

**EXHIBIT A**  
**CHARTER TOWNSHIP OF TEXAS**  
**COUNTY OF KALAMAZOO**

**ORDINANCE NO. 379**  
**AN ORDINANCE TO AMEND THE ZONING ORDINANCE**  
**REGARDING SECTIONS 36-2.2 AND 36-5.2 AND TO REPEAL**  
**AND REVISE 36-6.4 IN ITS ENTIRETY.**

**Section 1. PURPOSE.**

The purpose of this Ordinance is to amend Sections 36-2.2, Definitions, 36-5.2, Limitations on Area and Lot Frontage, and 35-5.4 Supplemental Regulations for Riparian Property- of the Township's Zoning Ordinance to help preserve and enhance the unique characteristics riparian property; protect and promote the physical integrity of the water; reduce non-point source pollutants; limit development; and help preserve existing habitats and vegetation.

**Section 2. AMENDMENT TO SECTION 36-2.2 OF THE TEXAS TOWNSHIP ZONING ORDINANCE.**

Chapter 36 – Zoning, Article 2.0 – Definitions, Section 2.2 – Definitions is hereby amended to read as follows:

**“36-2.2 DEFINITIONS”**

*Impervious Surface* means human-made and other hard surfaces of any material(s) that may impede or prevent the natural infiltration of water into the soil and may include, not limited to a: pool, pool deck, patio (ground level, raised, enclosed, unenclosed), pavers, walkways, deck (unenclosed, enclosed, attached, detached), shed, gazebo, greenhouse, and any other structure covered by impenetrable materials such as asphalt, concrete, stone blocks, and wood, that limits infiltration and natural groundwater recharge. Gravel and artificial turf may be excluded as an imperious surface if the turf is installed with a minimum of 4" of #8 stone, no more than 80% compaction, and no compaction of underlying soil.”

*Non-Riparian Lot Under Common Ownership with Riparian Lot* means a non-riparian parcel of land that is within 500 feet of a riparian lot and under common ownership. The non-riparian lot may be separated from the riparian lot by a road, drive, shared access easement, or road right-of-way.

*Ordinary High-Water Mark (OHWM)* means an elevation delineating the highest water level that has been maintained for a sufficient period to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominately terrestrial.

*Ordinary Water Elevation (OWE)* means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

*Patio* means a level surface area usually made of concrete, brick, stone, or other masonry or compacted material which covers the ground in any manner.

*Riparian* means a lot located on a body of water (including lake, river, pond, or creek) having a 'water side' and a 'road/access side.'

*Riparian Buffer* means a vegetated area, including trees, shrubs, and herbaceous vegetation, which exists or is established to protect a waterway or lake.

*Riparian Frontage* means a riparian frontage shall be continuous and measured by a straight line running between both property lines at the ordinary water elevation established. If the ordinary water elevation has not been established, frontage shall be measured at the ordinary high watermark which shall be determined by the Planning Director or their designee.

*Riparian Lot* means a riparian lot is a lot/parcel/ property abutting, adjoining, or otherwise having frontage on a lake, pond, river, or stream.

*Structure* means anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something on the ground or attachment to something having location on or in the ground. A structure may include, but not be limited to pool equipment, fire pit, fireplace, outdoor kitchen.

### **Section 3. AMENDMENT TO SECTION 36-5.2 OF THE TEXAS TOWNSHIP ZONING ORDINANCE.**

Chapter 36 – Zoning, Article 5.0 – Site Standards, Section 5.2 – Limitations on Area and Lot Frontage is hereby and amended to read as follows:

1. No buildings shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt nor shall any open space surrounding any building nor any lot frontage for any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations designated in this Chapter for the zone in which such buildings or open space is located, except as otherwise specifically provided in Section 36-5.4, Supplemental Regulations for Riparian Property.

