

**MARION TOWNSHIP PLANNING COMMISSION
AGENDA**

REGULAR MEETING

May 23, 2023

7:30 PM

Virtual access instructions to participate in the meeting are posted on www.mariontownship.com

Call to Order:

Pledge of Allegiance:

Introduction of Members:

Approval of Agenda for: May 23, 2023 Regular Meeting

Approval of Minutes from: April 25, 2023 Regular Meeting

Public Hearing: None

New Business: None

Unfinished Business:

- 1) GO#01-23 continue PDR (Purchase Development Rights) ordinance Update
- 2) Crypto Ordinance Data Processing Industrial District
- 3) ZA Memo on pending text amendments

Special Orders:

Education: Training/Seminar PAY (Jessica)

- Announcements:

Call for Public Comment:

Adjournment:

*Approved by: _____
Larry Grunn - Chairperson

Date: _____

**MARION TOWNSHIP
PLANNING COMMISSION
REGULAR MEETING
APRIL 25, 2023 @ 7:30PM**

PC MEMBERS PRESENT: LARRY GRUNN – PC CHAIRPERSON
JIM ANDERSON – PC VICE CHAIRPERSON
CHERYL RANGE – PC SECRETARY
BOB HANVEY – MARION TWP BOT REPRESENTATIVE
BRUCE POWELSON

OTHERS PRESENT: DAVID HAMANN - MARION TWP. ZONING ADMINISTRATOR
ALISSA STARLING - PLANNER W/ CARLISLE WORTMAN

MEMBERS ABSENT: NONE

CALL TO ORDER

Larry Grunn called the meeting to order at 7:30pm.

APPROVAL OF AGENDA

Bruce Powelson made a motion to approve the April 25, 2023 agenda as presented. Jim Anderson seconded.
5-0 **MOTION CARRIED**

APPROVAL OF MINUTES

Cheryl Range made a motion to approve the March 28, 2023 Planning Commission meeting minutes with the changes. Jim Anderson seconded. 5-0 **MOTION CARRIED**

UNFINISHED BUSINESS

1) CRYPTO ORDINANCE DATA PROCESSING INDUSTRIAL DISTRICT

Alissa Starling asked the commissioners what criteria they would like to see in the Crypto ordinance.

- Minimum lot area – 4 acres.
- Same/similar setbacks as the Solar ordinance
- Sound level measured at the boundary of the property – 30 decibels
- Appropriate lighting
- Security measures
- Extra buffering and additional screening
- Require fencing (possibly a chain-linked fence.)
- Planning Commission may recommend additional screening
- For buffering references Section# 6.13

Alissa will bring back this ordinance, along with all of the above changes, to the next Planning Commission meeting in May.

2) GO# 01-23 CONTINUE PDR (PURCHASE DEVELOPMENT RIGHTS) ORDINANCE UPDATE

Alissa reviewed Lyon Township’s PDR ordinance and used their scope and requirements for Marion’s ordinance. Dave Hamann explained that this ordinance is going to be a “stand alone ordinance.” Therefor we should not reference any zoning ordinance numbers in the PDR ordinance.

Alissa suggested including an option for land owners to buy the rights back after 50 years, if they want to change the use of the property. Several of the Commissioners were not in favor of this idea.

Alissa is going to get in contact with Rob Stafford with the Livingston County Planning Department and Sara Thomas to get their feedback on PDR's.

Jim Anderson suggested that Alissa ask Rob how they determine which properties are more valuable than others when talking about PDR's. Jim also asked if John Enos would be willing to provide an example of a PDR.

Alissa will speak with John Enos about this and will report back at the next PC meeting. Alissa is going to send a website link to Jim Anderson that discusses PDR Partnerships and PDR Grant Programs.

-EXTEND MEETING-

Cheryl Range made a motion to extend the meeting beyond 9:30pm. Larry Grunn seconded. 5-0 **MOTION CARRIED**

3) CALL TO THE PUBLIC POLICY – ADD TO BYLAWS?

Jim Anderson made a motion to approve the Marion Township Planning Commission Call to Public Policy. Larry Grunn seconded. 5-0 **MOTION CARRIED**

SPECIAL ORDERS

• **MASTER PLAN – HARD COPIES**

Dave Hamann is going to make sure that we have the most recent draft of the Master Plan. He will then produce and distribute a hard copy to each Commissioner.

ANNOUNCEMENTS

• **MTA's upcoming workshop - Breaking the Zoning Code:**

May 15: Bavarian Inn Lodge, Frankenmuth

May 18: Four Points by Sheraton, Kalamazoo

May 18: Live online class (also includes access to on-demand recorded version)

May 9: Treetops Resort, Gaylord

Cheryl Range would like to attend the online/virtual class scheduled for May 18, 2023. Jessica stated that her and Tammy will get her registered for this class.

CALL TO THE PUBLIC

Les Andersen resides at 4500 Jewell Road. Les shared some highlights from the 2023 MTA conference that he recently attended.

- According to Township employees from other jurisdictions, residents are not required to provide their name and address, when filing a complaint.
- Jurisdictions that allow video-taping during their public meetings are more likely to encounter a lawsuit.
- Officials should not answer questions during CALL TO THE PUBLIC.
- Officials should wait until the discussion is over before sharing their vote.
- Moratoriums do not hold up well in court and open Townships up for lawsuits.
- Rules regarding Solar Farms.
- Les spoke with Sara Mills and apologized to her for the way the public spoke to her during the November 22, 2022 public meeting.
- There is an alternative type of "wind energy" that is making its way into Michigan and it seems to be more publicly acceptable.

ADJOURNMENT

Cheryl Range made a motion to adjourn the meeting at 10:05pm. Jim Anderson seconded. 5-0 **MOTION CARRIED**

TOWNSHIP OF MARION
LIVINGSTON COUNTY, MICHIGAN
PURCHASE OF DEVELOPMENT RIGHTS

ARTICLE I: INTENT, PURPOSE, AND SHORT TITLE

SECTION 1.1: INTENT AND PURPOSE.

The intent and purpose of the proposed Purchase of Development Rights (PDR) ordinance in Marion Township is to protect and preserve the valuable agricultural land, conserve natural resources, protect scenic and cultural heritage, provide landowner benefits, and promote community collaboration. The ordinance aims to create a framework that encourages voluntary land conservation, supports sustainable agriculture, and safeguards the rural character, environmental integrity, and quality of life in Marion Township for future generations.

1. Preservation of Agricultural Land. The primary objective of the PDR ordinance is to preserve productive agricultural land within Marion Township. By offering incentives to landowners, the ordinance seeks to encourage the permanent protection of farmland from non-agricultural development. This preservation ensures the long-term viability of the agricultural industry, promotes local food production, and maintains the rural landscape that is vital to the Township's identity and heritage.
2. Conservation of Natural Resources. Another crucial purpose of the PDR program is to conserve valuable natural resources and ecosystems. The ordinance aims to identify and protect environmentally sensitive areas, such as wetlands, forests, and wildlife habitats, by acquiring development rights from landowners. This conservation effort contributes to maintaining biodiversity, preserving water quality, and supporting the overall health and resilience of local ecosystems.
3. Scenic and Cultural Preservation. The PDR ordinance recognizes the importance of scenic beauty and cultural heritage in Marion Township. It aims to protect scenic vistas, historic sites, and cultural landscapes that contribute to the aesthetic appeal and tourism potential of the area.
4. Voluntary Participation and Landowner Benefits. The intent of the PDR program is to offer voluntary participation for landowners who wish to conserve their land. The ordinance provides landowners with financial compensation in exchange for the purchase of development rights, allowing them to retain ownership while restricting future non-agricultural development. This approach provides landowners with economic benefits, financial security, and the opportunity to maintain their agricultural operations or preserve the natural character of their property.
5. Community Collaboration and Planning. The PDR ordinance encourages community collaboration and engagement in land use planning. It aims to involve stakeholders, including landowners, residents, agricultural organizations, and environmental groups, in the development and implementation of the program. By fostering partnerships and leveraging local knowledge, the ordinance ensures that the PDR program aligns with community goals and values while maximizing its effectiveness.

