication ground equipment within an approved ground equipment building or enclosure | | | ZA |
| Situation/Uses | | Required for: | | |
| | | Full Site Plan | Sketch Plan | Admin. Review |
| | For residentially zoned parcels operating under a special use permit, the addition of an accessory structure such as a shed, garage or similar accessory structure that would be otherwise permitted as a residential accessory structure. | | | ZA |
| | The addition of a shed or accessory structure of 240 square feet or less and 15 feet tall or less in a non-residential zoning district. | | | ZA |
| **C.** | **Change of Use** | | | |
| | Change of use for building with an approved site plan on file dated July 9, 1986 or later, provided site is determined to be generally compliant with site plan and use is permitted by right | | | ZA |
| | Change of use for a building without an approved site plan on file, where site improvements are generally compliant with Ordinance except for elements such as lighting, signage or landscaping | | PC | |
| | Change of use for a building without an approved site plan on file, where site improvements such as paving, drainage or utility work are necessary to bring the site into compliance with the Ordinance | PC | | |
| | Change of use for an existing non-conforming use or structure | | ZBA | |
| **D.** | **Other Types of Projects** | | | |
| | Accessory open air businesses | | PC | |
| | Improvements to outdoor recreational uses and parks that are permitted uses | | PC | |
| | Accessory building and structures associated with a non-single family residential use in any zoning district except as identified in Section B. above | PC | | |
| | Architectural changes to non-single-family residential structures (an elevation plan describing changes and construction materials is required) | | | ZA |
| | Bike path, pathway or sidewalk construction or relocation | | | ZA |
| | Construction of an entrance feature associated with a non-single-family residential use (walls, landscaping, etc.) | | PC | |
| | Grading, excavation, filling, soil removal, creation of ponds or clearing of trees within an area of 1,000 s.f., provided such activity is normally and customarily incidental to single-family uses on the site | | | ZA |
| | Grading, excavation, filling, soil removal, creation of ponds or clearing of trees other than that specified above | | PC | |
| | Home occupations | | | ZA |
| | Internal construction or change in the floor plan that does not increase gross floor area, increase the intensity of use or affect parking requirements on a site which meets all site design standards of this ordinance | | | ZA |
| | Landscape changes to similar species and that are consistent with the standards of this ordinance | | | ZA |

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|---|---|---|---|---|
| | Modifications to upgrade a non-single-family residential building to improve barrier-free design, or to comply with the Americans with Disabilities Act or other federal, state or county regulations | | | ZA |
| | Parking lot improvements provided the total number of spaces shall remain constant | | | ZA |
| | Portable classrooms | | PC | |
| | Short Term Rental | | | ZA |
| | Sign relocation or replacement provided it meets the dimensional and location standards of this ordinance | | | ZA |
| | Site improvements such as installation of walls, fences, lighting or curbing consistent with ordinance standards | | PC | |
| Situation/Uses | | Required for: | | |
| | | Full Site Plan | Sketch Plan | Admin. Review |
| | Temporary trailer used for construction office | | | ZA |
| | Temporary uses, sales and seasonal events | | PC | |
| | Waste receptacle relocation to a more inconspicuous location or installation of screening around the waste receptacle | | | ZA |

| | |
|---|---|
| PC | Planning Commission |
| ZBA | Zoning Board of Appeals |
| TB | Township Board |
| ZA | Zoning Administrator |

**Section 4.** *Amend* **Article 8 GENERAL PROVISIONS** *as follows:*

*Amend* **Sec. 8.02. Area, height and use exceptions. subpoint F** *as follows*

*F. Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley ~~for the purpose of applying lot area and setback requirements of this Ordinance~~, one-half (½) the width of such alley abutting the lot shall be ~~considered part of such lot.~~ used to determine the lot area and setbacks.