### **Section 4. AMENDMENT TO SECTION 36-5.4 OF THE TEXAS TOWNSHIP ZONING ORDINANCE.**

Chapter 36 – Zoning, Article 5.0 – Site Standards, Section 5.4 – Setbacks from Lakes, Ponds, Streams, and Rivers is hereby repealed in its entirety and amended to read as follows:

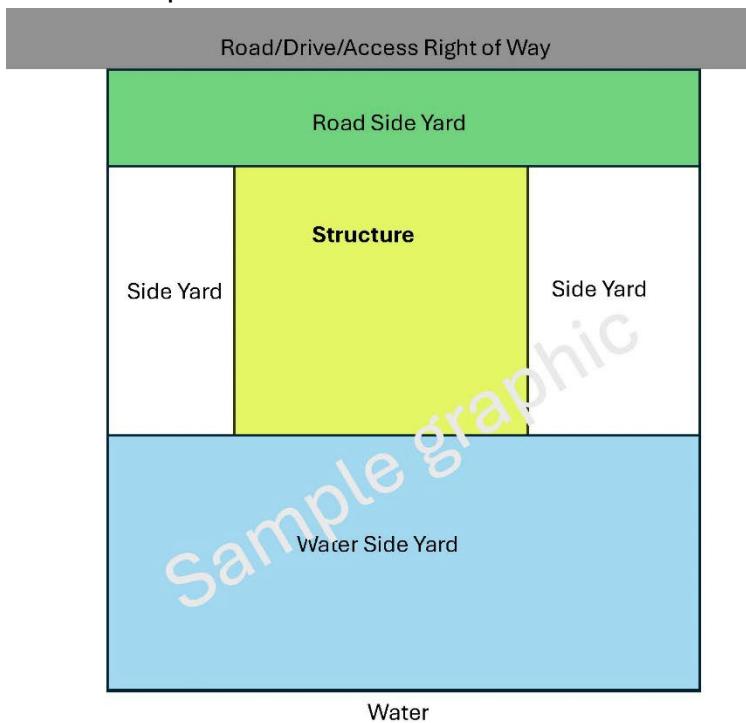
#### **Section 5.4 – Supplemental Regulations for Riparian Property**

1. Intent

- A. The Township recognizes the unique physical and ecological attributes of riparian properties and seeks to ensure that all structures and uses on riparian properties are compatible with and protect these unique attributes.
- B. These supplemental regulations are intended to preserve and/or enhance riparian properties within Texas Township and:
  - i. Promote benefits provided by riparian habitat resources, including but not limited to groundwater recharge, natural erosion control, and protection of surface-water quality.
  - ii. Protect the physical integrity of the waterways, reduce the amount of non-point source pollution entering these systems, and protect and enhance the aquatic habitat of the region.
  - iii. Promote the ecological balance of the waters by limiting development with the riparian property and to maintain their natural beauty by minimizing human-caused adjustments to the established shorelines.
  - iv. Encourage preservation and future survival of riparian vegetation on riparian properties by promoting minimum disturbance of habitat during development, supporting the continuity of riparian habitat, and providing specifications for the establishment, protection, and maintenance of vegetation along all newly developed property riparian properties.

## 2. Riparian Rules of Measurement

- A. The road/access yard of a riparian lot shall be that area between the abutting street, drive, access easement, or road right-of-way and the nearest wall of the principal building or accessory building.
- B. The required road/access setback is measured from the abutting street, drive, access easement, or road right-of-way.
- C. The water-side yard of a riparian lot shall be that area between the ordinary water elevation and the nearest wall of the principal building.
- D. The required water-side setback shall be measured from the "ordinary water



elevation (OWE)" established in the Elevation Table herein Table 36-5.4.1, for each of the listed lakes and ponds. The "benchmark" is a metal cap placed at the elevation listed, and it can be used as a reference point to determine the "ordinary water elevation."

- E. The location of the OWE may vary depending on a particular lot. To determine setbacks, the closest and farthest points of the ordinary water elevation on the lot shall be averaged to determine the required 60-foot distance.
- F. On steep slopes and uneven topography, the maximum building height is measured incrementally along the extent of the property line.
- G. Riparian frontage shall be continuous and be measured by a straight line running between both property lines at the ordinary water elevation established herein. If the OWE has not been established, water-side frontage and setbacks shall be measured at the ordinary high-water mark (OHWM), which shall be determined by the Planning Director or their designee.

