

AN ORDINANCE TO AMEND THE TORCH LAKE TOWNSHIP ZONING ORDINANCE TO AMEND CHAPTERS XIV AND XV CONCERNING THE PLANNED RESIDENTIAL DEVELOPMENT ZONE AND THE PLANNED UNIT DEVELOPMENT ZONE, RESPECTIVELY.

THE TOWNSHIP OF TORCH LAKE ORDAINS:

Section 1. Amendment of Chapter XIV.

Chapter XIV: Planned Residential Development Zone of the Torch Lake Township Zoning Ordinance is hereby amended to read in its entirety as follows:

CHAPTER XIV
"PRD" - PLANNED RESIDENTIAL DEVELOPMENT ZONE

SECTION 14.01 PURPOSE

The purpose of the Planned Residential Development (PRD) district includes the preservation of the rural character of Torch Lake Township; the accommodation of residential development while permitting flexibility in the regulation of land development and providing open space; the conservation of natural resources and energy; providing for efficiency in the use of land and the reduction of development costs to the community; providing for innovation in the design, layout and use of land; and to guide such development consistent with the Torch Lake Township Land Use Plan.

SECTION 14.02 – ELIGIBILITY - To be eligible for a PRD, a parcel shall meet all of the following:

- A. The parent parcel or parcels or that portion of the parent parcel or parcels intended to be developed as a PRD shall be five (5) contiguous acres or more in area that is not split by an existing public road. For purposes of this subsection, noncontiguous open space shall not be considered when determining the above acreage requirements.
- B. The parcel on which the proposed PRD development will be located shall be capable of serving the individual uses within the development with a potable water source(s) and a wastewater treatment system(s) meeting all of the requirements of the local health department.

- C. The parcel on which the proposed PRD will be located shall be under single ownership, or the PRD application shall be filed jointly by all property owners.
- D. The proposed uses within the PRD shall be consistent with the Torch Lake Township Land Use Plan for the development site.

SECTION 14.03 - PERMITTED USES

- A. Single Family Residential Dwelling Units.
- B. Multiple Family Residential Dwelling Units.
- C. Recreation Facilities such as golf courses, baseball fields, outdoor tennis and basketball courts and outdoor swimming pools.
- D. Agricultural and Silvicultural Activities.
- E. Bed and Breakfast Establishment.

SECTION 14.04 - DESIGN STANDARDS

- A. **Perimeter Setbacks.** All planned residential development (PRD) projects shall establish and maintain a perimeter setback of fifty (50') feet from the edge of the road right of way or property line (whichever is greater), except where special setback conditions are imposed due to the specific nature of the proposed use. The project perimeter setback area shall be maintained as open space in lawns or be landscaped, or wooded areas. Existing vegetation within the perimeter setback area shall be retained. If the Planning Commission determines that planting within the perimeter setback is necessary to achieve an adequate visual buffer for the development, the Planning Commission may require the applicant to plant within the perimeter setback a mixture of native plants, deciduous and coniferous trees, shrubs or other agricultural orchard or vineyard. Trees, and shrubs if requested to be planted within a perimeter setback, shall be planted in a manner that creates an effective visual buffer. Planted materials shall be maintained in a living condition. Except for access roads or drives and permitted signs, no paved or impervious surfaces, parking areas, buildings, or structures shall be located within the required perimeter setback. Pathways and trails, however, may occupy a perimeter setback area, and such area may be used for storm water management, snow storage, and/or drainage systems.
- B. **Open Space.** All PRD developments shall possess open space of not less than fifty percent (50%) of the entire PRD development. This required open space shall be set aside for the period of the PRD approval for the common use of the

owners and users within the PRD. Dedicated open space shall not include parking lots, roads, and public rights-of-way, but may include flood plains and wetlands. Recreational facilities and/or agricultural or silvicultural uses may occupy up to one hundred percent (100%) of the required open space. Required open space may include areas devoted to the perimeter setback.

Such open space set aside by the Applicant shall be protected from all forms of development, except as shown on the approved site plan, and shall not be changed to another use for the period of the PRD approval without approval by the Planning Commission.

- C. The maximum residential density for a PRD shall not exceed the equivalent of one (1) dwelling unit per acre. This density calculation is for the entire site and shall not be construed to prohibit the use of innovative siting techniques such as the use of clustering, zero lot lines, and common wall structures for multiple family residential dwelling units on a portion of the site to allow for common open space elsewhere on the site.
- D. No dwelling unit shall contain less than six hundred (600) square feet. The average square footage for the sum of all dwelling units shall not be less than nine hundred (900) square feet.
- E. Setbacks from natural water bodies that form one or more perimeter boundaries shall be a minimum of one hundred (100) feet.
- F. Setbacks from neighboring buildings shall be a minimum of twenty (20) feet or a distance equal to the height of the tallest building, whichever is greater.
- G. Setback requirements may be increased at the discretion of the Planning Commission if the use or uses are determined to result in noise, glare, or other impacts upon adjacent properties or other uses proposed within the development.
- H. To avoid long, unbroken building walls where scenic view resources are involved or where it could detract from aesthetic values in the specific project location, a maximum of eight (8) dwelling units may be contained within any one building.
- I. Uses shall be arranged within the PRD project to serve use transition objectives, where such may be necessary to harmoniously blend the project into the specific community area.
- J. No more than thirty (30) percent of the property shall be covered with impervious surfaces.