The permanent acquisition by Marion Township of development rights to farmland, open space and natural areas will provide the opportunity to retain and continue their current uses and provide for the long-term protection of public interests, which are served by the existence of farmland, open spaces, and natural areas in the township. The above are all examples of the public benefits that the township is seeking through purchase of development rights.

SECTION 1.2: SHORT TITLE.

This ordinance shall be known and may be cited and referred to as the “Marion Township XXXXXXXXXXXX” and shall hereinafter be referred to as “this ordinance.”

ARTICLE II: SCOPE AND APPLICATION

SECTION 2.1. INTERPRETATION.

The terms and provisions of this ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety, and welfare, and for the public peace and preservation of natural resources and public and private property within the township.

SECTION 2.2. LOGIC

This article has been created to provide for the establishment, financing, and administration of a purchase of development rights program to protect farmland, open space, natural areas, and other areas of eligible land as defined herein, in accordance with Public Act 110 of 2006, as amended.

SECTION 2.3. ACQUISITION

The acquisition of interests in farmland as provided in this Ordinance is a public purpose of Marion Township as provided in this Ordinance and financing such acquisition requires that the Township enter purchases or installment purchases not to exceed statutory limits.

ARTICLE III: DEFINITIONS

SECTION 3.1. DEFINITIONS.

For construction and application of this ordinance, the following definitions shall apply:

Agricultural Rights: An interest in and the right to use and possess land for purposes and activities related to open space, natural habitat, horticultural and other agricultural uses.

Agricultural Use. Land substantially undeveloped and devoted to the production of plants and animals useful to humans, including fruits, nuts, vegetables, greenhouse plants, Christmas trees and lumber, forages and sod crops, grains and feed crops, dairy and dairy products, livestock (including breeding and grazing), poultry and other similar uses and activities.

Board of Trustees: The Marion Township Board of Trustees.

Conservation value: The agricultural, natural, open space, scientific, biological, and ecological values of a parcel of property that are found to be worthy of protection.

Development: An activity that materially alters or affects the existing conditions or use of any land.

Development rights: The right to develop land to the maximum intensity of development authorized by law.

Development rights easement: A grant, by a legal instrument, whereby an owner relinquishes to the public the right to develop the land except as expressly reserved in the instrument, and which contains a covenant running with the land describing the easement terms, conditions, and development rights.

Full ownership: Fee simple ownership, or outright ownership of real property, including the ownership

of all aspects of title, including the ability to transfer the totality of the title.

Intensity of development: The height, bulk, area, density, setback, use and other similar characteristics of development.

Other eligible land: Land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land.

Owner: The party or parties who has/have legal title to or an equitable interest in the property.

Parcel: A measured portion of land that is described by virtue of a proposal to include the parcel in an agreement to acquire or transfer development rights, in accordance with the provisions of this Ordinance.

Permitted use: Any use reserved within a development rights easement essential to the farming operation thereon or which does not alter the open space character of the land.

Value of development rights: The difference between the fair market value of full ownership of the land (excluding buildings thereon) and the fair market value of the rights being purchased plus any residential development rights to be retained by the owner.

ARTICLE IV: ELIGIBILITY

SECTION 4.1. ELIGIBILITY, APPLICATION, AND REQUIRED INFORMATION.

Lands that may be considered for purchase of development rights shall exhibit at least one of the following characteristics:

1. Are currently used for agricultural and farming or have been used for such uses in the past and may immediately be returned to active agricultural and farming use.
2. Contain woodland, trees, tree stands or wooded habitat.
3. Contain wetland.
4. Contain 100-year floodplain, natural watercourse, lake or pond, or shoreline of a lake or pond.
5. Are currently open and void of all manmade structures such as dwellings, barns, garages, sheds, buildings, paved or unpaved roads or drives, and debris. Lands which contained such structures in the past may be eligible but only if all such structures have been removed prior to consideration and the land is open and void at the time of consideration. A special exception can be made by the Township Board, upon the recommendation of the Supervisor and planner, and the Planning Commission, to consider land which contains historic structures that have significance to the township overall.

ARTICLE V: APPLICATION

SECTION 5.1. APPLICATION.

Any person may apply to the township for purchase of the development rights of his/her/their land. A person may apply by providing a request in writing accompanied by the required information as set forth herein. Application forms may be provided by the township and shall be used if available. Any application and review fees as required by resolution by the Township Board shall be paid at the time of application. The act of filing an application provides no assurance of approval and subsequent purchase of development rights.

1. The township may initiate the purchase of development rights by directing the Township Supervisor and township planner to explore the possibility of purchasing the development rights from a specific parcel. Such exploration shall include identification of the property

owner, determining the owner's willingness to work with the township, and conducting an informal evaluation as to whether the property could be eligible and could meet the standards herein. If the exploration work finds that purchase of the development rights is possible, the Township Supervisor shall prepare or make arrangements for the preparation of a complete application as set forth herein. The township is not obligated to further pursue a self-initiated application, nor is the township obligated to approve or subsequently purchase the development rights.

SECTION 5.2. REQUIRED INFORMATION.

The following information is necessary and shall be provided for review by an applicant when considering any land for purchase of development rights:

1. Parcel identification number, legal description, and parcel size.
2. Copy of the title and deed to the property.
3. Identification of all rights-of-way or easements on the property.
4. Complete ownership information including a certification that the interests of all joint tenants, financial institutions, and any party with an interest in the property are disclosed.
5. Property value data including assessed value and estimated market value.
6. Existing land use on and adjacent to the parcel.
7. Identification of the significant natural features (wetlands, woodlands, trees, ponds, streams, rivers, habitat containing endangered or threatened species or species of special concern, etc.).
8. Identification of known environmental concerns on the property (e.g., evidence of buried waste, soil contamination, ground, or surface water contamination, etc.).
9. Survey of property by registered surveyor indicating parcel boundaries, location of buildings, walls, shelters, fences, bridges, trails, roads, and other built features.
10. Type of development rights to be purchased (e.g., fee ownership, undivided interest, conservation restriction, retained life estate, reversionary interest).
11. Description of any rights the owner wishes to retain.
12. Identification and explanation of mineral, oil and gas, or water rights that may exist.

SECTION 5.3. AUTHORIZATION.

The Township Board may purchase the development rights of land from willing homeowners in Marion Township that is or was an active agricultural operation, open space, or natural areas as defined herein as intended by this article. The property interest acquired may be either the development rights, or any lesser interest, easement, covenant, or other contractual right. Purchase of development rights under this article may not be accomplished through condemnation. Participation in this program by a landowner shall be voluntary; the township shall have no authority to force a landowner to participate.

1. The Township Board is further authorized to participate, partner or contract with public, private, or nonprofit land conservation organizations or trusts to purchase, administer and enforce the rights obtained by the township under the PDR program.

ARTICLE VI: REVIEW PRODECURES

SECTION 6.1. TOWNSHIP SUPERVISOR AND PLANNER REVIEW AND RECOMMENDATION.

It shall be the responsibility of the Township Supervisor and township planner to determine the completeness of an application. For complete applications, the supervisor and planner shall prepare a written report to the Planning Commission describing the case and providing a recommendation regarding the following:

1. Whether to purchase development rights.
2. Which development rights to purchase.
3. The intensity of development permitted after the purchase of the land which the development rights are purchased.
4. The price at which development rights will be purchased and the method of payment.
5. The procedure for ensuring that the purchase or sale of the development rights is fixed to run with the land.
6. In preparing their report, the supervisor and planner may consult with any other staff, consultants, agencies, and experts that may be necessary.

SECTION 6.2. PLANNING COMMISSION REVIEW AND RECOMMENDATION.