*Amend* **Sec. 8.02. Area, height and use exceptions. subpoint G** *as follows by inserting a sub-subpoint and renumbering its sub-sub-subpoints*

G. *Generators.*

1. Generators may not be used as a primary power source on residential properties where public utilities are available except when the utility power supply is interrupted.
2. Generators may be placed in required side yard setbacks subject to the following restrictions:
   a. The generator may only encroach on the side yard setback on the side of the structure where the main feed drop enters the structure and only if necessary to place the generator within fifteen (15) feet of the drop.
   b. The generator may encroach on the required ~~side~~ yard by no more than forty (40) percent of the required ~~side yard~~ setback.
   c. The generator shall not be placed nearer to the property line than three (3) feet.
   ~~The generator shall not be placed nearer to any window or door opening than five (5) feet.~~

d. The generator shall be muffled to deaden noise in compliance with Chapter 12, Noise, Blight and Other Nuisances of the Highland Township Code of Ordinances.
e. The generator shall be programmed to "exercise" only between the hours of 10:00 a.m. and 2:00 p.m

*Amend* **Sec. 8.03. Accessory structures and uses.** *as follows:*

*Amend* Subsection 8.03.A.4.a. *Porches, decks, terraces and patios. as follows:*

a. *Uncovered porches.* An open, unenclosed and uncovered porch, patio, deck or terrace~~, including those constructed on the ground and/or constructed of brick, concrete or pavers~~ may project into a required front, side or rear yard setback providing the following standards are met

i. The highest finished elevation of the uncovered porch shall not be over thirty (30) inches above the surrounding finished grade; and

ii. The uncovered porch may project into any required yard setback for a distance not exceeding five (5) feet.
iii. No portion of the uncovered porch shall be closer than five (5) feet from any lot line.

*Amend* Subsection 8.03.A.5. *Swimming pools, hot tubs and spas. as follows:*

5. *Swimming pools, hot tubs and spas.* Swimming pools, hot tubs and spas shall be subject to the following regulations in addition to all building codes:

a. Any swimming pool shall meet the minimum setbacks required of accessory structures in the applicable Zoning District.
~~b. There shall be a distance of not less than ten (10) feet between the outside pool wall and any building located on the same lot or an abutting lot.~~
~~e~~b. No swimming pool shall be located less than thirty-five (35) feet from any front lot line or any road right-of-way.
~~d~~c. No swimming pool shall be located in an easement.
~~e~~d~~.~~ For the protection of the general public, all areas containing swimming pools shall be completely enclosed by a fence or an approved structure providing equal protection not less than four (4) feet in height. The gates shall be of self-closing and latching type, with the latch on the inside of the gate not readily accessible for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods.

*Amend* Subsection 8.03.A.7. *Driveways and paths. as follows:*

*7. Driveways, flatwork and paths.* There is no restriction on the placement or construction of driveways, flatwork and paths so long as they are maintained without encroaching on neighboring properties with regards to snow removal, drainage and maintenance.

*Amend* Sec. 8.03. Accessory structures and uses. subpoint B *as follows*:

B. *Structures and uses accessory to non-residential uses.*

1. *General requirements.*

a. All buildings, uses, or structures accessory to non-residential uses shall be subject to the same placement and height requirements as the principal structures in the District in which they are located.

b. Buildings, uses, or structures accessory to non-residential uses shall not be larger than twentyfive percent (25%) of the total ground floor area of the principal building or building that it serves, unless otherwise regulated in this ordinance.

c. The Planning Commission may allow the use of shipping containers as accessory structures in the C-2, General Commercial, C-3, Low Impact Commercial and IM, Industrial Manufacturing Zoning District subject to site plan review. Shipping containers shall be painted or otherwise modified to conform with the character of the principal building and surrounding properties. Additional screening landscape may be required adjacent to the areas approved for shipping containers to shield the view from neighboring properties.

d. Shipping containers are prohibited for use as accessory structures in the C-1, Local Commercial, OS, Office Services and HS, Highland Station Business district.

~~e~~e. Accessory buildings, structures or uses are not permitted on vacant parcels.