- K. Building height shall not exceed forty-one (41) feet measured from the peak, or highest part of the roof to the lowest grade level of the ground within fifteen (15) feet of the building. The height of the uppermost floor capable of being used for human occupancy shall not exceed twenty-one feet measured from the lowest grade level to a distance within fifteen (15) feet of the building.
- L. All utilities shall be installed underground.
- M. Additional standards contained in Section 18.07 – Site Plan Approval shall be met.

SECTION 14.05 - APPLICATION AND APPROVAL PROCESS

- A. APPLICATION AND APPROVAL PROCESS – Proposed or modified PRDs shall comply with planned unit development (PUD) Sections 15.05 – PRE-APPLICATION CONFERENCE; Section 15.06 – APPLICATION REQUIREMENTS; Section 15.07 – PUBLIC HEARING; NOTICE; Section 15.08 – PLANNING COMMISSION REVIEW; Section 15.09 – APPROVAL STANDARDS; CONDITIONS; WAIVER OF STANDARDS; Section 15.10 – TOWNSHIP BOARD REZONING CONSIDERATION; and Section 15.11 – (PRD) ZONING PERMIT.
- B. Dimensional regulations, if requested by the Applicant, may be modified by the Planning Commission in accordance with Section 15.04 F.
- C. The Planning Commission or Township Board decision of approval or disapproval of a PRD application shall not be appealable to the Zoning Board of Appeals.

SECTION 14.06 – CONTINUING ADHERENCE TO APPROVED PRD

Any property owner who fails to develop and maintain an approved PRD according to the zoning ordinance amending rezoning the property to the PRD Zone and according to the site plan approved by the Planning Commission, and any conditions imposed, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

SECTION 14.07 – AMENDMENT OF AN APPROVED PRD

Amendments to an approved PRD must comply with Section 15.13 – AMENDMENT TO AN APPROVED PUD.

SECTION 14.08 EXPIRATION OF APPROVED PRD; EXTENSION

Expiration and/or extensions of approved PRDs shall comply with Section 15.14 – EXPIRATION OF APPROVED PUD: EXTENSION.

SECTION 14.09 REPEAL

A PRD District designation may be repealed at the option of the Applicant or on the initiation of the Planning Commission, if it is determined that the project no longer serves a value or purpose. Repeal of a project shall be by public hearing, following the same notice requirements as for the original establishment of the project.

SECTION 14.10 RENEWAL

To avoid automatic expiration, the project owner may request renewal of the PRD prior to the expiration date. Renewal shall be by formal action of the Township Board after recommendation by the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the review body. No formal public hearing is required for the Planning Commission to consider a renewal. Renewals shall be for periods not to exceed twenty-four (24) months.

SECTION 14.11 FEES

Fees for PRD Project Plan review shall be as contained in the township fee schedule.

SECTION 14.12 PERFORMANCE GUARANTEE

The Township Board may require a performance guarantee by the applicant to ensure completion of improvements associated with a development project and/or to ensure compliance with the Zoning Ordinance. This Performance Guarantee shall be as specified in Section 18.10.

Section 2. Amendment of Chapter XV.

Chapter XV: Planned Unit Development Zone of the Torch Lake Township Zoning Ordinance is hereby amended to read in its entirety as follows:

CHAPTER XV “PUD” – PLANNED UNIT DEVELOPMENT ZONE

SECTION 15.01 – PURPOSE. As used in this Chapter, “planned unit development” (or PUD) means cluster zoning, planned development and community unit plan. All PUDs must have a residential development component. A PUD is not intended as a device or means for ignoring the zoning ordinance and specific standards set forth therein, or the planning upon which it has been based. Rather, the purposes of a PUD are:

- A. To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
- B. To permit flexibility in the regulation of land development.
- C. To encourage innovation in land use in variety and design, layout, and type of structures constructed.
- D. To guide the development of single use (i.e. residential) PUDs, as well as the development of appropriate mixed use PUDs with both residential and certain commercial land uses.
- E. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- F. To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township.
- G. To preserve the existing rural character of Torch Lake Township, while accommodating residential and commercial development.
- H. To guide such development consistent with the Torch Lake Township Land Use Plan.

