

NOTICE OF ADOPTION FOR

Ordinance # A-1-2009

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF BARRY COUNTY TO ADD ARTICLE 21, HASTINGS AREA OVERLAY DISTRICT

BARRY COUNTY, MICHIGAN HEREBY ORDAINS:

1. **Article 21.** Article 21 of the Barry County Zoning Ordinance, being Sections 2100 through 2107, shall be amended in its entirety to read as follows:

**ARTICLE TWENTY-ONE
HASTINGS AREA OVERLAY DISTRICT**

SECTION 2100 PURPOSE AND INTENT

Barry County has joined with Rutland Charter Township, Hastings Charter Township, Carlton Township and the City of Hastings to prepare and adopt the Hastings Area Plan, a Joint Future Land Use Plan, in order to guide future development in a manner which is consistent with the common goals and objectives of these municipalities. The Plan sets forth recommendations on future roads, utility extensions and land use and it contemplates the establishment of essentially uniform zoning requirements to regulate land uses in the joint planning area, regardless of which unit of local government has jurisdiction. The purpose of the Hastings Area Overlay district is to provide zoning regulations which are common to each municipality to ensure the consistent application of the recommendations of the Hastings Area Plan. The regulations are intended to coordinate with the terms of an Urban Services Area Agreement (USAA) executed by Barry County, Rutland Charter Township, Hastings Charter Township, Carlton Township and the City of Hastings. The objective of this overlay is to coordinate land use regulations through zoning with the provision of urban services such that a rational and sequential expansion and development of the Hastings planning area is achieved. The boundaries of the USAA will change over time as urban services are provided to new parcels upon request of the property owner and the standards of this overlay district are intentionally flexible to accommodate such expansions.

The permitted density for residential uses in the Hastings Area Overlay District is approximately four units per acre and such density must be served by public water and sanitary sewer. Subdivisions and site condominiums will be required to be served by these public utilities. Permitted land uses will be substantially consistent but not identical within each municipality. Cluster / open space subdivisions are encouraged.

The Hastings Area Overlay district is also proposed to serve as a receiving area for the transfer of development credits from agricultural and rural preservation areas elsewhere in Barry County. Additional density will be permitted for projects which accept these development credits.

The purposes of this zoning district are also to:

- A. Coordinate land use along municipal boundaries to achieve compatibility in density, use, function and design.
- B. Provide for a connected system of street, pedestrian and bicycle trails between neighborhoods and activity centers.
- C. Ensure that public utilities and urban services are to be provided concurrent with and by new development in a phased and sequential manner with the level of service proportional to the type of land use proposed.
- D. Preserve valuable natural areas and open within and adjacent to residential developments.

SECTION 2101 OVERLAY APPLICABILITY

The Hastings Area Overlay District is a supplement to the requirements of the applicable underlying zoning district. To the extent the requirements of this Article conflict with the requirements of the underlying zoning district, the terms of this Article 21 shall govern. The regulations of this section shall apply to any land which is the subject of the Urban Services Area Agreement (USAA) between the City of Hastings and Rutland Charter Township and Barry County, Hastings Charter Township, and any other units of local government that may become signatories to such agreement. Land use regulations will be applied in two alternative tiers:

- A. **Tier One.** Tier One properties are those that are within the boundaries of the Urban Services Area as defined by, and as adjusted from time to time in accord with, the USAA.
- B. **Tier Two.** Tier Two properties are those that are not currently within the boundaries of the Urban Services Area as defined by the USAA, but which lie within the ultimate urban service area as established in the Hastings Area Plan, Joint Future Land Use Plan.

SECTION 2102 PERMITTED USES

The following land uses shall be permitted within the respective zoning districts according to whether they are proposed for Tier One or Tier Two properties, as set forth herein:

A. Tier One Properties.

1. Conservation Reserve (CR) District:

- ◆ Not Applicable. This overlay anticipates that in the event properties located in the CR district are incorporated into the Urban Services Area as defined by the USAA, such properties would be subject to a zoning map amendment to a district more appropriate for urban services.

2. Rural Residential (RR) District:

- ◆ Not Applicable. This overlay anticipates that in the event properties located in the RR district are incorporated into the Urban Services Area as defined by the USAA, such properties would be subject to a zoning map amendment to a district more appropriate for urban services.