36-5.4.1 Elevation Table—DATUM: (NAVD '88)	
<b>Bass Lake:</b>	
Benchmark (Brass Cap): Located on a sandy beach at the foot of the hill of the Cub Camp Administration Building. Go down steps to the N of building to Klepper's Waterfront Building. Then from the bottom of the steps to the beach at the N corner of the last concrete step, head W 91'± to monument. Monument is N of face of 12-inch poplar, 14.2', and ENE of face of 12-inch red oak 42'±. N--262380.8431 ; E--12767200.1560	
Ordinary water elevation--883.13 feet	Elevation of benchmark--883.13 feet
<b>Crooked Lake:</b>	
Benchmark (Brass Cap): Located at 184 W. Crooked Lake Drive. 2'± N of sea wall; 6'± E of property line. N--None ; E--None	
Ordinary water elevation--893.87 feet	Elevation of benchmark--897.15 feet
<b>Eagle Lake:</b>	
Benchmark (Brass Cap): Located approximately East, 24.7' from the existing 4' tall chain link fence; North 30 degrees East, 70.3' from the South end post of said fence; South 85 degrees West, 61.4' from the Westerly support post for the Eagle Lake sign; and South 26 degrees West, 292' from the Southeast corner of the vault toilet. N—265122.70 ; E—12755266.69	
Ordinary water elevation—899.26 feet	Elevation of benchmark—900.34 ft
<b>Paw Paw Lake:</b>	
Benchmark (Brass Cap): Mag Nail located in the Northwest side of a 36" Oak Bearing North 56 degrees East, 75.05'; Mag Nail in the South side of an 18" Maple Bearing South 77 Degrees East, 50.08'; The Northerly corner of a 4"x4" wood post Bearing South, 2.6'; Mag Nail in the Southwest side of a 6" Maple Bearing North 22degrees West, 77.75'. N--245711.8521 ; E--12747534.4031	
Ordinary water elevation--871.59 feet.	Elevation of benchmark--873.06 feet

Pretty Lake:	
Benchmark (Brass Cap): Located at 178 Pretty Lake Drive. 2' S; 2' E of the NW corner of steel sea wall.	
N--256374.4197 ; E--12755284.8662	
Ordinary water elevation--901.51 feet.	Elevation of benchmark--903.76 feet
Scouter's Pond:	
Ordinary water elevation--879.86 feet (Elevation recorded at outlet control structure invert on NE side of Scouter's Pond.)	

### 3. Existing Riparian Lots of Record

- A. Purpose. This section is intended to allow lawfully established, nonconforming riparian lots of record and/or lawfully established nonconforming buildings on lots of record to continue, but to limit or restrict enlargement that does not meet current zoning standards, and to prohibit a change in use to a use not permitted in the zoning district.
- B. Riparian lots that were legally established before the adoption of this supplemental ordinance shall be considered a conforming lot.
- C. Those existing buildings and structures that were legally constructed on existing riparian lots of record before the adoption of this supplemental ordinance shall be deemed as conforming buildings and structures.
- D. Maintenance, Repair, and Replacement. Those existing buildings and structures on riparian lots of record deemed as conforming, may be maintained, repaired, or replaced in-kind or re-constructed, utilizing the same total footprint square footage total (as long as nonconformities are not increased), setbacks, height, and lot coverage as existed on assessing records or approved building permits in existence prior to the adoption and update of this ordinance.
  - i. "In-kind replacement" means the replacement of a structure with another structure that is identical in size or smaller than the original structure in dimensions, including footprint area, height, width, length, and use. An in-kind replacement may include minor modifications or relocations, such as differences in roofline or small shifts in location that do not increase any nonconformity, as determined by the Planning Director or their designee.
  - ii. "Reconstruction" means the replacement or restoration of a structure.
  - iii. A 're-placed in kind' or reconstructed structure may be expanded in conformance with the zoning district standards.
- E. Loss of Lot of Record Status. If an existing lot of record is changed through a combination of land, property line adjustment, or lot division, the lot of record status will be revoked, and all current development standards shall be met.
- F. Continuance. Except as otherwise provided in this article, any nonconforming riparian lot or building on a nonconforming lot may continue, provided it remains otherwise lawful.
- G. Abandonment. If a nonconforming building is abandoned for 12 consecutive months, per Section 36-7.9.2.F, the building shall not thereafter be used except in conformity with this ordinance. Cessation of the building for the purpose of repair or remodeling, or a temporary vacancy between occupants while the property is being actively marketed and maintained in good condition, shall not constitute discontinuance or abandonment.

4. Standards for Parcels zoned R-2, Single Family Residential

A. Construction on a newly created riparian lot in the R-2 Residential District. Construction on riparian lots created after the date of this ordinance adoption shall:

- Conform to all R-2 district zoning bulk and setback standards, except where otherwise specified herein.
- Maintain a 60-foot waterside (riparian) setback; and
- Not be reduced in size as part of a Planned Unit Development or Open Space Preservation development.