The Planning Commission shall review the application and written reports provided by the Supervisor and Township Planner. Upon completing its review, the Planning Commission shall make a recommendation to the Township Board based upon its findings and the requirements and standards in this article as well as the goals, policies and objectives of the township expressed in the master plan and adopted ordinances. A public hearing may be called by the Planning Commission, in which case the hearing shall be noticed in accordance with the procedures set forth in article 4.00 of this Ordinance and the Planning Commission's recommendation shall be made only after the public hearing has been held. The Planning Commission shall recommend that the Township Board purchase the development rights or does not purchase the development rights and shall include comment regarding the financing mechanism to purchase the development rights if recommended for purchase.

SECTION 6.3. TOWNSHIP BOARD OF TRUSTEES REVIEW AND ACTION.

The Township Board shall review the application (which may be provided to the board in summary), written reports (which may be provided to the board in summary), and Planning Commission recommendation. Upon completing its review, the Township Board shall decide whether to purchase the development rights of the property under consideration or not and shall decide on the financing mechanism in which to purchase the development rights if the decision is to purchase. The decision of the Township Board is discretionary; the findings and recommendations by the supervisor and planner, and the Planning Commission, shall not obligate the Township Board to purchase or not purchase development rights.

ARTICLE VII: APPROVAL AND CONDITIONS.

SECTION 7.1. STANDARDS FOR APPROVAL.

When considering the purchase of development rights under the procedures set forth in this article, the following standards shall be followed for approving, modifying, or rejecting an application to purchase development rights:

SECTION 7.2. ELIGIBLE LANDS.

Only those parcels of land that meet or exceed the eligibility criteria as set forth in this article may be considered for purchase of development rights.

SECTION 7.3. ELIGIBLE RIGHTS.

The township shall only purchase the rights to develop the land to the maximum intensity of development for the current zoning designation of the land at the time this article was adopted.

SECTION 7.4. PURCHASE METHODOLOGY.

The purchase price of the development rights shall be equal to or less than the appraised value of the development rights less the agricultural rights and specifically retained development rights. The method of payment shall be determined in advance of the purchase of development rights and any approvals or procedural requirements related to the method of payment must be secured separately and prior to the purchase of the development rights or made a condition to the approval thereof.

SECTION 7.5. CONFORMANCE WITH PDR CONCEPT.

The purchase of the development rights being considered shall be consistent with and promote the intent of the purchase of development rights concept, as well as with the specific standards and requirements set forth herein.

SECTION 7.6. COMPATIBILITY WITH TOWNSHIP MASTER PLAN.

The purchase of the development rights being considered shall be compatible with the general principals, goals, objectives, and policies set forth in the adopted master plan.

SECTION 7.7. FARMLAND PRESERVATION, OPEN SPACE, AND NATURAL RESOURCE PRESERVATION.

The purchase of the development rights shall accomplish one or more of the following:

1. Preservation of farmland from being developed with another use, enabling land to continue in agricultural or farm use.
2. Preservation of open space for the visual, scenic, active recreation, or passive recreation enjoyment of township residents.
3. Preservation of a natural area and furthering the possibility of growth, wildlife habitat and restoration of that natural area in the future.
4. Purchase Agreement. The purchase of the development rights shall be accomplished by a purchase agreement, or other equivalent instrument, that fixes the transaction to run with the land and is recorded with the register of deeds.
5. Conformance to all applicable regulations. The application shall be made, and the purchase of development rights shall be carried out, in conformance with all applicable federal, state, and local laws and regulations.
6. Conditions of Approval. Any purchase of development rights made through this purchase of development rights program shall be set forth in a written agreement that is in recordable form suitable for recording. The purchase agreement shall specify the conditions of approval, including the following, at minimum:
 7. Runs with the Land. The purchase agreement shall state that the conveyance of the development rights shall run with the land.
 8. Rights Retained by Owner. The purchase agreement shall state the provisions by the owner to retain certain rights, including a detailed description of the retained rights, the right to convey the retained rights, and maintaining existing structures.
 9. Prohibited Activities. Any activity on or use of the property that is inconsistent with the

purposes of this article or detrimental to the values being preserved is prohibited. By way of example, the following activities and uses are prohibited:

10. Any division or subdivision of the property.
11. Commercial or industrial use (for purposes of this provision, farming and agricultural use shall not be considered commercial or industrial).
12. Placement or construction of any buildings, structures, fences, walls, roads, parking lots or other improvements, unless expressly permitted.
13. Cutting down trees or vegetation, unless expressly permitted.
14. Mining or alteration of the land surface, except where mineral rights have been retained by another owner and where the other owner has explicit rights to mine on the property as previously disclosed in the application review process.
15. Dumping of waste or other materials.
16. Alteration to natural watercourses, wetlands, or other natural water features.
17. Use of motorized off-road vehicles such as snowmobiles, all-terrain vehicles, motorcycles, and the like.
18. Construction of billboards and other advertising signs.

ARTICLE VIII: ENFORCEMENT AND MONITORING.

SECTION 8.1. MONITORING AND ENFORCEMENT.

The purchase agreement shall provide the township or its agent with certain rights needed to monitor the protection of the rights purchased. These rights shall include:

1. The right to enter the property at reasonable times to monitor or enforce compliance with the conditions of approval and the purchase agreement. The township, however, shall not unreasonably interfere with the owner's retained rights on the property.
2. The right to prevent any activity or use of the property that is inconsistent with the conditions of approval and the purchase agreement.
3. The right to require restoration of the areas or features of the property that are damaged by activity inconsistent with the conditions of approval and the purchase agreement. The township or its agent shall also have the right to conduct studies on the property to determine appropriate types of restoration activities if necessary.
4. The right to place signs on the property to indicate that the property is being protected under the terms of this PDR program.

SECTION 5.2. FURTHER ACTION.

In addition to, or in lieu of, seeking to enforce this ordinance by proceeding under Section 8.1 above, the township may institute an appropriate action in a court of general jurisdiction seeking equitable relief.

ARTICLE IX: ENHANCEMENT.

SECTION 9.1. ENHANCEMENT

The purchase agreement may provide the township with the right to engage in activities that restore the biological and ecological integrity of the property. Such activities may include inventorying plant

and animal species on the property, planting native vegetation, removal of undesirable vegetation, etc.

ARTICLE X: DURATION.

SECTION 10.1. DURATION OF ACQUIRED INTERESTS.

Development rights acquired pursuant to this Ordinance shall be held in trust by the Township for the benefit of its citizens in perpetuity. After 50 years have passed, the owner may make application to the Planning Commission that farmland described in this Ordinance has (a) become landlocked with non-agricultural uses, (b) farming is no longer feasible and (c) the release is for the public good. The Planning Commission will evaluate the feasibility of farming by determining whether the land is no longer and never will be suitable for any kind of agriculture, with wooded land left fallow not necessarily to be considered unsuitable.

1. Upon receiving the recommendations of the Planning Commission, the Board of Trustees shall take final action on such recommendations. The Board of Trustees must support the request by the owner to repurchase development rights by a five-member majority of the total seven Trustees.
2. For those properties for which the Board of Trustees approves the return of development rights as specified in Subsection (1), the Planning Commission shall cause an appraisal of the applicant's property interest to be made at the owner's expense. Payment for this appraisal shall be made by the owner in advance. A "before and after" appraisal shall be made to determine the value of development rights. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon), and one shall determine the fair market value of the agricultural rights plus any specifically retained residential development rights.
3. Appraisals shall be made by State certified appraisers selected by the Planning Commission. The selected appraiser shall not have a property interest, personal interest, or financial interest in eligible lands.
4. Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the Planning Commission or by owners of the property appraised, but corrections of the appraisal may be made only by the appraiser.
5. At any time in this process, the owner may choose to withdraw the request for the return of development rights without penalty, while still being responsible for the Township's appraisal of the property as specified above in Subsection (2).
6. If the Board of Trustees approves the return of development rights, the Township shall have a right of first refusal to purchase the remaining rights at the fair market value of the agricultural rights plus any retained development rights, as determined by a State certified appraiser. Upon receiving the recommendations of the Planning Commission, the Board of Trustees shall take final action on such recommendations. If the Board of Trustees chooses to exercise this right of first refusal, an offer to purchase the remaining rights at the appraised value shall be submitted. Acquisition of lands shall not be made with funds authorized for development rights acquisition pursuant to this Ordinance. The owner may at that time choose to not sell the remaining rights and instead retain ownership of the property.
7. If (a) a request to re-purchase development rights is denied by the Board of Trustees, or (b) the landowner chooses not to sell the remaining rights the Township chooses to exercise its right of first refusal or (c) more than a year passes from the Board of Trustees' authorization

for the re-purchase of development rights, the landowner must wait five years before re-applying to re-purchase development rights.