3. Recreational Lakes (RL) District:

- ◆ All Permitted Uses pursuant to Section 1001

4. Low Density Residential (LRD) District

- ◆ All Permitted Uses pursuant to Section 1201

5. Moderate Density Residential (MDR) District

- ◆ All Permitted Uses pursuant to Section 1301

6. General Commercial (GC) District

- ◆ All Permitted Uses pursuant to Section 1601

B. Tier Two Properties.**1. Conservation Reserve (CR) District**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Building with footprint in excess of 150% of the principal building.
- ◆ Accessory Use to a permitted use, subject to Section 504
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor
- ◆ Farms
- ◆ Farm Operations

2. Rural Residential (RR) District

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor
- ◆ Parks or parkland
- ◆ Farms
- ◆ Farm operations
- ◆ Greenhouses

3. Recreational Lakes (RL) District

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use, subject to Section 504
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor
- ◆ Parks or parkland

4. Low Density Residential (LRD) District

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor
- ◆ Parks or parkland

5. Moderate Density Residential (MDR) District

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor

6. General Commercial (GC) District

- ◆ Not Applicable. All Tier Two properties in the General Commercial district shall be treated as Special Land Uses.

SECTION 2103 SPECIAL LAND USES

The following land uses shall be treated as special land uses the respective zoning districts according to whether they are proposed for Tier One or Tier Two properties, as set forth herein and subject to the terms of Article 23 and Section 2106.

A. Tier One Properties.

1. Conservation Reserve (CR) District.

- ◆ Not Applicable. This overlay anticipates that in the event properties located in the CR district are incorporated into the Urban Services Area as defined by the USAA, such properties would be subject to a zoning map amendment to a district more appropriate for urban services.

2. Rural Residential (RR) District.

- ◆ Not Applicable. This overlay anticipates that in the event properties located in the RR district are incorporated into the Urban Services Area as defined by the USAA, such properties would be subject to a zoning map amendment to a district more appropriate for urban services.

3. Recreational Lakes (RL) District.

- ◆ All Special Land Uses pursuant to Section 1002

4. Low Density Residential (LRD) District

- ◆ All Special Land Uses pursuant to Section 1202

5. Moderate Density Residential (MDR) District

- ◆ All Special Land Uses pursuant to Section 1302

6. General Commercial (GC) District

- ◆ All Special Land Uses pursuant to Section 1602

B. Tier Two Properties.

1. Conservation Reserve (CR) District

- ◆ All Special Land Uses pursuant to Section 803
- ◆ Governmental Office
- ◆ Stables/Riding Academy

2. Rural Residential (RR) District

- ◆ All Special Land Uses pursuant to Section 1102
- ◆ Animal Grooming
- ◆ Bed & Breakfast
- ◆ Farm Worker Housing
- ◆ Governmental Office
- ◆ Place of Public Assembly, Small
- ◆ Stables/Riding Academy
- ◆ Wind Energy Conversion System

3. Recreational Lakes (RL) District

- ◆ All Special Land Uses pursuant to Section 1202
- ◆ Miniature Golf Course
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, Conventional

4. Low Density Residential (LRD) District

- ◆ All Special Land Uses pursuant to Section 1202
- ◆ Governmental Office
- ◆ Place of Public Assembly, Small
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, Conventional

5. Moderate Density Residential (MDR) District

- ◆ All Special Land Uses pursuant to Section 1302
- ◆ Dwelling, two-unit
- ◆ Dwelling, Multi-unit
- ◆ Governmental Office
- ◆ Place of Public Assembly, Small
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, Conventional

6. General Commercial (GC) District

- ◆ For Tier Two properties, all Permitted Uses pursuant to Section 1601 and all Special Land Uses pursuant to Section 1602 shall be treated as Special Land Uses subject to the terms of Article 23 and Section 2106.

SECTION 2104 DIMENSIONAL STANDARDS

The dimensional standards of the underlying zoning districts shall apply to Tier One and Tier Two properties for all land uses.

SECTION 2105 DISTRICT REGULATIONS, IN GENERAL

The district regulations of the underlying zoning districts shall apply to Tier One and Tier Two properties for all land uses.