*Amend* Subsection 8.09.A. *Fences and screening structures. Residential Districts as follows:*

A. *Residential districts.*

1. No fence or other screening structure shall exceed six (6) feet in height in a side or rear yard.
2. In required front yards, only decorative fences, forty-eight (48) inches or shorter, shall be permitted except that the Zoning Administrator may permit a 72" high privacy fence where the following conditions apply:
   a. Corner lot or double-fronted lot with one frontage on a major thoroughfare
   b. Orientation of the house is towards a minor street such that the yard parallel to the major thoroughfare would function as a rear or side yard.
   c. The exception does not apply to those sections of fence where the minor street front yard setback would otherwise apply.
3. On lakefront lots, fences and other screening structures which are located between the main building and the ordinary high water mark shall be open air type with no more than twenty percent (20%) opacity, and shall have a ten (10) foot setback from the ordinary high water mark.
4. Fences or other screening structures shall consist of materials commonly used in conventional construction, including, but not limited to wood, metal, vinyl, masonry brick or natural stone. If one side of the fence or other screening structure has a more finished appearance than the other, then the side with the more finished appearance shall face ~~the exterior of the parcel.~~ adjacent road rights-of-way.
5. Fences or other screening structures shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed.
6. Barbed wire or other similar fences shall not be permitted.
7. Above-ground single-strand wire or braided-wire fences, whether charged with low-voltage electricity or non-charged, are permitted for the enclosures of livestock only and must be at least 20 feet from all property lines.
   a. If the livestock is removed, any electric fencing must be disabled or removed.
   b. All single-strand wire or braided wire fences must provide for enhanced visibility by one of the following means:
      1. ~~Minimum three (3) inch~~ ~~s~~Solid top rail;
      2. Brightly colored ribbon installed alongside the wire;

3. Reflectors or fluorescent tape affixed along the wire at a minimum spacing of eight (8) feet.

8. Invisible fences for all animals are permitted.

9. Reserved.

10. Wire panel fences or rolled wire grid may be installed wherever fencing is typically allowed, with the exception of required front yards in the LV, R1.5 and HS Zoning Districts.

**Section 5.** *Amend* **Article 9 DISTRICT SPECIFIC REGULATIONS** *as follows*

Rescind those subsections of **Section 4 of Zoning Ordinance Amendment Z-025,** (adopted March 7, 2022) which altered the language of *9.02.D, Minimum Setback from Ordinary Highwater Mark* to restore the language in effect prior to that amendment. This rescission does not impact the language of *Section 9.03.A. In General*.

**Section 6. Savings Clause**

That nothing in this ordinance hereby adopted be construed to affect any just or legal right or remedy of any character nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 7. Severability**

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

**Section 8. Adoption**

This Zoning Ordinance amendment is hereby declared to have been adopted by the Charter Township of Highland Township Board at a meeting thereof duly called and held on_____

**Section 9. Effective Date**

The effective date of this Ordinance shall be on the 8th day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

_____
Rick A. Hamill, Township Supervisor

_____
Tami Flowers MiPMC, Township Clerk

**CERTIFICATION OF CLERK**

I hereby certify that the foregoing is a true and complete copy of a Zoning Ordinance amendment adopted by the Township Board of the Charter Township of Highland on _____, 2027 which was a regular meeting. I further certify that at said meeting there were present the following Board members:

I further certify that the adoption of said Zoning Ordinance amendment was moved by Board member _____ and supported by Board member _____

I further certify that the following Board members _____voted for adoption of the Zoning Ordinance amendment and Board members _____voted against the adoption of said Zoning Ordinance amendment.

I hereby certify that said Zoning Ordinance amendment has been recorded in the Ordinance Book in said Charter Township and that such recording has been authorized by the signature of the Township Supervisor and Township Clerk.

_____
Tami Flowers MiPMC, Township Clerk

Planning Commission Recommendation:
Introduction:
Adoption:
Published:
Effective Date: