

# **CHARTER TOWNSHIP OF GARFIELD PLANNING COMMISSION MEETING**

Wednesday, July 24, 2024 at 7:00 pm  
Garfield Township Hall  
3848 Veterans Drive  
Traverse City, MI 49684  
Ph: (231) 941-1620

## **A G E N D A**

### **ORDER OF BUSINESS**

**Call meeting to order**

**Pledge of Allegiance**

**Roll call of Board Members**

#### **1. Public Comment**

##### **Public Comment Guidelines:**

Any person shall be permitted to address a meeting of The Planning Commission, which is required to be open to the public under the provision of the Michigan Open Meetings Act, as amended. (MCLA 15.261, et.seq.) Public Comment shall be carried out in accordance with the following Commission Rules and Procedures: a.) any person wishing to address the Commission is requested to state his or her name and address. b.) No person shall be allowed to speak more than once on the same matter, excluding time needed to answer Commissioner's questions. Where constrained by available time the Chairperson may limit the amount of time each person will be allowed to speak to (3) minutes. 1.) The Chairperson may at his or her own discretion, extend the amount of time any person is allowed to speak. 2.) Whenever a Group wishes to address a Committee, the Chairperson may require that the Group designate a spokesperson; the Chairperson shall control the amount of time the spokesperson shall be allowed to speak when constrained by available time. Note: If you are here for a Public Hearing, please hold your comments until that Public Hearing time.

#### **2. Review and Approval of the Agenda – Conflict of Interest**

#### **3. Minutes – July 10, 2024**

#### **4. Correspondence**

#### **5. Reports**

- a. Township Board
- b. Planning Commissioners
  - i. Zoning Board of Appeals
  - ii. Parks and Recreation Commission
  - iii. Joint Planning Commission
- c. Staff Report

**6. Unfinished Business**

- a. PD 2024-53 – R-3 District and Vacation Home Rental Amendments – Introduction
- b. PD 2024-56 – Short-Term Rentals – Discussion
- c. PD 2024-54 – Zoning Ordinance Updates – Sign Ordinance Walkthrough
- d. PD 2024-55 – City of Traverse City Master Plan – Review

**7. New Business**

**8. Public Comment**

**9. Other Business**

**10. Items for Next Agenda – August 14, 2024**

- a. Potter's Home Retreat B&B Special Use Permit – Follow-Up
- b. Tower North Wireless Communication Facility Special Use Permit – Follow-Up
- c. French Manor LaFranier Special Use Permit Major Amendment – Introduction

**11. Adjournment**

**Joe Robertson, Secretary  
Garfield Township Planning Commission  
3848 Veterans Drive  
Traverse City, MI 49684**

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Lanie McManus, Clerk, Ph: (231) 941-1620.

**CHARTER TOWNSHIP OF GARFIELD  
PLANNING COMMISSION MEETING  
July 10, 2024**

**Call Meeting to Order:** Chair McManus called the July 10, 2024 Planning Commission meeting to order at 7:00pm at the Garfield Township Hall.

**Pledge of Allegiance**

The Pledge of Allegiance was recited by all in attendance.

**Roll Call of Commission Members:**

Present: Molly Agostinelli, Joe Robertson, Pat Cline, John Racine, Chris DeGood, Robert Fudge and Joe McManus

Staff Present: Planning Director John Sych and Deputy Planning Director Steve Hannon

**1. Public Comment (7:01)**

Brandy Waslawski commented on the Findings of Fact pertaining to her application.

**2. Review and Approval of the Agenda – Conflict of Interest (7:04)**

*Agostinelli moved and DeGood seconded to approve the agenda as presented.*

*Yeas: Agostinelli, DeGood Fudge, Cline, Racine, Robertson, McManus*

*Nays: None*

**3. Minutes (7:02)**

**a. June 26, 2024 Regular Meeting with Township Board**

*Fudge moved and Cline seconded to approve the June 26, 2024 Regular Meeting minutes as presented.*

*Yeas: Fudge, Cline, Robertson, Agostinelli, DeGood, Racine, McManus*

*Nays: None*

**4. Correspondence (7:06)**

Sych noted that there was no correspondence.

**Township Board Report**

Agostinelli stated that the Township Board approved adoption of the Master Plan and had some discussion regarding Traverse Connect.

**Planning Commissioners**

**i. Zoning Board of Appeals**

Fudge had no report.

**ii. Parks and Recreation Commission**

DeGood reported that there was no meeting.

### **Joint Planning Commission**

Racine had no report.

### **Staff Report**

Sych stated that the Township Board adopted the Master Plan and the Planning Department is working on finalizing the document. He added that in the May/June Edition of Michigan Planner, there is an interview with the Garfield Township Planning Department related to housing.

## **6. Unfinished Business**

### **a. PD 2024-47 – Potter’s Home Retreat B&B Special Use Permit – Findings of Fact (7:09)**

This application is requesting a Special Use Permit (SUP) for use of an existing single-family residence at 492 West Potter Road as a Bed & Breakfast Establishment. According to the applicant, the proposed bed and breakfast “is intended to serve anywhere from 1 to 6 guests per stay.” Bed & Breakfast Establishments are permitted via SUP in the A-Agricultural zoning district.

Hannon mentioned that a timeline was put together for the proposed special use permit. The zoning ordinance has definitions of a *Bed & Breakfast* and *Home Rental*, and there are elements missing for this application to meet either definition. There has been no additional written submittal on behalf of the applicant as far as meeting the definition of *Bed & Breakfast* or a *single-family residence*. Commissioners discussed the definitions of “*single family home*” and “*two family home*” or “*duplex*” as they pertained to this application. Commissioners noted that each time she leaves the upper level to live in the lower level, the home becomes a duplex and a violation occurs. The applicant stated that she has not begun any work on the home to make it compliant with the zoning ordinance since it is a costly undertaking if the application is going to be refused. She indicated that she could easily add a staircase and an egress window to the lower level very quickly. Commissioners suggest having an attorney review the application and the zoning ordinance definitions as they pertain to this application.

*Racine moved and Robertson seconded that the township attorney review the application, and all materials and provide guidance as to how this application can move forward, if possible.*

*Yeas: Racine, Robertson, DeGood, Agostinelli, Fudge, Cline, McManus*  
*Nays: None*

DeGood asked for procedures regarding asking for attorney guidance to the Planning Commission.



*Racine moved to table Potter's Home Retreat B&B Special Use Permit application to seek guidance from the township attorney. Fudge supported the motion.*

*Yeas: Racine, Fudge, Agostinelli, Robertson, Cline, DeGood, McManus  
Nays: None*

**b. PD 2024-51 Tower North Wireless Comm Facility Special Use Permit – Update**

This application requests a Special Use Permit (SUP) for a wireless communication facility (cell tower) at 2767 Zimmerman Road. The applicants propose a 155-foot-tall monopole tower with associated antenna equipment within a 60' x 60' fenced compound. Wireless communication facilities are permitted via SUP in the A-Agricultural zoning district. The applicant provided written answers to questions that commissioners raised at the last meeting. Hannon consulted with the township engineer regarding the location of other towers in the area. The proposed tower is  $\frac{3}{4}$  mile away from any other cell tower. Cell equipment is located on an old water tower in an R-1 district and the use is legal non-conforming. The proposed tower needs to be located 155 feet from the lot line in any direction. The proposed tower is also within the 155-foot setback from residential uses. To meet ordinance language, the tower would need to be moved or the house would need to be a non-residential use. The application would violate the ordinance because it would be placed on a residential site and the lot line issue would persist. Applicant Representative Mackenzie Trager Fox clarified that there is an agreement with the property owner on the site to buy the home that exists on the lot and use it as office space or some other non-residential use. Commissioners asked questions and discussed the application. The applicant will work with staff to meet the ordinance. Common areas of a PUD were also discussed and commissioners asked staff to determine if a common area of a PUD was still considered a residential area.

*Agostinelli moved and Fudge seconded to table the Tower North Wireless Communication Facility Special Use Permit until the applicant had a chance to work with staff to meet the ordinance.*

*Yeas: Agostinelli, Fudge, Racine, Robertson, DeGood, Cline, McManus  
Nays: None*

**7. New Business**

None

**8. Public Comment (8:29)**

None

**9. Other Business (8:29)**

Sych stated that dirt is being moved in the BATA housing project. Commissioners discussed at what point an occupancy permit would be issued. Staff indicated that the Board would determine what “beginning construction” meant for the project.

Copies of the new Master Plan will be circulated and commissioners are invited to bring in their old plans and they would be updated with the new Master Plan.

**10. Items for Next Agenda – July 24, 2024 (8:34)**

- a. Zoning Ordinance Updates – R-3 District, Signs and Vacation Home Rentals
- b. City of Traverse City Master Plan Review

**11. Adjournment**

*Fudge moved to adjourn the meeting at 8:40pm.*

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Joe Robertson, Secretary  
Garfield Township Planning  
Commission  
3848 Veterans Drive  
Traverse City, MI 49684



## Charter Township of Garfield

### Planning Department Report No. 2024-53

Prepared:	July 17, 2024	Pages:	1
Meeting:	July 24, 2024 Planning Commission Study Session	Attachments:	<input checked="" type="checkbox"/>
Subject:	R-3 Zoning District Amendment – Introduction		

#### **BACKGROUND:**

The R-3 Multiple Family Residential zoning districts provide for apartments. However, to provide more lenient requirements for additional housing choices, the Planning Commission is considering allowing triplexes and quadplexes as uses permitted by right in the R-3 District.

#### **STAFF COMMENT:**

The proposed amendment would cover the following sections of the Zoning Ordinance:

- ***Section 201 – General Definitions***
  - Change the definition of “Dwelling, Multiple-Family” from three (3) to five (5) or more families
  - Add a definition for “Dwelling, Three-Family (Triplex)”
  - Add a definition for “Dwelling, Four-Family (Quadplex)”
- ***Table 3-4 Use Chart***
  - Add the word “(Duplex)” to “Dwelling, Two-Family”
  - Add “Dwelling, Three-Family (Triplex)” as a use by right in R-3
  - Add “Dwelling, Four-Family (Quadplex)” as a use by right in R-3
- ***Section 315 – R-3 (Multiple Family Residential)***
  - Add the word “(Duplex)” to “Dwelling, Two-Family”
  - Add “Dwelling, Three-Family (Triplex)” as a use by right
  - Add “Dwelling, Four-Family (Quadplex)” as a use by right
  - For Minimum Lot Area, add “Three-Family (Triplex): 12,000 sq. ft.” and “Four-Family (Quadplex): 16,000 sq. ft.”
  - For Minimum Lot Width, add “Three-Family (Triplex): 100 feet” and “Four-Family (Quadplex): 100 feet”
  - For Minimum Yard Setbacks (A), change side setbacks to “Each Side: 10 feet” and “Each Side (Multi-Family only): 20 feet”

#### **PROCESS:**

The process for approving a text amendment includes two public hearings: one at the Planning Commission and one at the Township Board. The proposed text amendment is placed on tonight’s Planning Commission agenda for introduction and to set a public hearing.

#### **ACTION REQUESTED:**

If, following the discussion, the Planning Commission is prepared to schedule the attached draft proposed Zoning Ordinance text amendment for public hearing, then the following motion is suggested:

MOTION THAT the draft proposed Zoning Ordinance text amendment, as attached to Planning Department Report 2024-53, BE SCHEDULED for a public hearing for the August 14, 2024 Planning Commission Regular Meeting.

Any additional information the Planning Commission deems necessary should be added to the motion.

#### **Attachment:**

1. Proposed Amendments to Sections 201 - General Definitions, Table 3-4 Use Chart, and Section 315 - R-3 (Multiple Family Residential)

## SECTION 201 GENERAL DEFINITIONS

For purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

@@@@

Dwelling: Any building or structure or part thereof which contains one (1) or more dwelling units. For the purposes of this Ordinance, "Mobile Home" and "Recreational Unit" are each defined separately.

Dwelling, Single-Family: A dwelling unit designed for exclusive occupancy by a single family that is not attached to any other dwelling by any means and is surrounded by open area or yards.

Dwelling, Multiple-Family: ~~A dwelling or group of dwellings on one lot used or designed to contain separate living units for three (3) or more families, including triplex units, apartment houses, cooperatives, garden apartments and condominiums.~~ A building, a portion thereof, or buildings containing five (5) or more dwelling units and designed for or occupied by five (5) or more families living independently of each other.

Dwelling, Two-Family (Duplex): A building containing two single family dwelling units totally separated from each other by an un-pierced, above ground, wall or floor and occupied exclusively by two (2) families living independently of each other.

Dwelling, Three-Family (Triplex): A building containing three (3) single-family dwelling units totally separated from each other by an un-pierced, above ground, wall or floor and occupied exclusively by three (3) families living independently of each other.

Dwelling, Four-Family (Quadplex): A building containing four (4) single-family dwelling units totally separated from each other by an un-pierced, above ground, wall or floor and occupied exclusively by four (4) families living independently of each other.

Dwelling Unit: A building or portion thereof designed exclusively for residential occupancy by one (1) family and having cooking facilities.

@@@@

### Table 3-4 Use Chart

[illegible]

[illegible]

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Mortuary or Funeral Home			SC			SUP		SC			SUP				§ 760
Office						R	R	R	R	R	SUP				
Off-Site Parking						R	SC	R			SUP	SUP			
Open Space Preservation	SC	SC	SC	SC											§ 428
Outdoor Entertainment Center, Major												SUP	SUP		§ 761
Outdoor Entertainment Center, Minor								R							
Outdoor Sales, Major								SC	SC		SUP				§ 762.A
Outdoor Sales, Minor								SC	SC						§ 762.B
Outdoor Sales, Temporary						SC		SC	SC						§ 762.C
Outdoor Storage, Accessory Use	SC	SC	SC	SC											§ 613.A (4)
Outdoor Storage, Primary Use											SC	SC			§ 763
Park, Mini	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Park, Neighborhood	R	R	R	R							R	R	R	R	
Park, Community - Low Intensity														R	
Park, Community - High Intensity														SUP	
Passenger Terminal								R	R		R	R			§ 764
Pet Grooming Establishment							R	R			R		R		
Pet Shop						SC		SC		R	SUP				§ 765
Printing or Publishing Enterprise											R	R			
Processing Operation											SUP	SUP			
Professional Showroom							R								
Professional Studio							R	R		R	SUP				
Recreational Facility								R	SC	R	R	R			
Recreational Field Complex	SC	SC	SC	SC									SUP		§ 766
Recycling Facility												SUP			
Rehabilitation Center							R								
Research and Design Facility							SC				SC	SC			§ 767
Restaurant, with Drive-Through								SUP	R	R					§ 768; § 730
Restaurant, without Drive-Through						SC		R	R	R					§ 768
Retail Fabricator								SUP							§ 769
Retail, Industrial Accessory											R	R			§ 611
Retail, Industrial Primary											SUP				§ 770
Retail, Low Volume						R		R	R	R					
Retail, Medium Volume								R	R	R					
Retail, High Volume								SUP	R	R					

Use Name	R-1	R-2	R-3	R-R	R-M	C-L	C-O	C-G	C-H	C-P	I-G	I-L	A	P-R	Conditions
Roadside Stand													R		
Sale of Prefabricated Structures								SUP							
Sand or Gravel Pit, Quarry												SUP	SUP		§ 771
Service Establishment, Business						SC		R	R	R					§ 772
Service Establishment, Personal						R	R	R	R	R					
Sexually Oriented Businesses								SC							§ 640
Shopping Center, General								SUP							
Shopping Center, Local						SUP		SC							
Small Warehousing Establishment											R	R			
Solar Energy System, Accessory	R	R	R	R	R	R	R	R	R	R	R	R	R	R	§ 773.A
Solar Energy System, Primary	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	§ 773.B
Stormwater Containment, Non-Agricultural													SC		§ 774
Swimming Pool, Private	SC	SC	SC	SC											§ 776
Transportation Dispatch Center											R	R			
Truck or Rail Freight Terminal											SUP	SUP			
Vehicle Dealership, with Outdoor Sales								SC	SC		SUP				§ 762
Vehicle Dealership, without Outdoor Sales								R	SC		SC				
Vehicle Service Center, Major								R	R		R	R			
Vehicle Service Center, Minor								R	R		SUP	SUP			
Veterinary Hospital						SC	SC	SC	R		R		SUP		
Warehouse or Distribution Center											R	R			
Warehouse or Distribution Center, Hazardous Materials												SUP			§ 777
Waterfront Stairways and Landings	SC	SC	SC	SC											§ 778
Wholesaler								SC			R	R			§ 779
Wind Energy Conversion System						SUP		SUP			SUP	SUP	SUP		§ 780
Wind Energy Conversion System, Personal	SUP	SUP	SUP	SUP	SUP								SC		§ 781
Wireless Communication Facilities								SUP	SUP		SUP	SUP	SUP		§ 792



## SECTION 315 R-3 (MULTIPLE FAMILY RESIDENTIAL)

**PURPOSE** – The R-3 (Multiple Family Residential) districts provide areas for medium to high density one and two family residential dwelling units mixed with a variety of multiple family residential dwelling types, including apartments and group housing, where adequate public facilities and services exist with capacity to serve such development. The districts are composed mainly of areas containing an existing mix of these dwelling types as well as areas within which such development appears likely and desirable. They are intended to encourage more intensive development in and near the core areas of the township. The R-3 districts are designed to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools, places of worship and parks that will promote a sense of community, urban vitality and the efficient provision of infrastructure. R-3 district regulations are designed to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development to preserve environmentally sensitive and natural land areas.

### A. USES PERMITTED BY RIGHT:

- |                                                 |                                                      |
|-------------------------------------------------|------------------------------------------------------|
| (1) Adult Foster Care, Family Home              | (3) Adult Foster Care Facility – § 710               |
| (2) Cemetery                                    | (4) Bed and Breakfast – § 713                        |
| (3) Dwelling, Single Family                     | (5) Boarding Residence – § 714                       |
| (4) Dwelling, Two Family (Duplex)               | (6) Child Care Center – § 720                        |
| (5) Dwelling, Three-Family (Triplex)            | (7) Dwelling, Multiple Family                        |
| (6) Dwelling, Four-Family (Quadplex)            | (8) Essential Service Facility, Major – § 737.B      |
| (7) Essential Service Facility, Minor – § 737.A | (9) Institutional Uses and Structures – § 752        |
| (8) Home Occupation                             | (10) Solar Energy System, Primary – § 773.B          |
| (9) Park, Mini                                  | (11) Wind Energy Conversion System, Personal – § 781 |
| (10) Park, Neighborhood                         |                                                      |
| (11) Solar Energy System, Accessory – § 773.A   |                                                      |

### B. USES PERMITTED BY SPECIAL CONDITIONS:

- (1) Child Care, Family Home (<7) – § 718
- (2) Child Care, Small Group Home (7-12) – § 719
- (3) Golf Course or Country Club – § 749
- (4) Keeping of Chickens, Personal – § 754.A
- (5) Medical Marihuana Residential Cultivation – § 758
- (6) Mortuary or Funeral Home – § 760
- (7) Open Space Preservation – § 428
- (8) Outdoor Storage, Accessory Use – § 613.A (4)
- (9) Recreational Field Complex – § 766
- (10) Swimming Pool, Private – § 776
- (11) Waterfront Stairways and Landings – § 778

### C. USES PERMITTED BY SPECIAL USE PERMIT:

- (1) Adult Foster Care, Small Group Home – § 708
- (2) Adult Foster Care, Large Group Home – § 709

**D. ADDITIONAL STANDARDS:**

- (1) Driveways for single family residences shall comply with § 511.
- (2) Completion. Any single-family dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of a land use permit or one (1) year from the date of occupancy whichever occurs last.
- (3) Uses permitted by Special Use Permit in the R-3 District shall provide a minimum of 300-square feet of open space per dwelling unit. Required open space shall be consolidated and contiguous to the greatest extent reasonably possible to provide usable park-like areas. Structures shall be adjoined by open space areas on at least one side.

## E. DIMENSIONAL STANDARDS:

### Minimum Lot Area:

- One-Family: 10,000 sq. ft.
- Two-Family (Duplex): 10,000 sq. ft.
- Three-Family (Triplex): 12,000 sq. ft.
- Four-Family (Quadplex): 16,000 sq. ft.
- Multi-Family 4,000 sq. ft.  
per dwelling unit

### Minimum Lot Width:

- 1- Family w/ Public Sewer 65 feet
- 1- Family w/o Public Sewer 100 feet
- 2-Family w/ Public Sewer 70 feet
- 2-Family w/o Public Sewer 100 feet
- Three-Family 100 feet
- Four-Family 100 feet
- Multi-Family 100 feet

### Maximum Building Height:

- In Stories: 3 stories
- In Feet: 40 feet (See section 341)

### Minimum Yard Setbacks (A):

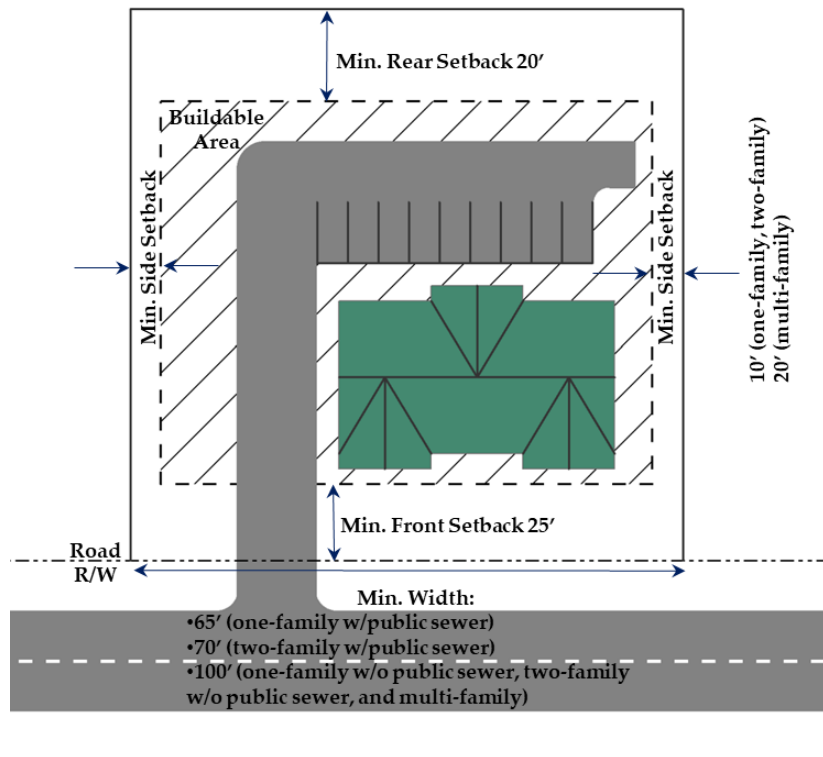
- Front: 25 feet
- Each Side: 10 feet
- Each Side (Multi-Family only): 20 feet
- Rear: 20 feet

**Maximum Lot Coverage:** 35 %


**Minimum Bldg. Cross Section:** 24 feet

### Notes to Dimensional Standards:

(A) Setbacks shall be measured from the furthest protruding point of structure.



*\*Not to scale. To be used for illustrative purposes only\**

 <b>Charter Township of Garfield</b> <b>Planning Department Report No. 2024-56</b>		
Prepared:	July 17, 2024	Pages: 3
Meeting:	July 24, 2024 Planning Commission Study Session	Attachments: <input checked="" type="checkbox"/>
Subject:	Short-Term Rentals – Discussion	

**BACKGROUND:**

Recently, House Bill (HB) 5438 of 2024 was introduced in the Michigan legislature. HB 5438 provides for the registry and regulation of short-term rentals and hosting platforms, specifically:

- It creates a statewide short-term rental database.
- It allows local units of government maintain authority to regulate short-term rentals.
- It creates a new short-term rental excise tax (the rate is 6% of the occupancy charge), with most of the funds collected going back to the local unit of government where the short-term rental is located. Currently, local units of government have no dedicated revenue source to assist with the public costs of tourism.
- It asserts that hosting platforms cannot facilitate a booking transaction for a short-term rental if the property is not registered with the state and in good standing with the applicable local unit of government.

Complimentary to HB 5438, HB 5437, 5439-5446 were also introduced and are convention tourism assessments and hotel-motel taxation legislation.

Two key points in HB 5438 to local governments is the definition of a short-term rental in Section 2(j) and Section 11:

*Sec. 2. As used in this act:*

*(j) “Short-term rental” means the rental of a single-family residence, a dwelling unit in a 1-to-4-family house, or any unit or group of units in a condominium unit, for terms of not more than 30 consecutive days. Short-term rental does not include the rental of a hotel, motel, hotel condominium, home, or condominium unit that is located within a resort that offers amenities such as golf, a skiing restaurant facility, or group meeting accommodation.*

*Sec. 11. (1) A local unit of government may enact and enforce reasonable regulations and may uphold zoning decisions for short-term rentals that do any of the following:*

- (a) Safeguard the public health, safety, and welfare, including, but not limited to, fire safety standards and blight mitigation.*
- (b) Determine the number of units allowed to be used as a short-term rental by any method of its choosing.*
- (c) Establish a process by which the local unit of government may reduce or expand the number of units allowed under subdivision (b).*
- (d) Establish a process by which the local unit of government may revoke a permit under this act, including the process to challenge the revocation.*

*(2) A local unit of government may revoke the permit of a short-term rental and its owner for a violation of a local ordinance enacted under subsection (1) or a zoning ordinance.*

*(3) A local unit of government shall not enact or enforce any ordinance, rule, or regulation, including, but not limited to, a zoning ordinance, rule, or regulation, that has the effect of totally banning or prohibiting short-term rentals.*

Of critical note is Section 11(3) which prohibits outright banning of short-term rentals by a local unit of government. To comply with this expected requirement should the legislation pass, the Township could allow for short-term rentals in specific areas.

Staff has outlined the following approach:

1. Provide a definition of short-term rentals that matches the legislation as noted in Section 2 above.
2. Allow short-term rentals in Commercial District Housing Developments. Commercial District Housing Developments are dwelling units permitted in the C-G (General Commercial) and C-H (Highway Commercial) districts by Special Use Permit and by right in the C-P (Planned Shopping Center) district. In comparison, hotels and motels are permitted in the C-G (General Commercial) and C-H (Highway Commercial) districts with special conditions and by right in C-P (Planned Shopping Center) districts.
3. Establish a licensing ordinance for short-term rentals. An initial draft of a licensing ordinance is attached to this report. Short-term rentals are only permitted in Commercial District Housing Developments.

**ACTION REQUESTED:**

These items are for discussion only. No action is requested.

***Attachments:*** Draft Short-Term Rental Licensing Ordinance

Charter Township of Garfield  
Grand Traverse County, Michigan

**SHORT TERM RENTAL LICENSING ORDINANCE**  
**Ordinance No. XX**

**AN ORDINANCE REGULATING THE LICENSING AND OPERATION  
OF SHORT-TERM RENTALS**

**THE CHARTER TOWNSHIP OF GARFIELD ORDAINS:**

**Section 1. Purpose**

The purpose of this Ordinance is to ensure the habitability of dwelling units and structures being leased to others or otherwise being occupied by others than the owner and/or persons related to the owner and for the promotion of the health, safety and welfare of the residents of the Township and the occupants of short term rentals; to assist the Township with information to provide more adequate police, fire and emergency protection; more equal and equitable real and personal property taxation; better efficiency and economy in furnishing public utility services; and more comprehensive and informed planning and zoning for uses of land and structures within the Township.

**Section 2. Definitions**

As used in this ordinance, the following terms have the following meanings:

**“Authorized Township Official”** refers to the Charter Township of Garfield Zoning Administrator, Code Enforcement Officers, and any such other departments or agencies authorized by the Township Board.

**“Person”** means an individual, partnership, association, limited liability company or corporation.

**“Licensee”** means the person designated by the titleholder to be the licensee of the short-term rental property. A licensee must own at least 50% of the ownership interests in the short-term rental property, or have control of the entity, as established by proof satisfactory to the Township.

**“Local Agent”** means an individual designated by the owner(s) of a dwelling unit to oversee the short-term rental of a dwelling unit in accordance with this ordinance and to respond to calls from renters, concerned citizens, law enforcement, and representatives of the Township. The local agent must be available to accept telephone calls on a 24-hour basis at all times that the dwelling unit is rented and occupied. The local agent must have a key to the dwelling unit and be able to respond to the short-term rental within sixty (60) minutes to address issues or must have arranged for another person to address issues within the same timeframe. The local agent shall be authorized by all owners to accept service of process upon all owners, jointly and severally, for civil infractions under this Ordinance.

**“Short-term rental”** means the rental of a single-family residence, a dwelling unit in a 1-to-4-family house, or any unit or group of units in a condominium unit, for terms of not more than 30 consecutive days. Short-term rental does not include the rental of a hotel, motel, hotel condominium, home, or condominium unit that is located within a resort that offers amenities such as golf, a skiing restaurant facility, or group meeting accommodation.

“Township Clerk” and “Township Board” mean, respectively, the Charter Township of Garfield Township Clerk and the Board of Trustees.

### **Section 3. License Required**

No person shall engage, or be engaged, in the operation, rental or leasing of a short-term rental for which a license is required by any provision of this Ordinance without first obtaining a license from the Township in the manner provided herein. The short term rental of an unlicensed dwelling unit is prohibited.

### **Section 4. Location**

Licensed short-term rentals shall only be permitted in Commercial District Housing Developments as provided for and regulated in the Township Zoning Ordinance. A short-term rental not in an approved Commercial District Housing Development shall be prohibited.

### **Section 5. Multiple Short-Term Rentals**

No person operating, renting, or leasing any short-term rental shall obtain an individual license for each short-term rental. The grant of a license for one short-term rental shall not relieve the person from the necessity of securing individual licenses or permits for each short-term rental.

### **Section 6. License Application**

Unless otherwise provided in this Ordinance, every person required to obtain a license from the Township to engage in the operation, rental, or leasing of any short-term rental home shall apply for said license to the Township Clerk upon forms provided by the Township Clerk and shall state under oath or affirmation such facts, as may be required for, or applicable to, the granting of such license.

(a) Application Form. The following information shall be provided in a license application:

- (1) The names, addresses and telephone numbers of each owner of the dwelling unit.
- (2) The name, address, and telephone number of the local agent for the dwelling unit.
- (3) The street address of the dwelling unit, along with other identification if more than one dwelling unit has the same street address.
- (4) The time periods during the calendar year when the dwelling unit will be available for short term rental.
- (5) The number of bedrooms (sleeping units) in the dwelling unit.
- (6) Such other information as the Township deems appropriate.

(b) Sign an Affirmation and Acknowledgment. The following affirmation and acknowledgment shall be provided in a license application:

- (1) All owners and the local agent will comply with all provisions of this Ordinance and the Township Zoning Ordinance as it pertains to the dwelling unit.

- (2) That all owners and the local agent acknowledge that any license issued under this Ordinance may be suspended or revoked if persons renting the dwelling unit violate the provisions of this Ordinance or the Township Zoning Ordinance, or the laws of the State of Michigan, the ordinances of Grand Traverse County, or the regulations of the Health Department.
  - (3) The applicant has authority to make these representations on behalf of the owners and local agent.
- (a) Ownership. The following ownership information shall be provided in a license application:
- (1) A copy of the current deed for the property, showing ownership and control of the short-term rental property, and for an entity, a certificate, made under oath, as to the ownership of the short-term rental property, and shall provide such additional information as the Township may request. An entity must designate the licensee who must own at least a fifty percent (50%) interest in the short-term rental property, or have effective control thereof, as determined by the Township.

#### **Section 7. License Year**

Except as otherwise herein provided as to certain licenses, the license year shall begin January 1<sup>st</sup> of each year and shall terminate at midnight on December 31<sup>st</sup> of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License applications for license renewals shall be applied for sixty (60) days prior to the annual expiration date and issued at least fifteen (15) days prior to the annual expiration date.

#### **Section 8. Conditions of Issuance; Issuance**

No license shall be granted to any applicant until such applicant has complied with all the provisions of this Ordinance and all other applicable Garfield Township ordinances, including but not limited to the Property Maintenance Ordinance, Dangerous Buildings Ordinance, and the Zoning Ordinance.

#### **Section 9. Approval or Denial of Application**

All short-term rental licenses shall be issued by the Township Clerk or his/her designee after certification, and any other Township Official who shall be responsible for the investigation of any short-term rental license application. The Township Clerk shall act to approve or deny an application for a license within a reasonable period and in no event will he/she act to approve or deny said license later than sixty (60) days from the date of a technically complete application to the Township Clerk's office. In determining whether the license should be granted, the Township Clerk or his/her designee will determine whether the applicant has met the standards of this Ordinance and all other Charter Township of Garfield Ordinances and other applicable codes regulations of the State of Michigan, County of Grand Traverse, other applicable regulatory agencies, and of the Township.

#### **Section 10. License Denial**

Any person whose initial request for a license is denied shall have a right to a hearing before the Township Board, provided a written request therefore is filed with the Township Supervisor within (10) days following such denial. The Township Board shall have the right to affirm a denial of a license, or the Township Board may grant any license, with or without conditions. In reviewing the applicant's request, the Township Board will consider whether the applicant has met the standards of this Ordinance and all Charter Township of Garfield Ordinances and other applicable codes regulations of the State of Michigan,



County of Grand Traverse, other applicable regulatory agencies, and of the Township as required prior to the granting of the license.

### **Section 11. Regulations**

- (a) Local Agent. All dwelling units used for short term rentals shall have a designated local agent, who shall be authorized to accept service of process for civil infractions under this ordinance on behalf of all owners, jointly and severally.
- (b) Contact Information Posted in Window. A notice (in a form to be prepared by the Township Clerk) shall be posted in a prominent first floor door or window location of any dwelling unit used for short-term rentals stating (in at least 16- point type) the name of the local agent, a 24- hour telephone number with which the agent can be reached.
- (c) Compliance with Codes. The dwelling unit must meet all applicable residential building, health department, nuisance, and safety codes, and all persons in possession of the dwelling unit shall comply with all provision of State law, the Township Building Code, the Township Zoning Ordinance, including but not limited to the following fire and safety requirements: the dwelling unit must have smoke detectors, carbon monoxide detectors, fire extinguishers and building egress installed and maintained per the Township Building Code. The Owner shall post within the dwelling unit in a location visible to all renters a form prepared by the Township containing the Township's codes and regulations relating to occupancy, noise control, trash and recycling, fireworks, outdoor burning and parking, along with any other materials the Township deems necessary.
- (d) Noise and Nuisance. Noise during quiet hours must be limited to that which does not disturb the quiet, comfort or repose of a reasonable person of normal sensitivities. All provisions of the Township Code and Zoning Code pertaining to noise and other nuisances shall apply.
- (e) No Signage Advertising Short Term Rental on Property. No signage shall be placed on the property or on the dwelling unit advertising the property as a vacation home rental.
- (f) Insurance. The Owner shall carry insurance on the property and shall disclose to the company carrying such insurance that the property is being used for a vacation home rental. As part of the application for vacation home rental approval, the Owner shall acknowledge and represent to the Township that the Owner is carrying and will carry insurance on the property and that the Owner has notified the insurance company that it is engaged in a vacation home rental of the property. The Owner shall save, indemnify and hold the Township harmless from any failure to carry and maintain such insurance.
- (g) Maximum Occupancy. The maximum occupancy of a vacation home rental shall not exceed two (2) individuals per bedroom (sleeping unit).

### **Section 12. Where Certification Required**

No license shall be granted where the certification of any office of the Township is required prior to the issuance thereof until such certification is made.

### **Section 13. Certificate of Other Governmental Agencies**

In all cases where the certification of any other governmental agency is required prior to the issuance of any license by the Township Clerk, such certification shall be submitted at the time of application for a license to the Township. The application will not be considered technically complete until the certification

is submitted. No license shall be issued by the Township until other required governmental approvals are obtained, and proof of such approvals is presented to the Township Clerk.

#### **Section 14. Inspection Required**

The licensee may be required to submit to lawful inspections by Authorized Township Officials. The Township Clerk or his or her designee may refuse to issue a license or permit to any applicant until he or she has a report from any department he or she deems necessary to make an inspection that the applicant or the premises comply with all ordinances and regulations. Persons inspecting licensees, their businesses or premises as herein authorized shall report all violations of this chapter or of other laws or ordinances to the licensing officer and shall submit such other reports as the licensing officer shall order.

#### **Section 15. License Fees**

Any license fees required by this Ordinance shall be paid to the Treasurer's Office before the granting of said license. License Fees shall be those set by Resolution of the Township Board.

#### **Section 16. Late Renewals**

All fees for the renewal of any license which are not paid at the time they are due shall be paid as "late fees" with an additional twenty-five (25%) percent of the license fee required for such licenses for the first fifteen (15) days that such license fee remains unpaid, and after 15 days, the initial license fee with an additional fifty (50%) percent of such fee.

#### **Section 17. Exhibition of License**

The short-term rental license shall always be exhibited in a conspicuous place on the premises. Every licensee shall produce its/his/her license for examination when applying for a renewal thereof or when requested to do so by a Township police officer or by any person representing the Township.

#### **Section 18. Displaying Invalid License**

No person shall display any expired license or any license for which a duplicate has been issued.

#### **Section 19. Transferability; Misuse.**

No license issued under the provisions of this Ordinance shall be transferable unless specifically authorized by the provisions of this Ordinance. Unless specifically authorized by this Ordinance, no licensee shall transfer or attempt to transfer its/his/her license to another or make any improper use of the same.

#### **Section 20. Misuse; Automatic Revocation**

Unless specifically authorized by this Ordinance, in addition to the general penalty provision for violation of this Ordinance under Section 28, any attempt by a licensee to transfer its/his/her license to another or to use the same improperly shall result in the automatic revocation of such license or permit.

#### **Section 21. Suspension or Revocation of License; Notice of Hearing**

- (a) When any of the provisions of this Ordinance are violated by the licensee, an employee, or independent contractor of the licensee, or individuals occupying the short-term rental are engaged in any conduct which violates any State law or Township ordinance, or for any good "cause," the Township may suspend or revoke the license after notice and a hearing. The term "cause" as used in this Ordinance

includes the doing or omitting of any act or permitting any condition to exist in connection with the short-term rental, which act, omission or condition is contrary to the health, safety and welfare of the public; is unlawful, irregular or fraudulent in nature, is unauthorized or beyond the scope of the license issued, or is forbidden by this Ordinance or any other law. "Cause" shall include, but not be limited to:

- (1) Acts, omissions or conditions that are contrary to the health, morals, safety or welfare of the public;
  - (2) Acts, omissions or conditions that are unlawful, irregular or fraudulent in nature.
  - (3) The arrest and conviction of the licensee for any crime involving moral turpitude.
  - (4) Acts, omissions, or conditions that are unauthorized or beyond the scope of the license granted.
  - (5) Acts, omissions or conditions that are forbidden by the provisions of this Ordinance or any other duly established rule or regulation of the Township applicable to the business;
  - (6) Maintenance of a nuisance upon or in connection with the licensed premises, including, but not limited to, any of the following:
    - A. An existing violation(s) of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory laws or ordinances,
    - B. A pattern of patron conduct in the neighborhood of licensed premises which is in violation of the law and/or disturbs the peace, order and tranquility of the neighborhood,
    - C. Failure to maintain the grounds and exterior of the licensed premises free from litter, debris or refuse blowing or being deposited upon adjoining properties.
    - D. Failure to maintain the grounds and exterior of the licensed premises in accordance with an approved site plan.
    - E. Failure to maintain the business or premises in compliance with any approved site plan or other approval granted by the Township, including but not limited to, a special land use approval and any conditions attached thereto.
    - F. Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, morals, safety, or welfare of the public.
  - (7) Failure by the licensee to permit the inspection of the licensed premises by the Township's independent contractors or employees in connection with the enforcement of this Ordinance.
  - (8) Fraud or material misrepresentation in the application for a license or in the operation of the licensed business.
  - (9) "Cause" shall also include the nonpayment of personal property taxes, real property taxes or any other obligation due and payable to the Township relating to the licensed premises.
- (b) For conditions posing an imminent threat to the public health, safety and welfare of the community, short term rental occupants or others, an Authorized Township Official, with the approval of the Township Supervisor or his/her designee, is hereby granted the authority to suspend immediately, without notice or a hearing, any license granted hereunder. However, notice of the suspension shall be

given to the licensee within seventy-two (72) hours from the time and date of suspension and the notice shall include the reason for the action. The notice of suspension to the licensee shall contain the effective date and time of such suspension. Notice shall be hand-delivered to the licensee and sent by first class mail to the licensee's last known address. A copy of the notice shall be posted on the front of the short term rental.

- (c) If an Authorized Township Official determines that any licensee or individual occupying the short-term rental is engaged in any conduct which violates any State law or Township ordinance, or is in violation of this Ordinance, the respective official shall prepare a report in writing specifying (1) the specific factual details of such violation(s), and (2) the particular Ordinance subsection(s) violated. The original report shall be filed with the Township Supervisor, who shall provide a copy to the Township Board, and serve a copy of such report upon the licensee or its authorized agent or employee personally or by registered mail.
- (d) Within twenty (20) days from the date the report has been filed with the Township Board, the Township Clerk shall set a date for a hearing before the Township Board on the alleged violations(s) for a determination by the Township Board as to whether the Township Board shall suspend or revoke the license. Notice of the hearing shall be served by the Township Clerk or his/her designee upon the licensee, manager, or person in charge personally or by registered mail not less than seven (7) days before a scheduled hearing date. The notice shall advise the licensee of its right to be represented by legal counsel at the hearing before the Township Board. Additionally, a copy of the notice shall be posted on the front of the short-term rental. The notice shall indicate that the Township has initiated suspension and/or revocation proceedings before the Township Board and state the reason(s) why the Township is requesting a suspension or revocation. The notice shall state the location of the hearing and the date and time that the licensee may appear before the Township Board to give testimony and show cause why the short-term rental license should not be suspended or revoked.
- (e) At all such hearings, the licensee shall have the legal right to defend against the allegations made by way of confronting any adverse witnesses, by being able to present witnesses in its own behalf, by being allowed to present arguments, personally or through legal counsel in its own behalf.
- (f) The Township Board shall hear evidence and testimony by Township Departments and other concerned individuals regarding the request for suspension or revocation. The licensee shall be allowed to present evidence and testimony at the hearing as to why the license should not be suspended or revoked. After the hearing, the Township Board can revoke the short-term rental license, deny the suspension or revocation of the license, or suspend the license for a specific period to require the licensee to take corrective actions as set out in a Resolution of the Township Board before the license will be restored.
- (g) The Township Board shall prepare a written statement of its findings within thirty (30) days of the conclusion of all such hearings and shall serve such findings with the licensee either personally or by registered mail. If the Township Board decides that the license shall be suspended or revoked, the licensee shall forthwith surrender the same to the Township Clerk and shall not thereafter conduct, operate, rent, or lease the short-term rental for which the license was granted unless and until the license is restored and a new license issued to him/her/it.
- (h) If the licensee fails to take corrective action by the date specified by Resolution of the Township Board, the license shall be revoked. Upon suspension or revocation of any license, the Township Clerk shall not issue a new license to the licensee without prior approval of the Township Board.
- (i) The licensee may appeal the final decision of the Township Board to the Grand Traverse County Circuit Court.

**Section 22. Sale, Transfer, or Change of Location**

Upon sale of a short-term rental, the license issued therefore shall become null and void. A new application shall be filed as provided in this Ordinance prior to the leasing, renting, operating, or occupying of the short-term rental. It shall be the duty of all licensees having knowledge of the sale of a short-term rental to immediately report such sale to the Township Clerk or his/her designee. The failure to do so shall be a violation of this Ordinance punishable as set forth in Section 28 and shall result in an immediate suspension of the short-term rental license.

**Section 23. Financial Assurances**

Where the provisions of this Ordinance require that the applicant for any license furnish a financial assurance, such financial assurance shall be furnished in an amount deemed adequate by the Township Clerk or his/her designee, or where the amount thereof is specified in this Ordinance or by Resolution of Township Board, in the amount so required. The form of such financial assurance shall be acceptable to and approved by the Township attorney.

**Section 24. Expiration of Short-Term Rental License**

All licenses issued under this Ordinance shall expire either:

- (a) One (1) year from the date of issuance; or
- (b) Any time the ownership of the premises changes; or
- (c) Any time the license is suspended or revoked, whichever occurs first.

**Section 25. Renewal of Short-Term Rental License**

Unless otherwise provided in this Ordinance, an application for renewal of a license shall be considered in the same manner as an original application. Should an application for renewal of an existing license be denied by the Township, the denied applicant may appeal said decision by filing with the Township Clerk a written request for a hearing before the Township Board. Such request must be served upon the Township Clerk within two (10) days of the applicant's receipt of the denial notice. To obtain renewal of a business license:

- (a) The applicant(s) shall present the following information to the Township Clerk or his/her designee.
  - (1) A sworn affidavit by the applicant(s) stating that the matters contained in the original application have not changed, or if they have changed, specifically stating the changes that have occurred.
  - (2) The names, addresses, birth dates and driver's license numbers of each owner and individual who will be a manager, acting manager or in charge of each facility.
- (b) Inspections shall be conducted by Authorized Township Officials to verify that the requirements of all applicable Township Ordinances are being met prior to renewal of the license.

**Section 27. Exemptions**

The provisions of this Ordinance shall not apply to any agency of the United States of America, the State of Michigan, or any political subdivision thereof.

**Section 28. Violation and Penalty**

Violation of a provision of this Ordinance is a municipal civil infraction. In addition, a violation of this Ordinance is hereby declared to be a *nuisance per se* and the Township specifically reserves the right to proceed in any court of competent jurisdiction to obtain an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Every day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to penalties and sanctions as a separate offense.

**Section 29. All Ordinances inconsistent herewith are hereby repealed.**

**Section 30. Effective Date.**

This Ordinance will become effective seven (7) days following its publication in a newspaper in general circulation within the Township as provided by law.

At a regular meeting held on \_\_\_\_\_, 2024, a motion was offered by \_\_\_\_\_, with support from \_\_\_\_\_, to approve the foregoing Ordinance No. XX. The motion was carried as follows in a roll call vote.

Upon roll call vote, the following voted:

**YES:**

**NO:**

**ABSENT:**

**ORDINANCE NO. XX ADOPTED.**

\_\_\_\_\_  
Chuck Korn, Supervisor

\_\_\_\_\_  
Lanie McManus, Clerk

#### **CERTIFICATE**

I, Lanie McManus, the Clerk of Charter Township of Garfield, do hereby certify that the above is a true and correct copy of Ordinance No. XX which was adopted by the Township Board of the Charter Township of Garfield on the \_\_\_\_ day of \_\_\_\_\_, 2024 Garfield Township Ordinance No. XX shall take effect upon the expiration of seven (7) days following publication.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lanie McManus, Clerk

Introduced: <insert date>

Adopted: <insert date>

Published: <insert date>

Effective: <insert date>



 <b>Charter Township of Garfield</b> <b>Planning Department Report No. 2024-54</b>		
Prepared:	July 17, 2024	Pages: 3
Meeting:	July 24, 2024 Planning Commission Study Session	Attachments: <input checked="" type="checkbox"/>
Subject:	Zoning Ordinance Updates – Sign Ordinance Walkthrough	

**BACKGROUND:**

At the past few study sessions, the Planning Commission has discussed priority updates to the Zoning Ordinance for 2024. This report provides a walkthrough of current Sign Ordinance regulations in Section 630 of the Zoning Ordinance, along with Staff comments on areas needing review or potential changes. The full text of Section 630 is provided as an attachment to this report.

There are several cases from the past 5-10 years reviewed by the United States Supreme Court which may impact how municipalities can regulate signs. Many of these court cases focus on ordinance regulations which cover the content of a sign rather than regulations covering the size, setback, or other aspects of a sign.

**SUPPLEMENTAL RESOURCES:**

Staff have provided an article by Fahey Schultz Burzych Rhodes (FSBR), a law firm with a specialty in municipal law, as an attachment to this report. This article gives an overview of content-based regulations of signage, gives an analysis of recent United States Supreme Court cases regarding signage, and offers some examples of typical municipal sign regulations which may be considered content-based.

**SECTION 630 – SIGNS:*****A. Regulations and Conditions***

This subsection includes a purpose statement indicating the intention of the sign ordinance regulations. Included in the purpose is a statement to “Ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication.” The cases reviewed by the United States Supreme Court have often found sign regulations to be unconstitutional due to unequal treatment of different types of speech.

***B. Applicability***

This subsection indicates that Section 630 applies to all signs.

***C. Non-conforming Signs***

This subsection describes the parameters for which legal non-conforming signs may remain and when they need to be removed. One provision in this subsection states that legal non-conforming signs may not be “Continued in use after cessation or change of the business or activity to which the sign pertains.” This could be found to be a content-based regulation since it deals with the messaging of the sign rather than size, setback, or other aspects.

***D. Signs Permitted in RR, R-1, R-2, and R-M Residential Districts******E. Signs Permitted in C-L, C-G, and C-H Commercial Districts******F. Signs Permitted in C-O Office Commercial Districts******G. Signs Permitted in the C-P Planned Shopping Center District and in Planned Developments******H. Signs Permitted in I-G and I-L Mixed-Use Industrial Business Districts******I. Signs Permitted in A Agricultural District***

These subsections describe what signage is permitted in each zoning district. Currently, these subsections do not have any regulations for signs in the R-3 Multi-Family Residential or P-R Park-Recreation districts. Many of the regulations in these subsections could be considered content-neutral but some may be considered content-based and need to be addressed, including the following examples (potentially content-based language is underlined):



- 630.D.(1) – One (1) non-illuminated sign advertising a home occupation or professional service...
- 630.E.(2) – One (1) sign, freestanding, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property... and PROVIDED FURTHER that the same shall be solely for identification of the land use or goods and services sold on the premises...
- 630.E.(2)(a)(i) – Lots, parcels, and building sites with frontage on two streets may have a second sign identifying the business...
- 630.E.(6) – The sign shall identify the commercial center and/or individual tenants...
- 630.F. – One freestanding sign, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property.
- 630.I. – One (1) sign, per parcel, of not more than fifty (50) square feet in face area to advertise the sale of farm products grown or produced on the premises...

### ***L. Billboards***

This subsection describes the standards for billboards. Most of the regulations in this section appear to be content-neutral; however, it would still be prudent for the Planning Commission to review these standards. Staff recently created a map of existing billboards in the Township and where billboards could be placed based on the standards of this subsection.

### ***M. General Sign Standards***

These standards cover aspects of signage such as placement, dimensional standards, materials, illumination, and more. There is also a specific clause intended to protect free speech rights by allowing non-commercial copy to be substituted for commercial copy on any lawful structure.

### ***N. Signs Always Permitted***

Many of the standards in this subsection could be considered content-based, including the following (potentially content-based language is underlined):

- (1) Address Numbers and Street Names
- (3) Construction signage identifying a building project including the names of the developer, financier, and the various professionals and contractors involved...
- (4) Community Special Event signs placed on the site where the event will be held not more than 5 (5) days in advance of the date on which the event will held
- (7) Historical or memorial signs such as “Centennial Farm” plaques and/or other signs representing awards won by a farm unit and/or its proprietors
- (8) Incidental Signs, not exceeding one (1) square foot in area each, identifying hours of operation, pickup and delivery areas, etc., and limited to a maximum of five (5) signs per site.
- (9) “No Hunting” or “No Trespassing” signs which do not exceed one (1) square foot in area.
- (10) Official Signs. Official signs, including signs for essential services, governmental purposes, public recreation area identification, and utility identification are permitted in all zone districts provided the sign does not exceed forty (40) square feet in area.
- (11) Political Signs. A political sign shall not exceed eight (8) square feet in area, shall be spaced at least twenty (20) feet apart on an individual parcel, may not be erected more than four (4) months prior to an election, and shall be removed within five (5) calendar days following the election.
- (12) Real Estate Signs... All real estate signs shall be placed on premises of property that is for sale or lease, shall not be illuminated, and shall be placed no closer to the street or highway line than fifteen (15) feet.

***O. Temporary Signs for approved Outdoor Sales Events, as follows***

Some of these standards could be considered as content-based, including the following (potentially content-based language is underlined):

- (1) Temporary signs advertising special events, grand openings, going out of business, or other temporal events may be permitted provided that they are affixed to and overlay existing permitted signage...

***P. Prohibited Signs***

Some of these standards could be considered as content-based, including the following (potentially content-based language is underlined):

- (1) Abandoned signs... Any sign that advertises, identifies, or pertains to an activity that no longer exists or that no longer refers to a business conducted or product sold on the lot shall be removed within sixty (60) days of written notice.
- (2) Signs which do not relate to existing businesses or products.
- (3) Off-premise signs as defined herein, except as provided in Section 630.L. Billboards where permitted.
- (14) Flags, banners, flag banners or pennants used for the purpose of attracting attention or advertising, however, excluding: (a) Official government, trademarked, or otherwise commercially recognizable, corporate, or institutional flags placed on a permanent flagpole...

***Q. Sign Safety and Maintenance***

This subsection covers design, maintenance, and safety standards for signs and sign structures.

***R. Permits, Application Requirements, and Approval***

This subsection describes the review process for sign permit applications.

**NEXT STEPS:**

Staff propose crafting updated standards for certain portions of the sign ordinance, especially in those portions of the sign ordinance with potentially content-based regulations as noted above. Staff can prepare updated language for review at the Planning Commission's August 28, 2024 study session.

**ACTION REQUESTED:**

These items are for discussion only. No action is requested.

**Attachments:**

1. Zoning Ordinance Section 630 – Signs
2. Content-Based Regulations of Signage (Fahey Schultz Burzych Rhodes) dated August 30, 2021

- (k) Implement traffic demand management strategies (e.g., carpool or vanpool programs, flex time, staggered work hours, and telecommuting) to reduce vehicular trip generation; or
  - (l) Recommend denial of the application for development for which the traffic study is submitted.
- (2) The Planning Commission may recommend, and the Township Board may adopt, a statement of principle partially or fully exempting a project from meeting the traffic service standards where it finds that the social and/or economic benefits of the project outweigh the adverse impacts of the project. The Township Board may temporarily exempt certain street locations from some or all of the traffic service standards, owing to special circumstances that make it undesirable or unfeasible to provide further capacity improvements at these locations. These special circumstances may include a finding that there would be significant negative fiscal, economic, social, or environmental impact from further construction, or that a significant portion of the traffic is generated by development outside the control of township. However, where these conditions exist, the Township Board will make every effort to design alternate improvements, and development projects affecting these areas may be required to implement traffic demand management programs and other measures to reduce the impact on these locations as much as possible.

## **SECTION 630 SIGNS**

### **A. Regulations and Conditions**

This section establishes standards to regulate the type, number, physical dimensions, and placement of signs in the Township. Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in Garfield Township without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein. Accordingly, it is the intention of this ordinance to establish regulations governing the display of signs which will:

- (1) Promote and protect the public health, safety, comfort, morals, and convenience;
- (2) Enhance the economy and the business and industry of the Township by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public;
- (3) Protect public safety by prohibiting signs that are structurally unsafe or poorly maintained; that cause unsafe traffic conditions through distraction of motorists, confusion with traffic signs, or hindrance of vision; and that impede safe movement of pedestrians or safe ingress and egress from buildings or sites;
- (4) Ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication;
- (5) Reduce conflict among signs and light and between public and private environmental information systems; and
- (6) Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

### **B. Applicability**

- (1) It shall hereafter be unlawful for any person to erect, construct, install, place, replace, locate, rebuild, modify, maintain a sign or allow a sign to remain on property in the Township except in compliance with this Section.
- (2) The effect of this Section is:
  - (a) To regulate any sign, display, figure, painting, drawing, message, placard, poster, billboard, or other thing, visible from a public or private right-of-way and that is used, or has the effect of

- being used, to advertise, announce, or identify the purpose of any business, establishment, person, entity, product, service or activity;
- (b) To establish a permit system to allow a variety of sign types in commercial and mixed-use business zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;
  - (c) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the requirements of this Section, but without requirement of a permit;
  - (d) To prohibit all signs that are not expressly permitted by this Section; and
  - (e) To provide for enforcement of the provisions of this Section.
- (3) In the event of conflict between the regulations of this Section and those of other local, state, or federal regulations, the more restrictive regulation shall govern.

**C. Non-conforming Signs**

A legal nonconforming sign may be continued and shall be maintained in good condition, including replacement faces, but it shall not be:

- (1) Expanded, altered or changed from a manual changeable letter sign to electronic changeable copy sign so as to increase the degree of nonconformity of the sign;
- (2) Re-established after its discontinuance for two hundred and seventy-five (275) days;
- (3) Continued in use after cessation or change of the business or activity to which the sign pertains;
- (4) Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent of the appraised replacement cost, as determined by the Zoning Administrator;

**D. Signs Permitted in RR, R-1, R-2, and R-M Residential Districts**

In the RR, R-1, R-2, and R-M Districts the following signs shall be permitted:

- (1) One (1) non-illuminated sign advertising a home occupation or professional service not to exceed three (3) square feet in area and attached flat against a building wall. This standard shall not apply within the R-3 District.
- (2) One (1) monument sign, not exceeding sixteen (16) square feet in sign face area, which is part of the entrance treatment to a project development, such as platted subdivision, site condominium, multi-family development, or mobile home development. Signs may be illuminated as regulated by Section 630.M.(7) of this ordinance. The sign may be placed upon an architectural entrance feature provided the height of the entrance feature does not exceed six (6) feet and is setback fifteen (15) feet from the property line.

**E. Signs Permitted in C-L, C-G, and C-H Commercial Districts**

In the C-L, C-G, and C-H Districts the following signs shall be permitted:

- (1) All signs permitted under Section 630.D.(1).
- (2) Freestanding signs. One (1) sign, freestanding, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property PROVIDED that the same is at least 100 feet from any residence or residential district and PROVIDED FURTHER that the same shall be solely for identification of the land use or goods and services sold on the premises, subject to the following conditions:
  - (a) Only one (1) free-standing sign shall be allowed along any major thoroughfare. Lots in excess of 100 feet in width will be allowed 0.4 square feet of additional signage for each one (1) foot of lot width in excess of 100 feet to a maximum of 80 square feet for free-standing signs.

- (i) Lots, parcels, and building sites with frontage on two streets may have a second sign identifying the business provided the signs are not located on the same street and provided further the second sign does not exceed a maximum of 25 square feet.
- (b) Changeable copy (e.g. LED or manual change). Freestanding signs incorporating manual changeable letter, digital static messages, or images that change are permissible, provided the changeable copy does not exceed 20% of the permitted sign area and provided further that the rate of change between two static messages or images is not less than one (1) hour. The change sequence must be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure. Sign luminance shall not be greater than 4,200 candelas per meter squared beginning one hour after sunrise and continuing until one hour before sunset. Sign luminance shall not be greater than 200 candelas per meter squared at all other times. Sign lighting shall meet the requirements of this Ordinance.
- (3) Wall signs for individual establishments. The maximum wall sign area shall be the lesser of 100 square feet or 20% of the wall area to which the sign is attached. More than one sign may be placed on a principal building wall provided that the maximum square footage limitation for the building wall is not exceeded. Wall mounted changeable copy signs are prohibited in all districts.
- (4) Individual tenants within a multi-tenant building. One 40-square foot wall sign per exterior tenant wall. In the instance of a tenant occupying more than one designated tenant unit, the tenant shall be permitted one sign per unit wall provided that no sign exceeds 40-square feet. Tenants occupying corner units shall be permitted an additional 40-square foot sign on the secondary wall. An individual tenant shall not be permitted an individual ground sign. Wall signs shall be located on a primary building wall, and are not permitted on secondary building walls.
- (5) Anchor tenants within a multi-tenant development. In accordance with Section 630.E.(3). A Shopping Center Anchor Tenant includes retail establishments of fifty (50) thousand square feet or more in floor area.
- (6) Shopping center identification. In accordance with Section 630.E.(2). The sign shall identify the commercial center and/or individual tenants within a multi-tenant commercial center. Individual ground signs for tenants are prohibited.

**F. Signs Permitted in C-O Office Commercial Districts:**

In the C-O District the following signs shall be permitted:

- (1) Freestanding signs. One freestanding sign, including project development signs, of not more than forty (40) square feet in sign face area indicating the location of a business, or development, physically located on the property.
- (2) Wall signs. The maximum wall sign area shall be 40 square feet per building.

**G. Signs Permitted in the C-P Planned Shopping Center District and in Planned Developments:**

In the C-P Planned Shopping Center district and in Planned Developments, the following signs shall be permitted:

- (1) Applicability. This section shall apply to all new signs, which shall include the following:
  - (a) Removal and replacement of a sign structure.
  - (b) Removal and replacement of wall sign channel letters.

The following shall not be considered new signs:

- (c) Changing the sign face or the sign copy on a sign within an existing sign structure.
- (d) Repair of an existing sign.

- (2) Signs permitted by right.
- (a) Residential Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. One (1) sign for a home occupation or professional service; no illumination of signs is permitted; maximum of 3 square feet per sign.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 16 square feet per sign; maximum of two (2) signs per roadway frontage. Signs may be illuminated as regulated by Section 630.M.(7) of this Ordinance. The sign may be placed upon an architectural entrance feature provided the height of the entrance feature does not exceed 6 feet and is setback 15 feet from the property line.
  - (b) Office Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. One (1) sign per building; maximum of 40 square feet per sign.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 40 square feet per sign; maximum of two (2) signs per roadway frontage.
  - (c) Commercial Uses in the C-P Planned Shopping Center district and in Planned Developments, and Industrial Uses in Planned Developments.
    - (i) Wall Signs. One (1) sign per exterior storefront. The maximum area per sign shall be the lesser of 100 square feet or 20% of the area of the wall to which the sign is attached. Businesses occupying corner spaces are permitted one (1) sign on the additional exterior wall.
    - (ii) Freestanding Signs. One (1) freestanding monument sign located at each roadway entrance to the development; maximum of 40 square feet per sign; maximum of two (2) signs per roadway frontage. For developments which include more than 10,000 square feet of retail space, one (1) freestanding sign along each roadway frontage is allowed in place of another permitted freestanding sign, according to the following:
      - 10,000 – 25,000 square feet of retail space; maximum of 60 square feet per sign
      - 25,000 – 50,000 square feet of retail space; maximum of 80 square feet per sign
      - More than 50,000 square feet of retail space; maximum of 100 square feet per sign
  - (d) Mixed Uses in the C-P Planned Shopping Center district and in Planned Developments.
    - (i) Wall Signs. The number and size of wall signs shall be based on each type of use included in the development according to the standards of (a) through (c) above.
    - (ii) Freestanding Signs. One (1) sign located at each roadway entrance to the development; maximum of two (2) signs per roadway frontage. The size and type of this sign shall be determined by type of use included in the development with the maximum area permitted by (a) through (c) above.
- (3) Signs subject to Planning Commission approval.
- (a) Internal directional signs with a maximum of 6 square feet per sign. Such signs shall be placed at logical locations to facilitate traffic within the site. The location and quantity of internal directional signs shall be subject to Planning Commission approval and clearly indicated on an overall site plan.
  - (b) The Planning Commission shall have the ability to modify any of the wall sign standards in Section 630.G.(2) provided all the following criteria are met. Any modification of these standards shall be applicable for only the lifespan of the sign in question and shall not be

transferable to any other sign or lot, shall not be considered a variance, and shall not run with the land. The decision of the Planning Commission shall be applicable to only the specific application and shall not be considered to set precedent.