SECTION 2106 OVERLAY DISTRICT REGULATIONS

In addition to the requirements of the underlying zoning district, the following standards and regulations shall apply within the overlay district.

- A. Water and Sewer Connection.** All Tier One properties and uses shall require connection to a public sewer and water system as provided by the terms of the USAA, regardless of the terms of the underlying zoning district.
- B. USAA Requirements.** All Tier One properties shall be subject to the terms of the Urban Services Area Agreement.
- C. Special Land Use Conditions.** As a condition of approval of any Special Land Use for Tier Two properties within the Overlay District, the applicant shall certify agreement to subject the proposed use and the parcel to the terms of the Urban Services Area Agreement if and when its applicability is extended to include the property. Such agreement shall run with the land and shall bind all subsequent property owners and occupants to its terms. Such agreement shall be memorialized in a recordable instrument placed on file with the Barry County Register of Deeds.
- D. Street, Walkway and Trail Connections.** In order to achieve one of the objectives of the Hastings Area Plan which is to "provide for a connected system of streets and pedestrian and bicycle trails between neighborhoods and activity centers" all site plans, platted subdivisions and site condominiums shall be designed to provide for the following as may be required by the Planning Commission:
 1. Public and private streets shall be extended to the boundary line of adjacent parcels to allow for the logical continuation of such streets into the adjacent parcel. This extension may be in the form of constructing the road itself to the parcel boundary or providing a right of way to the parcel boundary so the road may be constructed at a future date.
 2. Sidewalks at least five feet wide, on both sides of the street, shall be provided for and installed within the street right of way for all plats and site condominiums.
 3. Within platted subdivisions and site condominiums improved common walkways shall be located along certain side lot lines in order to provide an alternative pedestrian travel route to the sidewalk system located within the public right of way. These "mid-block" walkways shall be located with an easement and shall not be blocked by the property owner and shall be spaced approximately 600 feet apart.
 4. If the plat or site condominium provides common open space for use by its residents a walking trail shall be provided within this open space.
 5. Street trees and street lights shall be provided at regular intervals within the street right of way by the developer of the plat or site condominium if determined to be necessary by the Planning Commission.

SECTION 2107 OPEN SPACE NEIGHBORHOODS (OSN) WITHIN PLATS AND SITE CONDOMINIUMS

A. Intent. The intent of this section is to provide incentives for dedicated open space to be preserved within any new residential plat or site condominium development as recommended by the Hastings Area Plan. These regulations, which are voluntary, may allow an applicant to achieve a greater number of lots than would otherwise be possible under conventional plat or site condominium development, or under the terms of Section 509. This section seeks to achieve the following objective:

1. Identify and preserve natural features of the site proposed for development.
2. Provide for recreational areas and civic open space within new neighborhoods that are usable, centrally located and accessible to all residents of the neighborhood and which can promote a sense of community and opportunities for interaction among neighbors.
3. Provide for neighborhood design which has a definable center and an edge, and which provides pedestrian links throughout the development.
4. Provide a small-scale alternative to other open space neighborhoods intended for an urban environment.

B. Authorization. An Open Space Neighborhood shall be a use permitted by right within the LDR and MDR Zoning Districts and shall be developed in accord with the requirements of this section.

C. Development Requirements. The following regulations, shall apply to an Open Space Neighborhood:

1. Public water and sewer shall serve the site.
2. Lot Dimensions. Minimum Lot Dimensions shall be as set forth in Section 1303, and Lot Setback requirements shall be as set forth in Section 1305.

D. Open Space Requirements

1. An OSN shall provide and maintain a minimum of ten percent of the gross site acreage as preserved Dedicated Open Space.
2. A portion of the Dedicated Open Space, but not more than five percent of the gross site acreage, may consist of woods, wetlands, steep slopes, existing ponds, creeks or floodplain areas. Dedicated Open Spaces shall also consist of play areas with play structures, open grass covered fields, ball fields, tennis courts, swimming pools and related buildings, community buildings, and similar recreational facilities as well as natural areas such as fields and woods. It is the intent of this section to provide for recreational areas and civic open spaces within an OSN project that are usable, centrally located and accessible to all residents of the neighborhood and to preserve natural site features such as woods, stands of trees, wetlands, ravines, steep hills and similar areas which provide for wildlife habitat, shade, walking trails and pleasing views.
3. At least one contiguous area of open space shall be centrally located within the development, and shall be maintained as a village square, playground, or park.
4. The Planning Commission may require that specific natural features of the site be preserved as part of the Dedicated Open Space. Such features may include stands of trees or woods, specimen trees, wetlands, steep slopes, natural drainage courses or open fields.