B. Construction on an Existing Vacant Riparian Lot of Record in the R-2 Residential District:

- For new construction on an existing, vacant riparian lot of record, measuring 109 feet or less in width at the road/access yard setback line (20 feet), the following standards shall apply:

<b>36-5.4.2 REGULATIONS FOR CONSTRUCTION ON EXISTING VACANT RIPARIAN LOT OF RECORD</b> with 109 feet or less of frontage (measured at road/access yard setback of 20 feet)		
SETBACKS:	Principal Building	Accessory Building
Road/Access Yard	20 feet	Side-loading garage and all other accessory buildings- setback of 12 feet; front loading garage – setback of 20 feet
Side Yard	9 feet* measured at building foundation	3 feet
Water side Yard	60 feet or average water side setback, not less than 40 feet (Section 36-5.2.6)	Not permitted
BUILDING HEIGHT	35 feet **	20 feet accessory
FLOOR AREA	1 story: 1,000 sq ft. minimum	
	2 story: 900 sq ft first floor; total 1,200 sq ft	
LOT COVERGE	25%	15% of the total square footage of the side yard and water-side yard
	Total All Impervious Surfaces	45%

\*An eave up to two (2) feet on each side of the principal building may be extended into the side yard.

\*\*Height Reduction: The maximum building height measured at the required setback line shall be reduced for a building with a side yard setback of less than 12 feet

11-foot side yard setback – height maximum is 34 feet

10-foot side yard setback - height maximum is 33 feet

9-foot side yard setback - height maximum is 32 feet

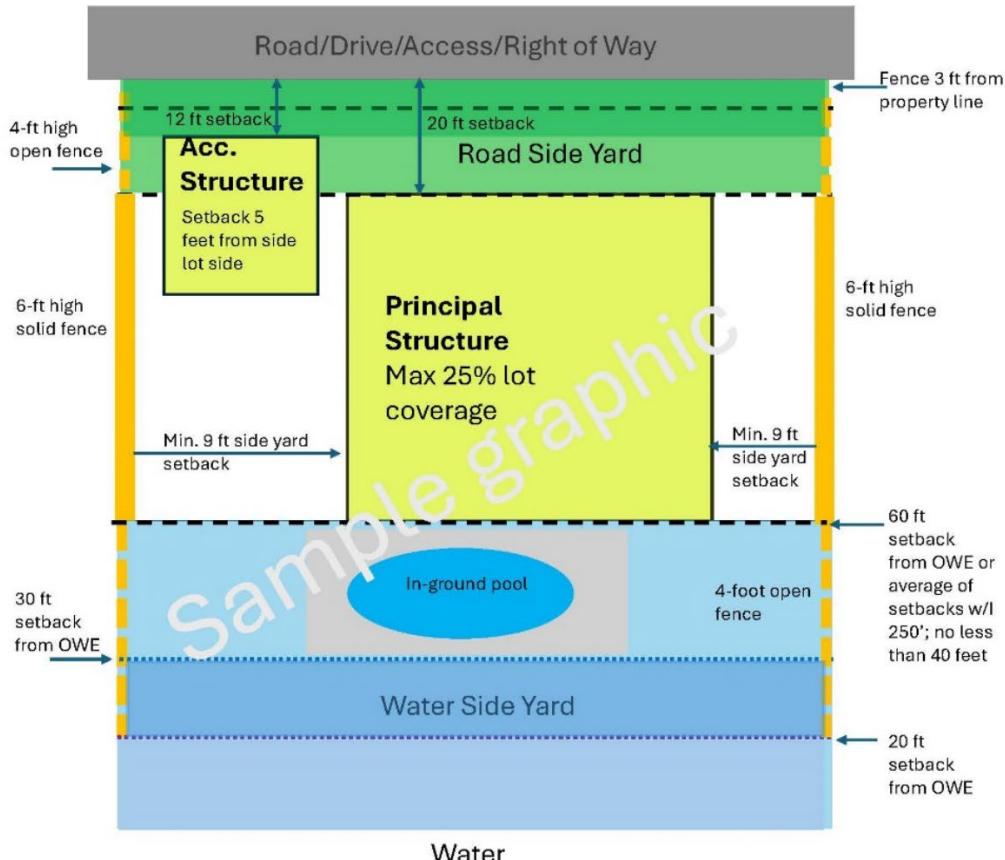


Illustration: R-2 existing lot of record, with at least 109 or less feet of road/drive/access/right of way frontage

c. Construction on an Existing, Vacant Riparian Lot of Record in the R-2, Residential District with at least 110 feet of frontage, measured at a road/access yard setback of 20 feet, the following standards shall apply:

36-5.4.2 REGULATIONS FOR NEW CONSTRUCTION ON EXISTING VACANT RIPARIAN LOT OF RECORD with 110 feet or more of frontage (measured at road/access yard setback line)		
SETBACKS	Principal Building	Accessory Building
Road/Access yard	R-2 District standard	R-2 District standard
Side yard	R-2 District standard	R-2 District standard
Water side yard	60 feet or average water-side setback, not less than 40 feet (Section 36-5.2.6)	Not Permitted
BUILDING HEIGHT	35 feet	20 feet
FLOOR AREA	1 story: 1,000 sq ft.	

**36-5.4.2 REGULATIONS FOR NEW CONSTRUCTION ON EXISTING VACANT RIPARIAN LOT of RECORD with 110 feet or more of frontage (measured at road/access yard setback line)**

SETBACKS		Principal Building	Accessory Building
		minimum	
		2 story: 900 sq ft first floor; total 1,200 sq ft	
LOT COVERAGE	All Impervious Surfaces	20% 45%	15% of the total square footage of the side yard and water side yard

5. New Construction on Vacant, Existing Riparian Lots of Record in the R-1, RC, and A Districts:
  - A. All new construction on vacant, riparian lots of record in the R-1, Single Family Residential, RC, Resource Conservation, and A, Agricultural Districts shall conform to the setback standards and requirements for the district.
  - B. A minimum 60-foot water side (riparian) setback shall be maintained 60 feet or average water-side setback, not less than 40 feet (Section 36-5.2.6).
  - C. Lot sizes and setbacks may not be reduced for riparian lots in a Planned Unit Development or Open Space Preservation development.
6. Averaging for Principal Structures on Riparian Property. Where the surrounding riparian properties, measured 250 feet from the subject lot lines, have been built with a water-side setback less than 60 feet, the setback average may be used to determine the required water-side setback, but in no instance shall this water-side setback be less than 40 feet.
7. Water-Side Structures and Setback Exemptions.
  - A. Decks (attached or detached) shall not be any closer than 60 feet from the OWE.
  - B. The following buildings and/or structures may be located at a 30-foot water-side setback (measured from the OWE) per the following requirements and within the allotted accessory building lot coverage allowance:
    - i. Accessory decks (not attached to the principal structure) and patios less than 18 inches in height above the ground. A nine (9) foot side yard setback shall be maintained.
    - ii. Below-ground swimming pools with ladder attachments that are no taller than 36 inches above the ground. All mechanical and support equipment shall be located on the side of the pool nearest to the principal structure and shall be placed within a fully enclosed shelter with a footprint of no larger than 32 square feet and a height of four (4) feet. A nine (9) foot side yard setback, measured at the building foundation, shall be maintained.
    - iii. Walkways and/or Stairways. Walkways and/or stairways that are necessary to provide pedestrian access to the shoreline and are no greater than 60-inches in width with handrails and/or railings that are constructed to the standards required by the applicable building codes. A three (3) foot side yard

setback shall be maintained.

8. Fences. Fences on riparian lots may be placed on the property line and shall meet the following:
  - A. In the road/access yard, a fence shall be a maximum of four (4) feet in height and no more than 50 percent opaque when setback 3 feet from the road or access right-of-way.
  - B. Along the length of the sides of the house (side yard), a 6-foot tall, fully opaque fence is permitted.
  - C. From the water-side elevation of the house (excluding any attached decking) to a distance measured 20 feet from the OWE, a fence with a maximum height of four (4) feet in height and no more than 50 percent opaque shall be permitted.
  - D. Trees, shrubs, and other plants shall be permitted to enclose or screen areas without obstructing scenic views of the waterways from adjacent properties. Natural fences and barriers shall be permitted in the area between a principal building and the OWE but shall not be allowed to grow no higher than 30 inches and shall not be closer than 20 feet to the OWE.
9. Vegetation.
  - A. For new construction on a vacant riparian lot, the existing vegetative cover shall remain to the extent practical.
  - B. Vegetative areas shall be maintained along lot lines, water bodies, and water courses, natural drainage courses, wetlands, and steep slopes.
  - C. Any landscape material planted within 30 feet of the OWE shall be of a variety that does not exceed a maximum height of four (4) feet.
  - D. Evergreen trees are prohibited within 30 feet of the OWE.
10. Drainage and Soil Erosion.
  - A. Natural drainage courses shall be protected from grading activity. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved in their natural state to provide areas for natural habitat, to preserve drainage patterns, and to maintain the natural characteristics of the land.
  - B. For any construction or other activity that results in a change of the existing grade near these natural drainage courses, the landowner shall provide a written storm water collection/drainage plan to the Township for review and receive the proper permits from the Kalamazoo County Drain Commissioner before earthwork begins.
  - C. Property owners are responsible to mimic predevelopment drainage patterns and volumes when building. Provisions shall be made for predevelopment runoff so that downstream properties are not adversely impacted from the development of the lot. All efforts shall be made so that modified drainage patterns on the lot are designed to ensure that surface water is maintained onsite or in a manner approved by Texas Township Engineer.
  - D. Slopes created by grading shall generally not exceed a slope ratio of one (1) foot of vertical slope to three (3) feet of horizontal distance. All slopes shall be properly stabilized to prevent erosion and the destruction of natural vegetation.
  - E. Soil erosion control measures shall be established to protect the riparian buffer zone and water resource from deterioration.

11. Non-Riparian Lot Under Common Ownership with Riparian Lot. A riparian property owner that owns a non-riparian lot within 500 feet of their riparian lot, which is separated from the riparian lot by a road, drive, shared access easement, or road right-of-way shall be permitted either an accessory building or a sport court on the qualified non-riparian lot without a principal structure and shall be subject to the following:

- A. One (1) accessory building without a principal building:
  - i. Accessory buildings shall meet the setbacks of a principal building in the zoning district.
  - ii. Accessory building footprint shall not exceed 20 percent of the total lot size or 1,500 square feet whichever is less. In no circumstance shall the footprint of an accessory building exceed 1,500 square feet.
  - iii. Driveway and parking areas shall be permitted and are included in the total lot coverage calculation. Under no circumstances shall the total maximum lot coverage (building and impervious surface) exceed 35% for the lot.
  - iv. The height of the building shall not exceed 25 feet to the peak.
  - v. To maintain traditional residential character, the architecture, design, and materials of the accessory building shall be consistent with adjacent dwellings and the residential area, i.e., siding, dimensional roof shingles. Additionally, the façade facing a road, drive, shared access, or easement of right of way shall have an entry door (front door) and at least one (1) window no less 20 inches wide and 24 inches tall.
- B. One (1) sport court:
  - i. Sport court shall meet the setbacks of a principal building in the zoning district.
  - ii. Sport court may not exceed 30 percent of the total lot size.
  - iii. Sport court-associated equipment shall not exceed maximum recognized dimensional standards for professional sports leagues.
  - iv. Field goal end posts are not permitted.
  - v. Fences surrounding a sport court shall be permitted subject to a height maximum of six (6) feet along the side and rear lot lines and no more than four (4) feet in height with 50 percent opacity and no closer than 20 feet from the front lot property line.
- C. One (1) accessory building or one (1) sport court shall be permitted, but not both.
- D. Outdoor parking or storage of boats and boat trailers shall be permitted on the lot provided they are screened from both the road and adjacent properties by an opaque fence or vegetation.

12. Riparian Access (Contra-Funneling). To protect the characteristics, appearance, and quality of lakes, as well as reducing impacts such as excessive noise, damage to habitats, and shoreline erosion, the use of riparian lots for the purpose of providing access to non-riparian property owners through a “keyhole or funnel” development is prohibited unless provided herein.

13. Riparian Lot Developed as a Park or Open Space. The development of a site condominium or Planned Unit Development (PUD) plan may utilize vacant land near the shoreline as a recreational park to provide access to a water resource for the

owners of the residential lots or building sites, subject to the following:

- A. The park lot shall contain a depth of at least 150 feet measured from the ordinary water elevation and a minimum of 300 lineal feet of water frontage. An additional 20 lineal feet of water frontage shall be required for each dwelling unit over 15 to which such privileges are extended or dedicated.
- B. The park land shall not consist of a swamp, marsh, wetland, floodplain, or bog. This shall be determined by the most recent United States geological survey maps, or through the State of Michigan Wetland Identification Program, or by an ecologist or wetland specialist.
- C. No human-caused canal shall be created. Existing natural canals shall not be expanded or excavated.
- D. Passive recreational uses shall be permitted in the park.
- E. A shade structure shall be permitted.
- F. The erection of buildings shall be prohibited.
- G. The construction of docks or other means of launching boats shall be prohibited from this park lot.
- H. A temporary floating swim raft may be installed if placed within 200 feet of the shoreline.

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