- a. The Township may convey development rights acquired pursuant to this Ordinance to a conservation, open space preservation, historic preservation or similar organization under terms ensuring that the public benefits for which the Township purchased the development rights will be maintained.

8. ARTICLE XI: FINANCING

SECTION 11.1.

OPTION 1: The Township Board of Trustees shall finance the PDR program through one or more of the sources identified in Section 509(1) of Public Act 110 of 2006, as amended, including: General appropriations by the Township; proceeds from the sale of development rights by the township subject to Section 508(3) of Public Act 110 of 2006, as amended; grants; donations; bonds or notes issued under Sections 509(2)—(5); general fund revenue; special assessments under Section 509(6); and other sources approved by the legislative body and permitted by law.

OPTION 2: Development Rights Acquisition Fund. The funds for purchasing development rights on farmland shall be placed in a designated Development Rights Acquisition Fund to be hereafter created in the office of the Treasurer of Marion Township (here and after "Acquisition Fund"). Money in such an acquisition fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of Township money. The funds and any interest received from the deposit or investment of such funds shall be applied and used solely for the purposes set forth in this Ordinance.

SECTION 11.2. RELATED COSTS.

The costs of appraisal, easement development, baseline documentation, legal and other services lawfully incurred incident to the acquisition of interests in eligible lands by the Township shall be paid by the Township. The Township shall not be responsible for expenses incurred by the owner incident to this transaction.

SECTION 11.3. SUPPLEMENTAL FUNDS.

Supplemental or matching funds from other governmental agencies or private sources may become available to pay a portion of the cost of acquiring development rights, or some lesser interest in eligible lands or to supplement or enlarge such acquisition. The Planning Commission is hereby authorized to utilize such funds to purchase interests in eligible lands or to otherwise supplement Township funds in the manner provided by this Ordinance and in accordance with the applicable laws or terms governing such grant.

ARTICLE XII: SEVERABILITY

SECTION 12.1.

If any one or more sections, provisions, phrases, or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity nor the enforceability of the remaining sections, provisions, phrases, or words of this ordinance unless expressly so determined by the court.

ARTICLE XIII: NONEXCLUSIVITY

SECTION 13.1.

The prohibitions and penalties provided for in this ordinance shall be in addition to, and not exclusive of, other prohibitions and penalties provided for by other law, ordinance, rule and/or regulation.

ARTICLE XIV: ADOPTION

SECTION 14.1.

Provision of this ordinance shall take effect thirty (30) days from the date of publication in accordance with the statutes of the State of Michigan.

The ordinance was unanimously adopted by the Township Board on _____ 2023, as verified by Tammy Beal, Marion Township Clerk.

MARION TOWNSHIP

DATA PROCESSING FACILITY ZONING ORDINANCE AMENDMENT

An amendment to the Marion Township Zoning Ordinance to amend and add definitions related to data processing facilities.

Marion Township Ordains:

SECTION 1. DEFINITIONS

Section 3.02 Definitions of the Zoning Ordinance is hereby amended to add the following definition for a "Data Processing Facility" which shall read, in its entirety, as follows:

Data Processing Facility: A building, dedicated space within a building, or group of structures located on one or more acres of land used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.

SECTION 2. AMENDMENT OF ARTICLE X: INDUSTRIAL

ARTICLE X: INDUSTRIAL DISTRICTS

Section 10.01 LI: Light Industrial District

- A. **Intent:** It is the intent of the Light Industrial District (LI) to provide for a variety of light industrial uses, including manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials, as well as commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses, and designed to avoid negatively impacting adjacent conforming uses.

B. **Uses Permitted By Right:**

In the Light Industrial District, no building or land shall be used and no building or structure erected except for one or more of the following specified uses, unless otherwise provided for in this Ordinance. All uses permitted in this district are subject

to the requirements and standards of Article XVIII, Site Plan Requirements prior to initiation of the use or structure.

The following are uses permitted by right when conducted in a permanent fully enclosed building:

1. Light industrial establishments that perform assembly, fabrication, compounding, manufacture, or treatment of materials, goods, and products, including, but not limited to:
 - a. Jobbing and machine shops.
 - b. Fabricated metal products.
 - c. Plastic products, forming and molding.
 - d. Processing of machine parts.
 - e. Monument and art stone production.
 - f. Industrial laundry operations.
 - g. Wood products processing facility.
 - h. Printing and publishing.
2. Storage facilities for building materials, sand, gravel, stone, lumber, and contractor's equipment.
3. Grain and feed elevators, bulk blending plants and/or handling of liquid nitrogen fertilizer and anhydrous ammonia.
4. Commercial uses not primarily involved in retail sales as a primary use, including but not limited to building material suppliers (excluding concrete mixing), retail lumber yards including incidental millwork, farm implement dealers and repair.
5. The manufacturing, compounding, processing and packaging of perfumes, pharmaceuticals, toiletries, and condiments (except fish, meat, fowl, vegetables, vinegar, and yeast).
6. The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, zinc and aluminum pressure die casting, shell,

- textiles, tobacco, wood (excluding planing mill), yarns and paint not requiring a boiling process.
7. Distribution plants, parcel delivery service, ice and cold storage plants.
 8. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts, such as condensers, transformers, crystal holders, transistor and computer boards, and the like.
 9. Laboratories, experimental or testing.
 10. Public utility service yard or electrical receiving transforming station.
 11. Coal yards.
 12. Freighting or trucking terminals.
 13. Freight yards.
 14. Painting, upholstering, rebuilding, conditioning, body and fender work, repairing, tire recapping or retreading, and battery manufacture.
 15. Industrial park, subject to the following conditions:
 - a. Permitted uses shall include all uses permitted by right within this district. Special uses identified in Section 10.01 D may be permitted, subject to the special use provisions of Article XVI.
 - b. The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
 - c. The development of an industrial park shall be in accordance to an overall plan for development of the park, which plan shall be approved by the Township Planning Commission.
 - d. The developer shall provide within the industrial park a sanitary sewage system that shall be of sufficient size and design to collect all sewage from structures within the industrial park.
 - e. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will, in the opinion of the Township Engineer, collect, carry off and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the

- State of Michigan, the Livingston County Drain Commissioner and the Township.
- f. If a public water system is not available, the developer shall provide within the industrial park a potable water system that shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
 - i. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
 - ii. Such water system shall conform to the statutes, ordinances, and regulations of the State of Michigan, the Livingston County Health Department, the Livingston County Drain Commissioner and the Township.
 - g. All industrial parks shall have direct access to a paved street or major thoroughfare.
 - h. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
 - i. All points of vehicular access to and from public streets shall be located not less than seventy-five (75) feet from the intersection of any public street lines with each other.
 - ii. No part of any parking access and/or service area may be located closer than one hundred fifty (150) feet to any residential property line.
 - j. Parking, loading, or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
 - k. Any industrial park adjoining any residential development shall be provided with a buffer zone of at least sixty (60) feet that shall be provided adjacent to the property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes as provided in Section 6.13. A landscaped planting area shall also be provided along all street frontages that shall not be less than sixty (60) feet in width.
 - l. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These

facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.