5. Except for those natural site feature areas noted above, an individual open space area shall not be more than 60,000 square feet or less than 10,000 square feet. An OSN project shall contain at least one individual open space area of at least 20,000 square feet.
6. Narrow bands of open space around the perimeters of sites will generally not qualify as usable dedicated open space, unless those areas are portions of walking trails that connect to larger areas of open space.
7. Open space areas shall be located so as to be reasonably accessible to all residents of the OSN. Pedestrian access points to the dedicated open space areas from the interior of the OSN shall be provided and shall be clearly identifiable by a sign or improved pathway.
8. Dedicated open space within the OSN shall be linked, if possible, with any adjacent existing public spaces or walkways.
9. The Planning Commission may consider variations from the open space requirements contained herein provided the applicant can demonstrate that the intent of the Open Space Neighborhood Ordinance is met. However, the amount of Dedicated Open Space shall not be reduced below ten percent (10%) of the gross site acreage.
10. The following areas shall not be considered a part of the dedicated open space:
 - a. The area within all public or private road rights-of-way.
 - b. The area within a platted lot, or site condominium unit occupied or to be occupied by a building or structure.
 - c. Off street parking areas.
 - d. Detention and retention ponds created to serve the project.
 - e. Sidewalks, excepting those walkways that are a portion of a dedicated trail system. However, trail systems alone may not constitute the entire dedicated open space.
- 11) Guarantee of Open Space. The applicant shall provide an open space preservation and maintenance agreement stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Planning Department and the all other provisions of approval are continued, unless an amendment is approved by the Planning Commission. The agreement must be acceptable to the County and may consist of a dedicated park, a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended. The agreement shall include provisions to:
 - a. Indicate the allowable use(s) of the dedicated open space.
 - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space, whether those parties are of a private or municipal nature.
 - c. Provide standards for scheduled maintenance of the dedicated open space including necessary maintenance of vegetation, and repair, maintenance or management of site amenities and facilities.


- d. Provide for maintenance to be undertaken by the County in its discretion in the event that the dedicated open space is inadequately maintained, or is determined to be a public nuisance. Any costs incurred by the County in undertaking such maintenance shall be assessed to the owners of the property within the OSN and shall become a lien on the property, if unpaid.

E. Design Standards For Open Space Neighborhoods.

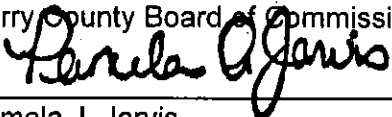
- 1. Within an OSN lots shall be located to face upon the centrally located village green or play area so as to promote visibility, monitoring, and safety of the area. This central green or play area shall be adjacent to the public or private roadway. Ideally, the central green or play area should be encircled by the roadway or by a sidewalk.
- 2. Within the OSN, the edge of any central green or play area shall be located no more than 1,320 feet (one-quarter mile) from another green, play area, or other dedicated open space. In addition, no lot within an OSN shall be located further than 1,320 feet (one-quarter mile) from any central green, play area, or natural area.
- 3. Storm water shall be substantially managed with such techniques as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds.
- 4. Storm water detention ponds shall be required if necessary for the containment of estimated surface water runoff. Such ponds shall be placed at locations that will not detract from visual amenities along the streetscape or result in a hazard to pedestrians in the immediate area.

BARRY COUNTY, MICHIGAN

Date: May 19, 2009

By: 
 Michael Callton D.C., Chairman
 Barry County Board of Commissioners

Date: May 19, 2009

By: 
 Pamela J. Jarvis,
 Barry County Clerk

Published Date: May 21, 2009

The above named ordinance becomes effective May 29, 2009. Copy of this ordinance is available for purchase or inspection in the Barry County Planning Office at 220 W. State St., Hastings, Michigan between the hours 8:00 A.M. - 5 P.M. (closed between 12-1 p.m.), Monday thru Friday. Please call (269)945-1290 for further information.