- (i) The proposed sign(s) shall be designed as an integral part of the development and compatible with the overall design.
- (ii) Any proposed sign shall be found by the Planning Commission to be appropriate in scale, bulk, and location relative to the site and shall be found to be compatible with surrounding land uses.
- (iii) The sign does not block the view of other nearby signs to the extent that it would harm the ability of other businesses in the surrounding neighborhood to operate.
- (iv) For a wall sign, the building is set back greater than two hundred (200) feet from the centerline of the nearest roadway, or the wall to which the sign is attached is greater than five hundred (500) square feet, and the requested increase in wall sign area is not more than fifty (50) percent greater than that allowed in Section 630.G.(2).
- (v) There are other unique circumstances or existing conditions on the site which warrant consideration by the Planning Commission.

**(4) Signs prohibited under any circumstances.**

**(a) Prohibited in both the C-P district and in Planned Developments:**

- (i) All signs described in §630.P
- (ii) Changeable copy signs and Billboard signs.
- (iii) Signs with exposed neon or other exposed lighting source (excepting "gooseneck" style and shielded downward illumination of non-internally illuminated signs).

**(b) Prohibited in the C-P district:**

- (i) Cabinet signs.

**H. Signs Permitted in I-G and I-L Mixed-Use Industrial Business Districts:**

In the I-G and I-L Districts the following signs shall be permitted:

- (1) All signs as permitted by Section 630.E.

**I. Signs Permitted in A Agricultural District:**

In the A District the following signs shall be permitted:

- (1) All signs as permitted by Section 630.D.
- (2) Freestanding signs. One (1) sign, per parcel, of not more than fifty (50) square feet in face area to advertise the sale of farm products grown or produced on the premises or to indicate the location of a business or use allowed under the standards of the Agricultural Zoning District.

**J. (Reserved)**

**K. (Reserved)**

**L. Billboards**

**(1) Purpose**

- (a) Protect the Township's distinctive community character and natural landscape.
- (b) Protect the Township's scenic resources, scenic roadsides, and view sheds;
- (c) Enhance the economic base associated with tourism and the community's overall economic well-being by protecting the natural, scenic beauty of the Township;

- (d) To foster and enhance the Township's dark sky policy; and
- (e) To satisfy the public need for commercial information disseminated by billboards.
- (2) In light of the findings made by the Township (in connection with the 2002 amendment to these regulations) with respect to the extent and sufficiency in number of billboards and outdoor advertising signs within the Township, and, notwithstanding, anything contained in this Section to the contrary, no permit shall be issued for a billboard or outdoor advertising sign if construction of the billboard or outdoor advertising sign will result in there being more than twenty (20) billboard or outdoor advertising sign structures or forty (40) billboard or outdoor advertising sign faces in the Township. Lawfully constructed non-conforming billboards or outdoor advertising signs shall be counted for purposes of this Section.
- (3) Billboards shall only be located within the I-G and I-L zoning districts. Notwithstanding the provisions of this section, no billboards or outdoor advertising signs shall be permitted in the I-G and I-L zoning districts on any property abutting or within two thousand six hundred forty (2,640) feet of Birmley, Hammond and Hartman Roads.
- (4) Dimensional Requirements, spacing and lighting:
  - (a) No billboard, advertising sign boards, or advertising structures shall be more than two hundred thirty (230) square feet in area or more than thirty (30) feet in height; and PROVIDED FURTHER, the distance between such billboards or signs shall not be less than one thousand four hundred (1,400 feet).
  - (b) Billboard or highway advertising sign luminance shall not be greater than 4,200 candelas per meter squared beginning one hour after sunrise and continuing until one hour before sunset, and greater than 200 candelas per meter squared at all other times. Billboard lighting shall meet the requirements of this Ordinance.
  - (c) Signs with static messages or images that change are permissible, provided the rate of change between two static messages or images is not less than ten (10) seconds. The change sequence must be accomplished by means of instantaneous re-pixelization and shall be configured to default to a static display in the event of mechanical or electronic failure.
- (5) Nonconforming Billboards, due to their location within a zoning district other than the I-G and I-L zoning districts, may not be converted to any form of electronic display, whether static or changeable.
- (6) Billboards shall be subject to the requirements of Section 630.P.

#### **M. General Sign Standards**

##### **(1) Placement, Height, Ground Clearance, and Projection**

###### **(a) Freestanding Signs**

- (i) Placement. Freestanding signs may be located anywhere on a site, subject to the following limitations:
  - a. Setbacks. Sign setbacks shall be measured from all lot lines. All signs, unless otherwise provided for, shall be set back a minimum of ten (10) feet from the front, side, or rear property line.
  - b. Under no circumstances shall any portion of a freestanding sign be located within a public right-of-way.
  - c. The Zoning Administrator may require a sign to be further set back from the right-of-way where necessary to provide clear vision areas for motorists and pedestrians.
  - d. A minimum ten (10) foot horizontal separation between any sign and any overhead utility shall be maintained at all times. Any part of a sign, including cables, guys, etc. shall maintain a minimum clearance of four (4) feet from any electrical conductor, electric light pole, road lamp, traffic light, or other utility pole.



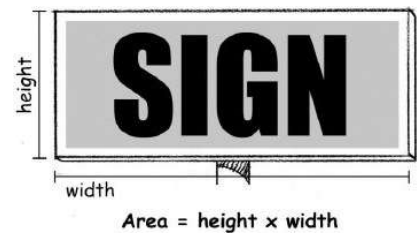
- (ii) Height. The height of any freestanding pylon sign shall not exceed twenty (20) feet. The height of any freestanding monument sign shall not exceed ten (10) feet.
- (iii) Where any portion of a freestanding sign projects over a vehicular driveway or parking area, a minimum ground clearance of fourteen (14) feet shall be maintained. Where any portion of a freestanding sign projects over a public or private sidewalk or pathway, a minimum ground clearance of eight (8) feet shall be maintained.

(b) Wall Signs

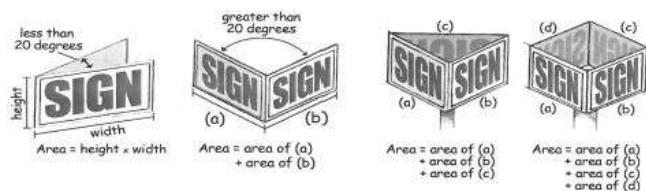
- (i) Placement. Wall signs may be placed on any primary building wall.
- (ii) Height. The height of any wall sign shall not exceed the height of the building. Wall signs may be placed on a primary building wall's parapet provided that the parapet does not exceed a height of six (6) feet above the building's roofline.
- (iii) Projection. A wall sign shall not project from the wall to which it is attached by greater than twelve (12) inches.
- (iv) Ground Clearance. Where any portion of a wall sign projects over a public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least eight (8) feet above said walkway.
- (v) Changeable copy wall signs are prohibited.

**(2) Measurement**

- (a) Area Measurement. The area of a sign shall be measured as the area within a single, straight line square or rectangle which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, poles, or other structure necessary to support the sign.



- (b) Multiple Faces. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) faces are placed back-to-back, are of equal size, and are no more than twenty (20) degrees apart at any point, the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the sign area.



**(2) Supporting Structure**

The necessary supports, uprights, or monuments on which a sign is placed may not exceed fifty percent (50%) of the permitted square footage of the sign, excluding those portions of the support below street grade.

**(3) Materials**

Sign materials shall be made of wood, metal, plastics, masonry, or other durable surfaces approved by the Zoning Administrator.

**(4) Free Speech**

Unless otherwise prohibited in this Section, non-commercial copy (that is unrelated to commercial or business endeavors) may be substituted for commercial copy on any lawful structure.

**(5) Illumination**

Illuminated signs shall not create glare or unduly illuminate the surrounding area. The following provisions shall apply to illuminated signs that are permitted elsewhere in this article.

- (a) Light Sources. Signs shall be illuminated only by steady, stationary, shielded light sources using approved electrical devices. Exposed bulbs are prohibited except where neon or LED bulbs are used as signs.
- (b) Direction and Shielding. Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the sign façade. Lighting fixtures shall not be directly visible from or aimed at streets, roads, or properties. To the extent possible, fixtures shall be mounted and directed downward (below the horizontal).
- (c) Back-Lit and Internally-Illuminated Signs. Back-lit and internally-illuminated signs shall not cause excessive glare, and light emitted from such signs shall not encroach onto surrounding properties.
- (d) Motorist Distraction. Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (e) Adjacent Residential Use. Where a lot is adjacent to a residential use, back-lit and internally illuminated signs are prohibited on any side or rear building face exposed to view from a residential use.
- (f) Underground Wiring. Underground wiring shall be required for all signs that are not attached to a building.

**N. Signs Always Permitted**

The following signs are permitted throughout the Township. Unless otherwise noted, a sign permit is not required; however the sign shall comply with the standards listed below.

- (1) Address Numbers and Street Names.
- (2) Canopy Signs. Up to fifteen (15) square feet in signage per canopy side, located upon drive-through canopy structures for gas stations and financial institutions. A sign permit is required.
- (3) Construction signage identifying a building project including the names of the developer, financier, and the various professionals and contractors involved. Such signage shall be allowed only during the time in which the development is actually under construction and shall not exceed thirty-two (32) square feet in sign face. Construction signs shall be removed before a Certificate of Occupancy is issued for the premise. Such signage shall not be placed closer than ten (10) feet from the edge of the right-of-way and shall not exceed eight (8) feet in height.
- (4) Community Special Event signs placed on the site where the event will be held not more than 5 (5) days in advance of the date on which the event will held.
- (5) Directional Signs. One (1) six (6) square foot internal directional sign which is placed at least 20 (20) feet from a road right-of-way AND two (2) one (1) square foot directional signs which may be placed anywhere on the project site. A sign permit is required.
- (6) Hanging Signs, suspended below a marquee, awning, or canopy, provided that the sign measures less than four (4) square feet and maintains a ground clearance of eight (8) feet between the lowest point of the sign and the grade. One hanging sign shall be permitted per business. A sign permit is required.
- (7) Historical or memorial signs such as "Centennial Farm" plaques and/or other signs representing awards won by a farm unit and/or its proprietors.