- m. Maximum building coverage on any lot within the industrial park shall not exceed forty (40) percent.
- n. Minimum lot sizes within an industrial park shall be one (1) acre.
- o. Minimum lot width within an industrial park shall be one hundred twenty (120) feet.
- p. Minimum yard setbacks within an industrial park shall be:
 - 1) **Front yard:** Forty (40) feet.
 - 2) **Side yard:** Thirty (30) feet.
 - 3) **Rear yard:** Forty (40) feet.

Minimum yard setbacks for lots, which abut property outside an industrial park, shall be as required for other uses in the district.

- 16. Landscape contractor's building, offices and yards as a use permitted by right.

C. Permitted Accessory Uses:

- 1. Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
 - a. Incidental offices for management and materials control.
 - b. Restaurant or cafeteria facilities for employees working on the premises.

D. Uses Permitted By Special Use Permit:

- 1. Asphalt and concrete batching facilities.
- 2. Billboards.
- 3. Communication towers.
- 4. Junkyards.
- 5. Data Processing Facility

- E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the LI: Light Industrial District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.
1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than four (4) acres except in an approved industrial park where minimum lot sizes shall be one (1) acre.
 2. **Minimum Frontage:** Each parcel of land shall have continuous frontage of not less than three hundred thirty (330) feet, except in an approved industrial park where each lot shall have continuous frontage of not less than one hundred twenty (120) feet.
 3. **Yard and Setback Requirements:**
 - a. **Front yard:** One hundred (100) feet.
 - b. **Side yard:** Eighty (80) feet, except in the case where a side yard abuts a residential zoning district, in which case the minimum required side yard shall be one hundred fifty (150) feet.
 - c. **Rear yard:** Eighty (80) feet, except in the case where a rear yard abuts a residential zoning district, in which case the minimum required rear yard shall be one hundred fifty (150) feet.
 - d. See Section 10.01 B 15 o for the minimum yard and setback requirements in a planned industrial park.
 4. **Maximum Lot Coverage:** Forty (40) percent.
 5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of forty (40) feet measured from the finished grade.
 6. **Performance Standards:**
 - a. External areas for storage shall be screened on all sides by an opaque fence of not less than five (5) feet in height.
 - b. When a side or rear lot line abuts or is adjacent to property located within a residential district, a berm or buffer zone shall be required in addition to the minimum yard requirements,

specific driveways and plantings of which shall be determined through the site plan review process. (See Section 6.13.)

- c. **Sound:**
 - i. **Non-Residential.** The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of non-residential uses:

Decibels	Adjacent Use	Where Measured
65	Commercial	Common Lot Line
70	Industrial and Other	Common Lot Line

- ii. **Residential.** The intensity level of sounds shall not exceed the following decibel levels when directly adjacent to residential uses, measured at the common lot line:

Residential Noise Level Limits		
Daytime (7 am–7 pm)	Evening (7-11 pm)	Night (11 pm-7 am)
45 dB(A)	35 dB(A)	30 dB(A)

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

- d. **Vibration:** All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured at any lot line of its source.
- e. **Odor:** The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
- f. **Gases:** The escape of or emission of any gas, which is injurious, destructive, or explosive, shall be unlawful and may be summarily caused to be abated.

- g. **Glare and Heat:** Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
- h. **Light:** Exterior lighting shall be so installed that the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one (1) foot-candle power of light cross a lot line five (5) feet above the ground in a residential district.
- i. **Electromagnetic Radiation:** Applicable rules and regulations of the Federal Communications Commission, in regard to propagation of electromagnetic radiation, shall be used as standards for this Ordinance.
- j. **Smoke, Dust, Dirt and Fly Ash:** Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for any use in this District.
- k. **Drifted and Blown Material:** The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
- l. **Radioactive Materials:** Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
- m. **Other Forms of Air Pollution:** It shall be unlawful to discharge into the atmosphere any substance not covered in parts C, D, and H and in excess of standards approved by the Michigan Department of Environmental Quality.
- n. **Liquid or Solid Wastes:** It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Environmental Quality.

- o. **Hazardous Wastes:** Hazardous wastes as defined by the Michigan Department of Environmental Quality shall be disposed of by methods approved by the Michigan Department of Environmental Quality.
 - i. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
 - ii. Material which normally and reasonably is discarded from industrial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
 - p. Any complaint alleging a violation of any of the following performance standards shall be accompanied by evidence which supports that allegation.
- 7. **Provisions of Article XIV:** Parking and Loading Requirements.
 - 8. **Provisions of Article XV:** Signs.
 - 9. **Provisions of Article XVIII:** Site Plan Review.
 - 10. **Provisions of Section 6.16:** Environmental Protection Standards.

SECTION 3. SPECIAL USE STANDARDS

A new section entitled "Section 17.34 Data Processing Facility" is hereby added to the Zoning Ordinance which shall read, in its entirety, as follows:

The primary intent of the data mining ordinance is to establish guidelines and safeguards for the collection, storage, and use of data within our rural community. By implementing this ordinance, we aim to protect the privacy of our residents, ensure data security, and foster trust and transparency in data-driven practices.

Data Processing Facilities are considered special uses and are therefore are subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the Ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed hereof are met.

- A. Locational Requirements:** Data Processing Facilities are permitted in the Light Industrial Districts with a minimum lot size of four (4) acres.
- B. Performance Standards:**

- a. Data Processing Facilities are considered a principal use and shall be the only principal use on a property at any one time.
- b. Shall not be located within an industrial park;
- c. At all times, sound levels at the property boundary may not exceed thirty (30) dB(A);
- d. A fence shall be installed around the perimeter with a minimum height of six (6) feet;
- e. Additional screening, such as a vegetative buffer, may be required at the discretion of the Planning Commission, per standards in Section 6.13.

DRAFT (MAY 2023)

Memo

To: Planning Commissioners Date: 5/15/2023
From: ZA
Re: Pending Amendments

The attached is the letter from John Gormley regarding pending text amendments waiting for the Planner and Attorney to come to a consensus regarding ZEA and Developments Standards.

- TXT#01-19 Short Term Rentals not related to the above issue
- TXT#02-19 Signs for HO not related to the above issue
- TXT#01-20 Site Plan Cleanup Section 6 and 18 related to above issue
- TXT#02-20 Accessory Structures not related to the above issue
- TXT#03-20 PUD cleanup Section 13 related to the above issue

Please review the letter from John and the items not related in this packet and prepare to discuss and decide what to do with these.

Gormley and Johnson Law Offices, PLC

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August 13, 2021

Bob Hanvey, Supervisor
supervisor@mariontownship.com
Larry Grunn, Planning Commission Chair
larrygrunn@yahoo.com
Dave Hamann, Zoning Administrator
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Township of Marion
2877 West Coon Lake Road
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RE: Marion Township
Review of Proposed Zoning Changes

Dear Supervisor Hanvey, Chairperson Grunn, and Zoning Administrator Hamann:

You have asked that I review the following sections of the Zoning Ordinance proposed for revision by the Planning Commission:

Development Standards Generally:

<i>Article VI:</i>	<i>Section 6.19</i>	<i>Access Control</i>
<i>Article XVIII:</i>	<i>Section 18:01</i>	<i>Site Plan Requirements</i>

Cargo Containers:

<i>Article I:</i>	<i>Section 3.02</i>	<i>Definition</i>
<i>Article VI:</i>	<i>Section 6.07 (13)</i>	<i>Accessory Uses and Structures</i>

Short Term Rentals:

<i>Article III:</i>	<i>Section 3.02</i>	<i>Definition</i>
<i>Article IX:</i>	<i>Section 18</i>	<i>Short Term Rentals</i>

PUD

<i>Article XIII:</i>	<i>Section 13.01</i>	<i>PUD: Planned Unit Development Overlay District</i>
	<i>Section 13.05</i>	<i>Notify Zoning Administrator</i>

First, I would like to address the proposed changes to the Development Standards in the Zoning Ordinance. The Zoning Enabling Act (MCL 125.3101 et al) is the authorizing statute that is the basis of all municipal zoning ordinances. MCL 125.3501 is the statutory authority within the Zoning Enabling Act for Site Plan Review Procedures and Requirements, it reads:

Sec. 501.