SECTION 15.02 – ELIGIBILITY. To be eligible for a planned unit development (PUD), a parcel shall meet all of the following:

- A. The parcel or parcels or that portion of the parcel or parcels intended to be developed as a planned unit development shall be ten (10) contiguous acres or more in area that is not split by an existing public road. All proposed PUDs must have a residential component. Proposed mixed-use PUDs shall contain a mixture of residential and non-residential uses, and the parcel or parcels or that portion of the parcel or parcels intended to be developed as a PUD shall be twenty (20) contiguous acres or more in area that is not split by an existing public road. For purposes of this subsection, noncontiguous open space shall not be considered when determining the above acreage requirements. In addition, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customary to a residential use shall not transform a residential use into a non-residential use for the purposes of determining the area eligibility requirements.
- B. The parcel on which the proposed PUD development will be located shall be capable of serving the individual uses within the development with a potable water source(s) and a wastewater treatment system(s) meeting all of the requirements of the local health department.
- C. The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
- D. The proposed uses within the PUD shall be consistent with the Torch Lake Township Land Use Plan for the subject development site.

SECTION 15.03 – PERMITTED USES. No building or part thereof shall be hereafter used, corrected, or altered, or land used, in whole or in part in the PUD Zone, except for the following:

- A. Single family residential dwelling units.
- B. Multiple family residences consisting of four (4) or fewer dwelling units.
- C. Commercial uses limited to personal services shops, such as beauty parlors, barber shops, tanning salons, photo studios and camera shops; grocery stores; convenience stores; book, stationery, gift, floral and antique shops; professional offices, including but not limited to banks, real estate, insurance, travel and law offices; hobby stores and arts and craft shops; medical offices; indoor art, music and dance studios; restaurants and taverns serving on-site patrons only; and private events at which noise is controlled pursuant to Section 15.09.A. 4 and 5.

- D. Rentals of single family residential dwellings, if such rentals are for periods of more than thirty (30) consecutive days. Rentals of single family dwellings for periods less than thirty (30) consecutive days are only permitted in a mixed-use PUD.
- E. Outdoor recreational uses, such as golf courses, ski resorts, athletic and ball fields, and equestrian facilities.
- F. Lodges and bed and breakfast establishments.
- G. Agricultural and silvicultural uses.

An applicant proposing any new or amended uses within a PUD must comply with Section 15.

SECTION 15.04 – AREA REGULATIONS. Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations.

- A. **Perimeter Setbacks.** Property zoned Planned Residential Development (PRD) on the effective date of this amendatory ordinance (*insert effective date of amendment*) shall maintain a fifty (50) feet setback around the perimeter of the property if rezoned to a PUD, as measured from the edge of the road right of way and/or adjoining properties. All other property creating a new or amended PUD shall establish and maintain setbacks around the perimeter of the PUD property, as measured from the edge of the road right of way and/or adjoining properties, as follows:

Single Use (i.e. Residential) PUDs:

Eligible properties between ten (10) and forty (40) acres shall maintain a minimum perimeter setback of fifty (50) feet.

Eligible properties of more than forty (40) acres shall maintain a minimum perimeter setback of one hundred (100) feet.

Mixed Use PUDs:

Eligible properties (i.e. more than twenty (20) acres in size) shall maintain a minimum perimeter setback of one hundred (100) feet.

Existing vegetation within the perimeter setback area shall be retained. If the Planning Commission determines that planting within the perimeter

setback is necessary to achieve an adequate visual buffer for the development, the Planning Commission may require the applicant to plant within the perimeter setback a mixture of native plants, deciduous and coniferous trees, shrubs or other agricultural orchard or vineyard. Trees and shrubs, if requested to be planted within a perimeter setback, shall be planted in a manner that creates an effective visual buffer. Planted materials shall be maintained in a living condition. Except for access roads or drives and permitted signs, no paved or impervious surfaces, parking areas, buildings, or structures shall be located within the required perimeter setback. Pathways and trails, however, may occupy a perimeter setback area, and such area may be used for storm water management, snow storage, and/or drainage systems.

B. General Dimensional Regulations. Except as provided in subsection F below, each permitted use within the PUD Zone shall comply with all applicable dimensional regulations specified in this Ordinance for that type use, including but not limited to regulations relating to lot area and width requirements, interior setbacks, water frontage requirements, height limitations, dwelling size requirements, except as otherwise allowed in this Chapter all applicable regulations specified in Chapter II of this Ordinance, and all applicable parking and unloading requirements specified in Chapter XVI of this Ordinance.