- (1) *The local unit of government may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body or official responsible for reviewing site plans and granting approval.*
- (2) *If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.*
- (3) *The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments.*
- (4) *A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.*
- (5) *A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.*

There is no requirement that a Township provide site plan review process before authorizing land uses under a zoning ordinance, as the statute says “may” in paragraph 1. However, I always recommend a municipality handling its own zoning engage in this function, as it prevents or avoids numerous potential future zoning violations. If the Township determines to require submission and approval of a site plan through a process, then the “requirements and standards” upon which those decisions are made must be contained in the zoning ordinance, according to Section 3. Further, according to Section 4, the Township cannot make a decision rejecting, approving, or conditionally approving a site plan under the Zoning Ordinance unless those “requirements and standards are contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state or federal statutes.”

This begs the question, upon what statutory authority does the Township adopt a “Construction Standard Policy Document”? I am not saying it cannot adopt “Construction Standards,” I am just saying I am not sure we can refer to them by reference in the zoning ordinance for the purpose of site plan review and remove the entire procedure and process from the zoning ordinance. It is my opinion that “other statutorily authorized and properly adopted local unit of government planning documents” refers to generally nationally promulgated codes that the Township is permitted by law to adopt by reference, such as 1) building codes, 2) fire codes, 3) property maintenance codes, or 4) historic preservation codes. Of course, I have not reviewed the policy document in question. Further, even if Township can refer to the development standards by reference, I am of the firm opinion the procedures for site plan review must stay in the Zoning Ordinance, per

paragraph 3. If the Township fails to comply with the Zoning Enabling Act, it runs the very real risk of having the site plan review section of the Ordinance, and maybe the entire Ordinance, overturned. The whole point of the Zoning Enabling Act is to require a public hearing and public input, before a change to something like a site plan review process or standards are implemented. Moving the process outside of the Township's Zoning Ordinance defeats that intent of notice and input. For these reasons, I do not recommend that the Township move the site plan review process or requirements out of the Zoning Ordinance. It might be possible to find some legislative authority to adopt Development Standards by Ordinance in the Township and then reference those standards in a site plan review process contained in the Zoning Ordinance.

Second, as to the issue of cargo containers, in the amendments proposed to define them and permit them in the HS and LI District, I did notice that you have not addressed the issue in the Residential Districts or to permit some sort of temporary allowance for moving PODs. Just some thoughts for consideration.

Third, as to Short Term Rentals, I was provided a definition that appears correct. But the proposed regulation to be added in Article IX, Section 9.01B 18 was blank. Is there a proposed regulation? If not, I can provide some similar ordinances from surrounding communities.

Lastly, the issue of the Plan United Development changes. The proposed amendments appear to intend to remove the Procedures for Review and Approval (Section 13.04) from the Zoning Ordinance and relocate them in a set of Development Standards Policy. The amendments also propose to add Section 13.05 regarding how to amend an existing PUD. I see no issue with the proposed amendment to the process of changing an existing PUD. However, I do not believe the Township can remove the Procedures for Review and Approval from the Zoning Ordinance. MCL 125.3503 is the legislative authority to regulate PUDs in the Zoning Enabling Act, which reads:

Sec. 503.

- (1) *As used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed 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.*
- (2) *The legislative body may establish planned unit development requirements in a zoning ordinance that permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this state. The review and approval of planned unit developments shall be by the zoning commission, an individual charged with administration of the zoning ordinance, or the legislative body, as specified in the zoning ordinance.*
- (3) *Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if*

equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a local unit of government may approve a planned unit development with open space that is not contiguous with the rest of the planned unit development.

- (4) *The planned unit development regulations established by the local unit of government shall specify all of the following:
(a) The body or official responsible for the review and approval of planned unit development requests.
(b) The conditions that create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applicants will be reviewed and approval granted.
(c) The procedures required for application, review, and approval.*
- (5) *Following receipt of a request to approve a planned unit development, the body or official responsible for the review and approval shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required under section 103.*
- (6) *Within a reasonable time following the public hearing, the body or official responsible for approving planned unit developments shall meet for final consideration of the request and deny, approve, or approve with conditions the request. The body or official shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision.*
- (7) *If amendment of a zoning ordinance is required by the planned unit development regulations of a zoning ordinance, the requirements of this act for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by this section shall fulfill the public hearing and notice requirements of section 306.*
- (8) *If the planned unit development regulations of a zoning ordinance do not require amendment of the zoning ordinance to authorize a planned unit development, the body or official responsible for review and approval shall approve, approve with conditions, or deny a request.*
- (9) *Final approval may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.*
- (10) *In establishing planned unit development requirements, a local unit of government may incorporate by reference other ordinances or statutes which regulate land development. The planned unit development regulations contained in zoning ordinances shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.*

The minimum information that the Township requires to analysis the PUD has been deleted in Section 13.04 (A) (2). This is not permitted, as it is required to be in the Zoning Ordinance under MCL 125.3503 (2), (3), and (4) (b). Like the Site Plan portion of the Zoning Enabling Act, there is a reference only to incorporate by reference "other ordinances or statutes which regulate land development." Again, I do not believe Development Standards are currently an Ordinance, but a policy of the Township. Further, the procedures for application, review and approval must be defined in the Township's Zoning Ordinance, per MCL 125.3503 (4) (C). These are all proposed to be removed from the Zoning Ordinance in this amendment and placed in a "policy." This includes the requirement for a public hearing and notice, which is a specific requirement MCL 125.3503 (5). In short, these provisions must remain in the Zoning Ordinance if the Township is going to permit PUDs under a zoning process.

In making this determination, I am aware that the Michigan Court of Appeals ruled in *Cornerstone Investments, Inc. v Cannon Township*, 239 Mich App 98 (1999), that the Township's escrow application policy, requiring deposit of fees to defray costs incurred in connection with a PUD zoning application, was not an illegal delegation of authority to an administrative body or officials. However, I am of the opinion that it is one thing to set up an escrow policy by reference in the zoning ordinance for PUD review, it is another thing to remove the entire procedure and requirements for PUD approval from the Zoning Ordinance and place them in a Development Standard Policy document. I do not believe the Court would sustain such an action.

Please review this letter and contact me, if you would like to discuss further.

Regards,



John L. Gormley

C:\Users\Yvette\TRFC\Matters - Open\Township of Marion\Marion - Zoning Ordinance\Ltr to
ZA on Amendments1.wpd

TXT#01-19 Short Term Rentals

ARTICLE III Definitions

ADD to 3.02

Short Term Rental: The renting of a residential dwelling unit usually leased for a period of twenty-eight or fewer consecutive calendar days by the same renter. Short Term Rental does not include a bed and breakfast permitted and operated in accordance within this Ordinance.

Article IX

ADD to 9.01.B

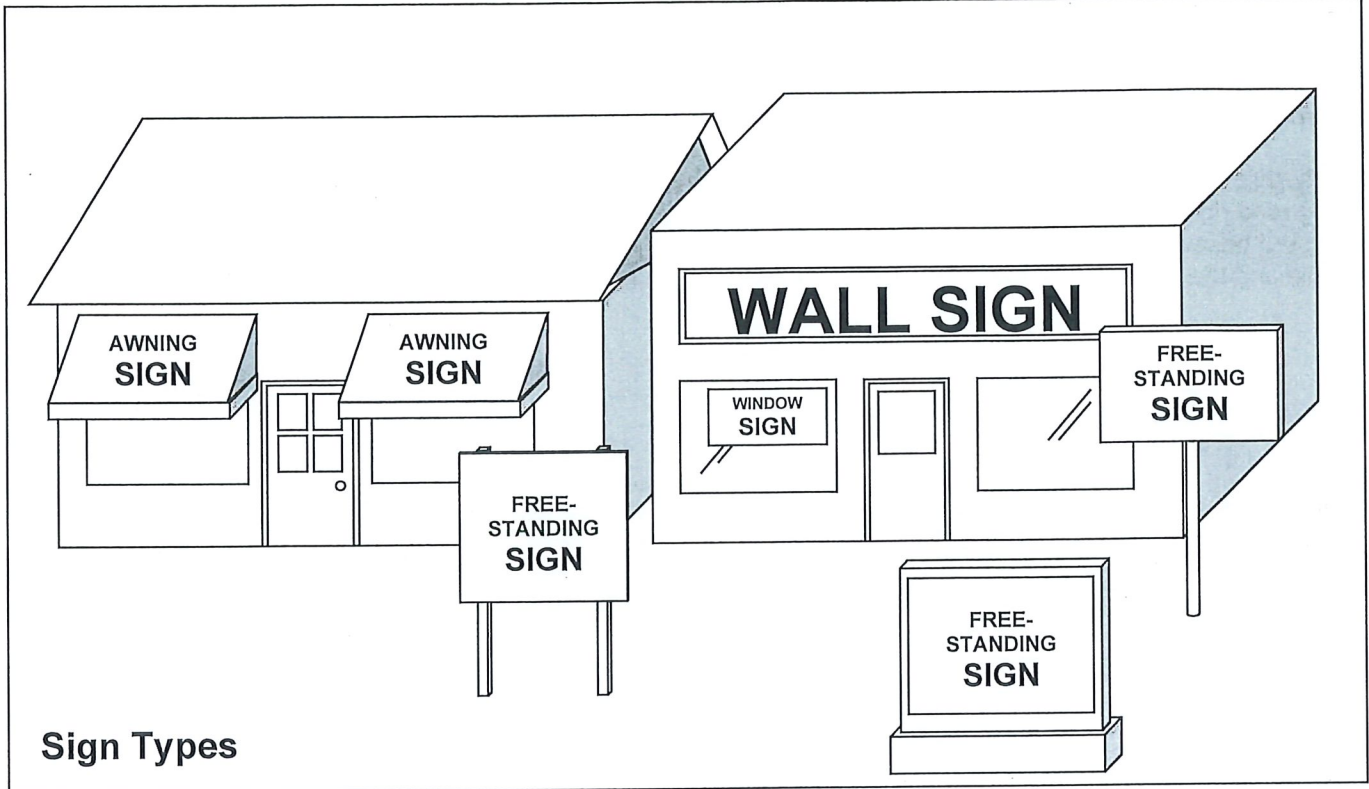
18. Short Term Rentals

ARTICLE XV: SIGNAGE**Section 15.05 Schedule of Sign Regulations**

The schedule provided below summarizes the quantity, maximum area, maximum height, and minimum setback from existing road rights-of-way permitted for signage requiring a permit under this Section. Detailed requirements for the signs listed below are provided under subsections 15.06 and 15.07. Wherever conflict exists between the following schedule and the standards of those subsections, those subsections shall prevail.

Sign	Number	Max. Area	Max. Height	Min. Setback
<i>Signs in Residential Districts (Sec. 15.06)</i>				
Agricultural Product Signs	1	20 s.f.	4 ft.	15 ft.
Farm Signs	1	32 s.f.	6 ft. ¹	15 ft.
Home Occupation & Home-Based Business Wall Sign, or	1	4 s.f.	4 ft.	n/a
Home Occupation & Home-Based Business Freestanding Sign	1	6 s.f.	4 ft.	15 ft.
Non-Profit Organization Signs	1	32 s.f.	6 ft.	15 ft.
Residential Development Entranceway Signs	2/entrance	20 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
<i>Signs in Non-residential Districts (Section 15.07)</i>				
Awning and Canopy Signs	N/A	25% of surface ²	n/a	per district
Free-Standing Signs	1/frontage	½ s.f. per foot of frontage ³	6 ft.	15 ft.
Gasoline Price Signs	1	20 s.f.	6 ft.	15 ft.
Marquee Signs	1/frontage	1½ s.f. per foot of building frontage	per district	per district
Menu Board Signs	2	60 s.f.	6 ft.	15 ft.
Office or Industrial Development Entranceway Signs	2/entrance	36 s.f.	6 ft.	15 ft.
Temporary Construction Signs	1/frontage	32 s.f.	6 ft.	15 ft.
Time/Temperature/Stock Market Signs	1/frontage	N/A ⁴	6 ft. ¹	15 ft. ¹
Wall Signs	1/frontage ⁵	1 s.f. per foot of building frontage ⁶	see below	n/a
Window Signs	N/A	25% of window area	n/a	n/a

1. If sign is free-standing.
2. Such signs shall be counted in determining compliance with maximum permitted area of wall signage.
3. Not to exceed 32 s.f., unless premises contain multiple tenants, in which case 4 s.f. may be added per additional tenant, up to a maximum of 64 s.f.
4. Such signs shall not be counted in determining compliance with wall or free-standing sign area requirements.
5. Or one per tenant having individual public access.
6. Not to exceed 60 s.f., unless such signs are set back at least 150 ft., in which case such signs shall not exceed 200 s.f.



Section 15.06 Signs in Residential Districts

The following signs shall be allowed in the RR, SR, UR, ERS#1, and ERS#2 zoning districts, subject to permit approval in accordance with Section 4.03 and the following standards. Such signs shall only pertain to permitted or special land uses or a legally nonconforming non residential use, and shall be located upon the same property to which the sign relates, unless otherwise provided herein.

- A. **Agricultural Product Signs:** In the RR district, one sign advertising agricultural and/or horticultural products grown on the premises shall be permitted in conjunction with a temporary roadside stand. The sign shall not exceed twenty (20) square feet in area, four (4) feet in height nor be located closer than fifteen (15) feet to any property line. The sign shall be erected not more than two weeks prior to opening of sales and removed within one (1) week of the end of sales.
- B. **Farm Signs:** Signs in the RR district displaying the name of farm, not to exceed thirty-two (32) square feet in area and six (6) feet in height if freestanding. One (1) such sign shall be permitted per farm, in addition to the home occupation sign permitted under item C below. Such a sign may be indirectly illuminated, provided that all lighting equipment for these signs shall be designed to illuminate the sign only and shall not interfere with driver visibility or cause glare on adjoining properties.
- C. **Home Occupation/ Based Business Signs:** one (1) wall sign per parcel containing a permitted use, not exceeding four (4) square feet in area. Such signs may not be illuminated and must be consistent with the residential character of the neighborhood in which they are to be located. ~~Within the Rural Residential (RR) district, one (1) freestanding sign may be substituted for a wall sign.~~ Free standing signs shall not exceed six (6) square feet in area or four (4) feet in height and shall be located no closer ~~to the right-of-way (ROW) line than one-half (1/2) the required front yard.~~ than fifteen (15') feet from the road right-of-way (ROW).
- D. **Non-Profit Organization Signs:** Permanent, free-standing signs identifying churches, schools, museums, libraries or other non-profit institutions, at a rate of one (1) sign per parcel, with a minimum setback from the street right-of-way of fifteen (15) feet, which does not exceed thirty-two (32) square feet in area and six (6) feet in height.

- E. Residential Development Entranceway Signs: Permanent freestanding signs or signs affixed to decorative walls or fences identifying the entrances of residential developments such as subdivisions, apartment complexes, condominium communities, senior housing complexes, mobile home parks and similar residential uses, at a rate of two (2) per entranceway not to exceed a total of two (2), with a minimum setback from the street right-of-way of fifteen (15) feet, and not exceeding twenty (20) square feet in area and six (6) feet in height. Where such sign is placed upon a decorative wall or fence, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering, graphics and border, if any, not the entire decorative wall or fence.
- F. Temporary Construction Signs: Temporary signs which advertise the construction of new residential subdivisions or similar permitted development, not to exceed thirty-two (32) square feet in area and six (6) feet in height. Such signs shall be removed immediately after the last available lot, home site or parcel is sold.