C. Specific Dimensional Regulations. The following applicable dimensional regulations shall apply to developments within the PUD Zone:

1. No dwelling unit shall possess a usable floor area of less than nine hundred and sixty (960) square feet.
2. No building which contains one (1) or more recreational uses may exceed forty thousand (40,000) square feet on the ground floor. No building which contains one (1) or more commercial uses may exceed nine thousand (9,000) square feet on the ground floor.
3. Setbacks between structures of similar uses such as between residential uses, or between commercial uses within a PUD development shall be no less than twenty (20) feet. Setbacks between structures of different uses, such as between residential and nonresidential uses within a PUD development shall be no less than forty (40) feet.
4. Areas requiring earthmoving that result in any slope in excess of four (4) feet horizontal to one (1) foot vertical shall be fenced or other barriers erected to prevent unsupervised access by children or shall be dewatered at a frequency to ensure that ponding will not result in a water depth that exceeds two (2) feet. For ponds and other water impoundments which are

intended to serve as an amenity (e.g. a water hazard on a golf course) the slope shall be as listed above until the water depth of five (5) feet is obtained, at which time a steeper slope may be allowed.

5. All utilities shall be installed underground.
- D. Residential Density. The maximum residential density for a site shall not exceed the equivalent of one (1) dwelling unit per two (2) acres. Except as provided herein, this density calculation shall be made based on the area of the entire lot on which the PUD development will be located. The density calculation shall not be construed to prohibit the use of multiple family dwelling units or the clustering of dwelling units on a portion of the lot to allow for open space elsewhere on the lot. For mixed-use developments land that is used for other than residential, recreational, or open space shall be deducted from the total lot area for purposes of calculating the allowable residential density.
- E. Open Space. All developments within the PUD Zone shall have open space of not less than fifty percent (50%) of the entire area of the site on which the PUD development will be located. This required open space shall be set aside for the period of the PUD approval for the common use of the owners and users within the PUD. Dedicated open space shall not include parking lots, roads, and public rights-of-way, but may include flood plains and wetlands. In addition, no more than twenty percent (20%) of the required open space may include outdoor recreation areas, including but not limited to ball fields, children's play areas, outdoor tennis and basketball courts, outdoor swimming pools. Golf courses, alpine and/or Nordic ski facilities, and agricultural or silvicultural uses may occupy up to one hundred percent (100%) of the required open space. Finally, the required open space may include the area devoted to the perimeter setback.

Such open space set aside by the Applicant shall be protected from all forms of development, except as shown on the approved site plan, and shall not be changed to another use for the period of the PUD approval without approval by the Planning Commission.

- F. Standards for Modifying Dimensional Regulations.
 1. To promote creativity and flexibility in site design, the Planning Commission may recommend to the Township Board, subject to the following limitations, a reduction or modification of the dimensional regulations applicable to the proposed PUD development, including but not limited to minimum lot size within the development, residential density, building height, and interior (but not perimeter) setbacks within the PUD development, upon a finding that the proposed reduction of or modification to the dimensional regulations will not be detrimental to the

public health, safety, or welfare of occupants of the PUD development, the surrounding neighborhood, or the township as a whole. Any recommended reductions by the Planning Commission shall be limited as follows:

- a. Residential density may not be increased by more than five percent (5%) of the required density limitation specified in subsection D above.
 - b. Interior setbacks may not be reduced by more than fifty (50) percent of the required setbacks specified in subsections B and C3 above. Perimeter setbacks shall not be reduced.
 - c. The height of all buildings and structures within a PUD development may not be increased by more than five percent (5%) of the height limitation as specified in this Ordinance. In recommending an increase in height, the Planning Commission may recommend increased building setbacks and/or other conditions determined necessary to secure the public health, safety, or welfare and to ensure compatibility of the PUD development with the surrounding neighborhood. In no case, however, shall an increase in height be permitted if the increase will result in conditions beyond the service capability of the township pursuant to emergency fire suppression and other emergency services.
 - d. Required paved parking area may be reduced by up to twenty five percent (25%) of the parking area normally required of the proposed use. In no case shall a single-family dwelling have less than two (2) on-site (off-street) parking spaces. In recommending a reduction in the required parking area, the Planning Commission may recommend that a portion of the lot on which the PUD development will be located be dedicated for seasonal use for unpaved, overflow parking and/or reserved for future parking.
2. Prior to recommending a reduction in or modification to dimensional regulations, the Planning Commission shall require the applicant to demonstrate through *bona fide* documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and/or infrastructure impact studies, that the requested reduction(s) or modification(s) will not result in significantly detrimental impacts to the future occupants of the PUD development, the surrounding neighborhood, and the township as a whole.

SECTION 15.05 – PRE-APPLICATION CONFERENCE (Supplants Section 18.03 for PRDs & PUDs only).

- A. A pre-application conference shall be held with the Planning Commission Chair, Township Planner, Zoning Administrator, and other Township representatives. The pre-application conference is intended to determine the eligibility of the proposed PUD application, site plan and PUD application requirements, and to review the procedures and standards for site plan and PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission and Township representatives, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, and confirm that the application and all supporting documentation are ready for a public hearing. Comments made by any Township representative at the pre-application conference are unofficial, and shall not be construed as a Township endorsement, denial or approval of the proposed PUD development.

- B. A request for a pre-application conference shall be made to the zoning administrator who shall schedule a date and time for the pre-application conference to be held within thirty (30) days from the date of the request. As part of the pre-application conference, the applicant shall submit three (3) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

SECTION 15.06 – APPLICATION REQUIREMENTS.

- A. An applicant seeking approval of a PUD development, or a new or amended use authorized within a PUD development shall submit to the zoning administrator one (1) complete PUD application containing the information required by subsection B below, one (1) complete site plan containing the information required by Section 18.04 of this Ordinance, and the application fees required under Section 19.04 of this Ordinance. The zoning administrator shall review the PUD application and site plan submitted to be sure they are administratively complete and that all required information has been included. If the zoning administrator determines that the PUD application or site plan is not administratively complete, he or she shall inform the applicant in writing of all deficiencies in the PUD application and/or site plan requirements. The applicant may then provide the information that was not provided earlier. If the applicant

fails to provide the required information, the zoning administrator shall deny the application on the basis that it is administratively incomplete. Once the zoning administrator determines that the PUD application and site plan are administratively complete, he or she shall request eighteen (18) additional copies of the PUD application and site plan from the applicant and shall then forward the PUD application and site plan to the Planning Commission for its review under the procedures of this Chapter.

B. The PUD application shall include all of the following information:

1. A completed application form.
2. A narrative statement describing:
 - a. The proposed permitted uses to be developed within the PUD.
 - b. How the proposed PUD development meets the eligibility criteria for a PUD specified in Section 15.02 Eligibility of this Ordinance. However, this application requirement shall not apply within a previously approved PUD should there be a subsequent application for a new or amended PUD use therein.
 - c. How the proposed PUD development meets the standards for PUD approval specified in Section 15.09 Approval Standards; Conditions; Waiver of Standards of this Ordinance. However, this application requirement shall not apply within a previously approved PUD should there be a subsequent application for a new or amended PUD use therein.
 - d. How the proposed PUD site plan meets the standards for Site Plan approval specified in Section 18.04 and of this Ordinance.
 - e. Whether the applicant is requesting a reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD development pursuant to Section 15.04.F of this Ordinance, and if so, the facts establishing that the standards for granting the requested reduction(s) or modification(s) will be met.
 - f. The phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
 - g. The anticipated dates, including all phases, for the start and completion of the PUD construction.

- h. The location, type and size of areas to be dedicated for required open space.
- i. Master deed, whether draft or final, to be used within the PUD development.

SECTION 15.07 – PUBLIC HEARING; NOTICE.

- A. Following receipt of an administratively complete PUD application and site plan, the Planning Commission shall hold at least one (1) public hearing after providing the notice required in subsection B below.
- B. The notice for the required public hearing before the Planning Commission concerning a request for PUD approval shall comply with all of the following:
 - 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed PUD request.
 - b. A description of the property on which the proposed PUD will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place that the proposed PUD public hearing will be conducted.
 - d. The address where and the deadline when written comments will be received concerning the proposed PUD request.
 - 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 - 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed PUD will be located not less than 15 days before the scheduled public hearing.

4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed PUD will be located and to the occupants of all structures within 300 feet of the property on which the proposed PUD will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 15.08 – PLANNING COMMISSION REVIEW. Following the public hearing the Planning Commission shall review the PUD application and shall recommend to the Township Board that the board approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in Section 15.09 of this Ordinance. The Planning Commission’s recommendation shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

SECTION 15.09 – APPROVAL STANDARDS; CONDITIONS; WAIVER OF STANDARDS.

- A. PUD Approval Standards. The Planning Commission shall recommend to the Township Board that the board approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:
1. The proposed uses to be developed within the PUD shall be consistent with the Torch Lake Township Land Use Plan.
 2. The PUD shall be designed, constructed, operated and maintained in compliance with the area regulations specified in Section 15 of this Ordinance. All required landscaping shall be maintained in a healthy living condition and such vegetation if dead, diseased or dying shall be replaced.
 3. The PUD shall not change the essential character of the surrounding area, unless such change is consistent with the township’s current land use plan.

4. Proposed uses that may generate noise shall be effectively managed by methods such as, but not limited to, the use of earthen berms, brick walls, ceramic barriers, and/or other noise abatement technologies in conjunction with fencing and/or landscaping, increased setbacks, days of the week and/or limited hours of operation.
5. Sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of private property within or adjacent to the PUD.
6. The PUD shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
7. The PUD shall not place demands on public services and facilities in significant excess of current capacity, unless planned improvements which will increase the capacity sufficient to service the development have already been scheduled for completion.
8. The PUD shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
9. The PUD shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
10. The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.
11. The PUD shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.

12. The design of the PUD shall exhibit a reasonably harmonious relationship between the location of buildings and future building envelopes on the site relative to buildings on lands in the surrounding area.
13. The design of the PUD shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
14. The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
15. The PUD shall meet the standards of other governmental agencies, where applicable.
16. The PUD proposed shall be consistent with and promote the purpose and intent of the Ordinance.
17. The PUD proposed must be compatible with the zoning and use of adjacent lands.
18. The PUD proposed must not adversely impact the environment.
19. The PUD proposed must not unduly burden or exceed the ability of public services or facilities to handle the anticipated needs of the community.

B. Conditions.

Any applicant of a new or amended PUD must also comply with Section 18.08, Conditional Site Plan Approvals of this Ordinance.

- C. Performance Guarantees. In connection with the construction of a PUD, the Planning Commission may recommend to the Township Board that the applicant furnish Torch Lake Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of required site improvements. Site improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD development or which the applicant has agreed to construct even though located outside the PUD development. Site improvements also mean landscaping and the completion of conditions imposed with final PUD approval by the Township Board which are located within the PUD development. For purposes of this subsection, the costs covered by the

performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the PUD, or if the PUD has been approved in phases, then the performance guarantee shall be deposited with the township clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD site improvements in accordance with the site plan approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:

1. One-third of the cash deposit after completion of one-third of the PUD site improvements;
2. Two-thirds of the cash deposit after completion of two-thirds of the PUD site improvements; and
3. The balance at the completion of the PUD site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD site improvements. If a PUD project is to be completed in phases, then the applicant may be required to furnish a performance guarantee as provided in this subsection for each phase of the PUD. If an applicant has contracted with a third-party to construct the site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then that bond shall be deemed as meeting all or a portion of the performance guarantee required by this subsection.

- D. Waiver of PUD Standards. The Planning Commission may recommend that the Township Board waive any of the standards for a PUD if deemed in compliance with Section 18.10.B. - Site Plan Review, Waiver of Standards.

SECTION 15.10 – TOWNSHIP BOARD REZONING CONSIDERATION.

- A. After receiving the recommendations from the Planning Commission, the Township Board shall place the request for review of a PUD on the agenda for the next available, regularly scheduled Township Board meeting.
- B. The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the PUD eligibility criteria, permitted uses within the PUD, any requested

reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD, the PUD approval standards and any recommended waiver(s) of those approval standards, any conditions and performance guarantees recommended by the Planning Commission, and the Planning Commission's ultimate recommendation.

- C. If the Township Board accepts the Planning Commission's recommendations concerning any reduction(s) or modification(s) of the dimensional regulations applicable to the proposed PUD, concerning the waiver(s) of any PUD approval standards, and concerning any conditions and performance guarantees to be imposed with final PUD approval and if the Township Board finds that the proposed PUD meets the PUD eligibility criteria and PUD approval standards, then the Township Board shall grant approval for the proposed PUD by adopting a zoning ordinance amendment rezoning the property on which the PUD will be located to the PUD Zone and authorizing development of the property pursuant to the site plan approved by the Planning Commission. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself hold a public hearing after giving the notice required under Section 15.07 of this Ordinance, gather any additional evidence it considers relevant, and make its own findings of fact concerning the factual determinations made by the Planning Commission.

SECTION 15.11 – PUD ZONING PERMIT. Following the effective date of the zoning ordinance amendment that rezoned the property on which the PUD will be located to the PUD Zone and the satisfaction of any condition required prior to construction, the applicant shall obtain a PUD zoning permit from the zoning administrator authorizing the actual construction of the PUD. The Applicant shall at that time also provide a copy of the PUD project's master deed to be kept on file at the Township office. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD zoning permit issued under this subsection void.

SECTION 15.12 – CONTINUING ADHERENCE TO APPROVED PUD. Any property owner who fails to develop and maintain an approved PUD according to the zoning ordinance amendment rezoning the property to the PUD Zone and according to the site plan approved by the Planning Commission, and any conditions imposed, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

SECTION 15.13 – AMENDMENT OF AN APPROVED PUD. Amendments to an approved PUD shall be permitted only under the following circumstances:

- A. If the owner of the property within a previously approved PUD development desires to amend the uses authorized on his or her property within the PUD development, then such an amendment shall be processed in the same manner as a new PUD application.
- B. If the owner of the property within a previously approved PUD development desires to amend the site plan governing the uses authorized on his or her property within the PUD development by the previously enacted zoning ordinance amendment, then the owner of property shall notify the zoning administrator of any desired change to the approved PUD site plan. Minor changes may be approved as specified by Section 18.11B of this Ordinance.
- C. Major amendments to an approved PUD may be initiated by the applicant. Requests for major PUD amendments shall follow the procedures set forth in 15.13.C. below:
 - 1. Upon rezoning of a parcel of property to the PUD Zone and prior to any development of the property, a meeting will be held between the Owner(s) of the property in question and a designated member of the Planning Commission, Zoning Administrator, and other knowledgeable individuals as deemed necessary by either the Planning Commission or the property owners for the purpose of reviewing and insuring that a clear understanding exists between the Township and Property owners as to the uses allowed in, and requirements of the PUD Zone.
 - a. Preliminary Plan Submittal - The Property Owner(s) shall submit to the Township Clerk, seven (7) copies of a Preliminary Project Plan for distribution to the Township Planning Commission at least thirty (30) days prior to the meeting at which a public hearing has been scheduled.