TXT#02-20 Amendment

Definitions Section 3.02 ADD

Cargo Containers. Standardized reusable receptacles that are:

1. Originally designed for or used in the parking, shipping, movement or transportation of freight, articles, goods or commodities; and or
2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport “portable site storage containers” having a similar appearance to and similar characteristics of cargo containers.

Portable Temporary Storage Container (PSC): A box-like container typically delivered by truck, used to temporarily store household or other goods and items. A PSC does not include a truck trailer, or other part of a motor vehicle, nor any type of wheeled vehicle or conveyance except when attached to a truck for delivery and removal.

ARTICLE VI: GENERAL PROVISIONS

Section 6.07 Accessory Uses and Structures ADD 13

Accessory buildings, structures and uses are permitted only in connection with and on the same lot with a principal building, structure or use, provided such buildings, structures and uses are incidental to the principal building or use and does not include any activity conducted as a living quarters, except for farms or other uses otherwise permitted in this Ordinance that may be permitted on a separate lot in conjunction with the permitted activity, and shall be subject to the following regulations:

1.

Zoning districts	Lot Size Based on Gross Lot Area	Maximum Square Footage of all Accessory Structures
All single family residential districts	All parcels equal to or less than 1 acre in size	1,300 square feet
All single family residential districts	All parcels that are greater than 1 acre	These sizes are based on a .030 x parcel size calculation

2. An accessory structure, including carports which are attached to the principal building, shall comply in all respects with the requirements of this ordinance applicable to the principal building. Any covered or roofed structure, as an attachment between the accessory structure or carport and the main building, shall be considered a part of the main building, but shall not be considered habitable floor area.
3. Accessory buildings shall not be erected or allowed in any front yard, except for parcels larger than five acres providing no accessory building or structure is located closer than one hundred feet to the front property line or closer to the front property line than a principal building on any adjacent parcel of land or lot, whichever is greater.
4. Accessory buildings may be allowed in side yards providing they meet the minimum setbacks for the district in which it is located.
5. The maximum height for accessory buildings located on any parcels of land containing one acre of land or less or on any platted subdivision lot or site condominium building site shall not exceed thirty-five feet.

6. Accessory structures shall meet the minimum setbacks for the district in which it is located.
7. No accessory structure shall receive a certificate of zoning compliance prior to the principal structure receiving a certificate of zoning compliance.
8. No accessory structure shall be constructed prior to the approval of land use permit and the issuance of a building permit.
9. Accessory structures under two-hundred (200) square feet do not require a land use permit or building permit **and are limited to three per parcel and must be behind the primary structure and screened from the public right-of-way.** Accessory structures under 200 square feet and with a height no more than ten (10) feet above grade shall maintain a minimum five (5) foot side yard setback & five (5) foot rear yard setback. Accessory structures two-hundred (200) square feet and over and/or more than ten (10) feet above grade must meet the setback requirements of the zoning district in which they are located.
10. In no instance shall any accessory building be located within a dedicated easement right-of-way.
11. An accessory building shall not project within the front yard when it is located on a corner lot except as provided in item 3 above.
12. Accessory structures **greater than two-hundred (200) square feet** shall have a minimum 4:12 roof pitch, except engineered steel structures may have minimum 3:12.
- 13. The use of cargo containers for storage shall only be permitted in HS and LI Districts, subject to the following:**
 - a) Containers shall be restricted to a location behind the front face of the building**
 - b) Containers shall not be stacked above the height of a single container**
 - c) Container storage areas that are visible from the public right-of-way or abut residentially zoned or used properties shall be screened in accordance with the standards set forth in this ordinance**

Salary Increases/Raises

Employee starting salary will be that which has been established by the Board of Trustees. Merit raises will become effective July 1 of each calendar year upon review by the Board of Trustees.

Education

Continuing education classes that will benefit the township will be paid by the township within the limits of each department's budget and must be approved by their immediate supervisor. Coverage may include class fee, mileage at the current rate, and reasonable overnight lodging. Hourly employees will be paid for only eight (8) hours per day at their regular hourly rate. ZBA and Planning Commission members are encouraged to attend in-house or external training yearly, they will be paid \$80 for up to a four-hour class or \$160 for up to an 8-hour class. A class handout or report must be turned in after each class/seminar. Full time office staff are required to take one day (8 hours) of training per year that pertains to their job. Elected officials are encouraged to attend yearly educational classes to enrich their knowledge of government. If the workshop is 6 hours or more then the employee will be reimbursed \$25 for meals and incidentals for the day's expenses.

Jury Duty

The employer shall pay the employee called for jury duty at his/her regular straight time rate, which he/she would earn if working, less an amount equal to the payment received for jury service. The employee must return to work and work any hours out of his/her scheduled workday that he/she is not actually on jury duty.

In order to receive compensation, an employee must give the employer at least two (2) days prior notice that he/she has been summoned for jury duty, and shall furnish documentation that he/she reported for or performed jury duty on the day(s) for which payment is received. The maximum payment obligation under this section is twenty (20) days each calendar year.

Unacceptable Job Performance, Disciplinary Action

The employee's immediate supervisor will first advise an employee verbally if he or she is not performing to the acceptable standards.

If satisfactory improvements are not exhibited after a verbal warning, and within a maximum period of thirty (30) days, a written warning will be given to the employee for review and action.

If the employee's performance does not improve to an acceptable level after a written warning, further action will be taken, which may include withholding a merit increase, demotion, suspension without pay, or termination.

Use of this disciplinary procedure does not change the at-will relationship between the Township and its employees.

Employment of Relatives

Marion Township has no prohibition against hiring relatives. However, one general restriction has been established to help assure fair treatment of all employees.

While we accept and consider applications for full-time employment from relatives, close family members such as parents, children, spouses, or in-laws will not be hired into or transferred into positions in which they are the immediate supervisor of or are supervised by, a close family member.

Payroll Month: _____

Payroll Section

Pay Date: _____

**2023 Monthly Meeting Record for:
PLANNING COMMISSION, ZBA & BOARD OF REVIEW**

DATE	Planning Commission {Code #600}	REGULAR MEETING	SPECIAL MEETING	Rate of Pay PER MEETING	Dept. Code
	Larry Grunn - <i>Chairperson</i>			\$165.00	#600
	James Anderson - <i>VICE Chair</i>			\$110.00	#600
	Bruce Powelson			\$110.00	#600
	Cheryl Range - <i>Secretary</i>			\$110.00	#600
	Bob Harvey			\$110.00	#600
	David Hamann - <i>Admin.</i>			\$110.00	#600

DATE	Zoning Board of Appeals {Code #500}	REGULAR MEETING	SPECIAL MEETING	Rate of Pay PER MEETING	Dept. Code
	Larry Fillinger - <i>Chairperson</i>			\$165.00	#500
	Diane Bockhausen			\$110.00	#500
	Larry Grunn			\$110.00	#500
	Linda Manson-Dempsey			\$110.00	#500
	Dan Lowe			\$110.00	#500
	David Hamann			\$110.00	#500
	Jean Root (Alternate)			\$110.00	#500
	Edmund Galubensky (Alternate)			\$110.00	#500

DATE	Board of Review {Code #1700}	REGULAR MEETING	SPECIAL MEETING	Rate of Pay PER HOUR	Dept. Code
	Charles Aberasturi			\$27.50 / hour	#1700
	Barb Fillinger			\$27.50 / hour	#1700
	Cheryl Range			\$27.50 / hour	#1700

Filled out by: _____

Date: _____

Administrator Signature: _____

Date: _____