The preliminary plan shall contain sufficient information to give a general picture of site conditions, the reason for the particular use arrangement selected, the identification of special features of the site, steps taken in the design to deal with those special features and information on density or quantitative data to give an indication of demands on community services in addition to those items required in the definition of a Preliminary Project Plan.

Evidence shall be provided that the owner has met with and is coordinating the project with the Drain Commissioner; Fire Officials;

Northwest Michigan Community Health Agency, Health Department of Northwest Michigan; Antrim County Road Commission; Michigan Department of Transportation (if project will border on state highway); Michigan Department of Natural Resources & Environment; and other appropriate agencies as detailed in Section 18.06 - Agency Review.

- b. Preliminary Plan Review – The Planning Commission upon review of the preliminary plan shall approve, approve with conditions or reject the plan within sixty (60) days of the first meeting at which the plan is accepted as being administratively correct. Any conditional approval or rejection of a preliminary plan shall state specific reasons for the conditional approval or rejection. Approval of the preliminary plan shall not imply final approval of the Final Project Plan but shall be a method used to show areas and levels of agreement and disagreement given existing conditions and information available at the time of the review.

Approval of the Preliminary Plan shall allow the Owner to proceed with the preparation of Final Project Plan.

- c. Final Plan Submittal – The Owner shall submit eighteen (18) copies of the Final Project Plan to the Township Clerk a minimum of thirty (30) days prior to the Planning Commission meeting at which the Commission is to review the Final Project Plan. The Final Plan shall be in accord with the approved Preliminary Plan and shall be detailed as is specified in Section 18.04 – Application for Site Plan Review.
- d. Final Plan Review – The Planning Commission shall review the Final Project Plan as is provided for in Sections 18.05 - Site Plan Review and Approval; 18.06 - Agency Review; and 18.08 - Conditional Approvals using the standards contained in Section 18.07. Action shall be taken within sixty (60) days of the meeting at which the Final Project Plan is accepted and shall detail specifics that resulted in the action taken. Approval of the Final Project Plan shall result in three copies of the plan being signed by the owner and Chairman of the Planning Commission with these being submitted to the Township Board for their action.
- e. Final Plan Approval – The Township Board shall review the approval recommendation of the Planning Commission to ensure that the actions taken are based upon the conditions and requirements and to ensure affected agency input has been incorporated into the final project plan. Action shall be taken by the Township Board within 30 days of the first meeting at which the plan and recommendations of the Planning Commission is accepted. If the Township Board does not believe all

requirements have been met, it will be resubmitted to the Planning Commission for a report. Upon receipt of the report from the Commission, the Township Board shall take final action. Upon approval by the Township Board, the Township Supervisor shall sign the three sets of plans with one being returned to the owner, one being retained in the Township File and one being retained in the Zoning Administrator's file. The Zoning Administrator shall then issue a permit provided all other necessary permits have been obtained. In those instances where the other permitting agencies will not issue a permit until after the zoning permit has been issued, a conditional zoning permit will be issued.

SECTION 15.14 – EXPIRATION OF APPROVED PUD; EXTENSION.

- A. An approved PUD shall expire one (1) year following the effective date of the zoning ordinance amendment that rezoned the property on which the PUD development will be located to the PUD Zone, unless substantial construction has begun on the PUD prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:
 - 1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
 - 2. The PUD requirements and standards that are reasonably related to the development have not changed.

- B. If the PUD approval expires pursuant to subsection A above, no work pursuant to the PUD site plan may be undertaken on the development until a new PUD approval is obtained following the procedures for a new PUD application. In addition, if the PUD approval expires, the Planning Commission shall begin the procedures necessary to rezone the property to the zoning district which existed prior to the PUD approval as if no PUD approval had ever been granted, or to such other zoning district deemed appropriate by the Planning Commission which is consistent with the then effective township land use plan.

SECTION 15.15 REPEAL

A PUD Zone designation may be repealed at the option of the Applicant or on the initiation of the Planning Commission, if it is determined that the project no longer serves a value or purpose. Repeal of a project shall be by public hearing, following the same notice requirements as for the original establishment of the project.

SECTION 15.16 RENEWAL

To avoid automatic expiration, the project owner may request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Township Board after recommendation by the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the review body. No formal public hearing is required for the Planning Commission to consider a renewal. Renewals shall be for periods not to exceed twenty-four (24) months.

SECTION 15.17 FEES

Fees for PUD Project Plan review shall be as contained in the township fee schedule.

SECTION 15.18 PERFORMANCE GUARANTEE

The Township Board may require a performance guarantee by the Applicant to ensure completion of improvements associated with a development project and/or to ensure compliance with the Zoning Ordinance. This Guarantee shall be as specified in Section 18.10.

Section 3. Amendment of Chapter XVIII: Site Plan Review, Standards for Site Plan Approval.

Chapter XVIII, Site Plan Review, Section 18.04.A(1)(m) of the Torch Lake Township Zoning Ordinance is amended to add the following:

- m. Identification of proposed uses that may generate noise which, because of its volume and/or frequency, may result in the unreasonable interference with the comfortable use and enjoyment of private property within nor adjacent to the subject property. This is to include a narrative that thoroughly describes how such identified uses will be effectively managed in order to eliminate the potential for any such unreasonable interference.

Section 4. Amendment of Chapter XVIII: Site Plan Review, Standards for Site Plan Approval.

Chapter XVIII, Site Plan Review, Section 18.07.A (4) of the Torch Lake Township Zoning Ordinance is amended to add the following:

4. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. Air pollution, vibration, and

sounds emanating from a use shall not generate noise that because of its volume or frequency results in the unreasonable interference with the comfortable use and enjoyment of private property within or adjacent to the facility, nor violate other local, state or federal law or regulations.

Each PRD & PUD proposal shall state in writing how the provisions of Sections 15.09A(4) and 15.09A(5) are met.

Section 5. Amendment of Chapter XVIII: Site Plan Review, Conditional Approvals.

Chapter XVIII, Site Plan Review, Conditional Approvals, Section 18.08 of the Torch Lake Township Zoning Ordinance is repealed and replaced with the following:

Section 18.08 – Conditional Approvals

The Planning Commission may attach reasonable conditions with the approval of a site plan. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- 1) Be designed to protect natural resources, the health, safety and welfare and social and economic well being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- 2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- 3) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 6. Amendment of Chapter XVIII: Site Plan Review, Performance Guarantee and Waiver of Standards.

Chapter XVIII, Site Plan Review, Waiver of Standards, Section 18.10 of the Torch Lake Township Zoning Ordinance is amended by renumbering Section 18.10 - Performance Guarantee to 18.10.A - Performance Guarantee and by adding the following:

Section 18.10.B. – Site Plan Review, Waiver of Standards

The Planning Commission may recommend that the Township Board waive any of the standards contained in a PUD or other required site plan where all of the following findings are documented along with the rationale for the decision:

1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
2. The spirit and intent of the Torch lake Township Zoning Ordinance will still be achieved.
3. No nuisance conditions will likely be created by such waiver.

Section 7. Amendment of Chapter XVIII: Site Plan Review, Amendments to Approved Site Plans.

Chapter XVIII, Site Plan Review, Amendments to Approved Site Plans, Section 18.11.A. of the Torch Lake Township Zoning Ordinance is amended by adding the word “Major” to read as follows:

Section 18.11.A – Site Plan Review, Amendments to Approved Site Plans

“Major amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance. Minor changes to an approved site plan...”

Section 8. Amendment of Chapter XXIII, Definitions, Section 23.01.

Chapter XXIII, Definitions, Section 23.01 of the Torch Lake Township Zoning Ordinance is hereby amended to add the following definitions in their appropriate alphabetical locations, which new definitions shall read in their entirety as follows:

Lodge: A premises containing between five (5) or twenty-five (25) guest rooms under a common roof that provides commercial accommodations and a variety of other related services on a regular on-going basis, during any season, for guests primarily engaging in outdoor recreational activities including but not limited to tourism, golf and other sports, hunting and fishing. Lodges shall employ at least one (1) person to provide guest services.

Planned Residential Development: A land area within which residential development occurs which has individual building sites and common property or “elements,” limited common property or “elements,” and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community group.

Planned Unit Development: A land area within which residential or mixed residential and commercial development occurs which has individual building sites and common property or “elements,” limited common property or “elements,” and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community group.

Planned Unit Development, Single Use: Planned Unit Developments characterized by single and multiple family residential developments.

Planned Unit Development, Mixed Use: Planned Unit Developments characterized by single and/or multiple family residential development, but also providing commercial uses as permitted within a PUD.

Private Events: A commercial, non-profit or festive activity or promotion by invitation only at a specific location and not open to the general public. Private events include use of the site for fundraising events, art shows, auctions, award ceremonies, commencements, parties, weddings, receptions, family reunions, anniversaries, banquets, meetings, conferences and seminars, and corporate receptions not open to the general public, and that are being hosted by a specific individual or group of individuals for a specific individual or group of individuals so that the number of attendees is more or less known.

Section 8. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 9. Effective Date.

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

TORCH LAKE TOWNSHIP

By:
George Parker, Township Supervisor

By:
Kathy Windiate, Township Clerk