- (8) Incidental Signs, not exceeding one (1) square foot in area each, identifying hours of operation, pickup and delivery areas, etc., and limited to a maximum of five (5) signs per site.
- (9) "No Hunting" or "No Trespassing" signs which do not exceed one (1) square foot in area.
- (10) Official Signs. Official signs, including signs for essential services, governmental purposes, public recreation area identification, and utility identification are permitted in all zone districts provided the sign does not exceed forty (40) square feet in area. Such signs shall not be subject to the setback requirements.
- (11) Political Signs. A political sign shall not exceed eight (8) square feet in area, shall be spaced at least twenty (20) feet apart on an individual parcel, may not be erected more than four (4) months prior to an election, and shall be removed within five (5) calendar days following the election.
- (12) Real Estate Signs.
  - (a) For Residential Uses less than one (1) acre, one (1) six (6) square foot real estate sign per parcel.
  - (b) For Residential Uses greater than one (1) acre, and for Non-Residential Uses, one (1) sixteen (16) square foot real estate sign per parcel.
  - (c) All real estate signs shall be placed on premises of property that is for sale or lease, shall not be illuminated, and shall be placed no closer to the street or highway line than fifteen (15) feet.

**O. Temporary Signs for approved Outdoor Sales Events, as follows:**

- (1) Temporary signs advertising special events, grand openings, going out of business, or other temporal events may be permitted provided that they are affixed to and overlay existing permitted signage and do not exceed the square footage of such existing signage, and are in place a maximum of fifteen (15) days in any one hundred eighty (180) day period.
- (2) Banners used as temporary signs for the purpose of a temporary outdoor sale specifically permitted by this Ordinance, provided that:
  - (a) Only one (1) banner per temporary outdoor use shall be permitted unless the event is located on a corner lot, in which case a maximum of two (2) banners shall be permitted.
  - (b) The maximum size of any one (1) banner shall be twenty (20) square feet. Where two (2) banners are permitted, the maximum combined size shall be thirty-two (32) square feet.
  - (c) The banner shall be located not more than five (5) feet from the temporary outdoor use.
  - (d) When affixed to a tent, no banner shall be erected higher than the eave of the tent. A freestanding banner attached to a pole or similar supporting structure shall not exceed a height of ten (10) feet, measured to the top of the banner.
  - (e) No illumination shall be permitted
  - (f) Sign review shall be required and shall be approved only for the specific duration of the temporary outdoor use.

**P. Prohibited Signs**

- (1) Abandoned signs
  - (a) Removal Required. Any sign that advertises, identifies, or pertains to an activity that no longer exists or that no longer refers to a business conducted or product sold on the lot shall be removed within sixty (60) days of written notice. The sign cabinet shall either be removed in its entirety, or the sign face shall be removed, painted a neutral color, or a blank sign face substituted.
  - (b) Extension. Upon petition of the property owner, the Zoning Administrator may grant an extension of the requirement to remove the sign face or sign structure, subject to the owner submitting a statement of intent and a reasonable time line for the re-use of the sign face or sign structure.
- (2) Signs which do not relate to existing businesses or products.
- (3) Off-premise signs as defined herein, except as provided in Section 630.L. Billboards where permitted.

- (4) Signs which are illegal under State laws or regulations and/or applicable local ordinance or regulations.
- (5) Non-Maintained Signs. Signs that are not clean and in good repair.
- (6) Signs not securely affixed to a substantial structure, including signs which are not customary vehicular signage placed on parked vehicles.
- (7) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with or resemble any official traffic sign, signal or device.
- (8) Signs which fail to satisfy applicable standards set forth in this Ordinance.
- (9) Signs which did not first receive a permit.
- (10) Signs, except those established and maintained by Municipal, County, State or Federal governments, located in, projecting into, or overhanging within a public right-of-way or dedicated public easement.
- (11) Signs which revolve, move, or flash, including electronic changeable message boards running animated displays or sequential messaging, (including scrolling and moveable text and video messages), or any combination of the foregoing, except for signs as provided for in Section 630.E. Instant re-pixelization shall not be considered scrolling, moveable text, or video.
- (12) Changeable copy sign, except as provided for in Section 630.E.
- (13) Airborne or inflatable devices or characters, including but not limited to bounce houses, slides or balloons, situated, displayed or tethered in such a manner as to draw attention to a product, business or location.
- (14) Flags, banners, flag banners or pennants used for the purpose of attracting attention or advertising, however, excluding:
  - (a) Official government, trademarked, or otherwise commercially recognizable, corporate, or institutional flags placed on a permanent flagpole;
  - (b) Family flags used as part of the landscape of a legal use;
  - (c) Festival banner flags; and
  - (d) Banners used as temporary signs for the purpose of a temporary outdoor sale permitted by Section 630.O.(2) of this Ordinance.
- (15) Human Signs. Persons dressed in costume and/or carrying/holding signs for the purpose of advertising or otherwise calling attention to a business or product when standing within ten (10) feet of a public road right-of-way.
- (16) Signs which do not meet the dark sky requirements of this Ordinance.
- (17) Parked Vehicle. Any sign affixed to a parked vehicle or trailer which, due to the regular location of the vehicle shows it is being used principally for advertising purposes, rather than for transportation purposes.
- (18) Temporary signs, except as specifically provided in Section 630.O.(1).
- (19) Portable Signs.

#### **Q. Sign Safety and Maintenance**

- (1) General Design. Signs and sign structures shall be designed and constructed to meet any requirements of the Michigan State Construction Code, as amended, and with all applicable regulations adopted thereunder.
- (2) Maintenance. Every sign, including those specifically exempt from this article, with respect to permits and fees, shall be maintained in good repair and sound structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or constructed of rust resistant metals.

- (3) Safety. All signs must remain safe and secure during the period of use. All parts of the sign, including bolts and cables, shall remain painted and free from corrosion. The Zoning Administrator shall inspect and may order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

**R. Permits, Application Requirements, and Approval**

The purpose of this Section is to set forth procedures and standards for processing sign permit applications. Except as provided elsewhere in this Article, it shall be unlawful for any person to erect, place, install, convert to electronic, display, alter, or relocate a sign without first obtaining a sign permit or permits. A sign permit shall not be issued if the existing site has signage violations per the regulations of this Article.

- (1) Sign Permit Required. A sign shall not be placed, erected, re-erected, constructed, installed, modified, displayed, relocated, converted to electronic or altered prior to the issuance of a sign permit by the Zoning Administrator, except as provided below:
  - (a) Maintenance and Repairs of Signs. A sign permit shall not be required for the routine maintenance or repair of an existing conforming sign, including repair or replacement of electrical wiring, electrical components, or internal bulbs (excluding electronic changeable copy), but excluding replacement faces or modifications which change the outward appearance, display, size, structure, or cabinet of the sign.
- (2) Application Requirements. An illustrated plan shall be provided with a sign permit application. Such plan shall be rendered at a scale determined by the Administrator to be reasonable and shall include the following elements of the proposed or modified signage:
  - (a) Sign type;
  - (b) Dimensional characteristics, such as height, width, vertical clearances, and face area as measured per Section 630.M.2;
  - (c) Materials, appearance, and lighting of the signage;
  - (d) Relationship to buildings or structure and location on buildings;
  - (e) Setbacks from rights-of-way; and
  - (f) Locations of any existing signage in the subject development or on the subject parcel. The site plan shall also include proposed and existing signage not requiring a permit.
- (3) Upon receipt of an application, the Zoning Administrator shall review the application for completeness. If the application is complete, it shall be processed. If the application is incomplete, the Zoning Administrator shall advise the applicant of additional elements required for consideration by the Township.
- (4) Within ten (10) business days of receiving a complete application, the Zoning Administrator shall review the application for compliance with this Ordinance. If the application is compliant, the Zoning Administrator shall issue a Sign Permit to the applicant. If the application is not in compliance, the Zoning Administrator shall advise the applicant and reference the applicant to sections of this Ordinance that need to be addressed.
- (5) The Zoning Administrator shall retain the right to forward any sign permit applications to the Planning Commission for their review and approval.

- (6) Inspection and Compliance. The Zoning Administrator shall inspect each new or modified sign for which a permit is issued to determine whether the sign is in full compliance with the Sign Permit and this Ordinance. If the construction is not in full compliance with this Ordinance, the Zoning Administrator shall give the applicant notice of the deficiencies and order corrective action.
- (7) Permit Assignment. A sign permit shall be assignable to the successor of a business on the same parcel, except where such assignment would result in a sign that is materially or substantially different in any way to the sign which was permitted, as determined by the Zoning Administrator.
- (8) Sign permit requests require individual applications and review fees at the time of submittal.
- (9) Permit Expiration. All permits are valid for one (1) year from the date of issue.

## **SECTION 640 SEXUALLY ORIENTED BUSINESSES**

### **A. Purpose**

The purpose and intent of this ordinance dealing with the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, by preventing the concentration of such uses in close proximity to one another and to minimize the negative secondary effects associated with them by separating such uses from residential, educational and religious uses, as well as other areas of public and private congregation; all within the limits of the Township's authority. This regulation is implemented with the understanding and recognition that there are some uses which, because of their very nature, have serious objectionable operational characteristics which cause deleterious secondary effects upon nearby residential, educational, religious and other similar public and private uses. The implementation of reasonable and uniform regulations is necessary to ensure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be injurious to the health, safety and general welfare of Township residents. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials, protected by the First Amendment to the United States Constitution. Similarly, it is neither the intent nor the effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials, but to regulate land uses associated with such distribution or dissemination in a manner designed, within the limits of the United States Constitution and judicial opinions interpreting its breadth and scope, to ensure that the health, safety and general welfare of the citizens of Garfield Township are appropriately protected from any negative secondary effects associated therewith.

### **B. Findings and Rationale**

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Township, the Township finds as follows:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

## Content-Based Regulations of Signage

*Recent federal court decisions have redefined the limits of the First Amendment's protections of signs across the country and in Michigan, so municipal review of such regulations is certainly timely. In light of *Reed v Town of Gilbert, Ariz*, a recent sign decision, Justice Kagan of the United States Supreme Court opined that "many sign ordinances . . . are now in jeopardy." See *Reed v Town of Gilbert, Ariz*, 576 US 155, 180 (2015) (Justice Kagan, E., concurring in judgment). Since *Reed*, there has been a string of cases interpreting the *Reed* standards and applying them in different contexts. These cases may also implicate the validity of municipal sign ordinances.*

*As a result of such decisions, municipalities with existing sign regulations or those considering adopting new ones should review the legality of their controls on these protected forms of expression. This E-Letter will explore some of the recent federal decisions and how they may implicate regulating signs in your community.*

### DEVELOPMENTS

In regulating signs or any other form of First Amendment protected expression, it is important to understand the distinction between content-based regulations and content-neutral regulations. Content-based regulations of speech target the content of a message, whereas content-neutral regulations target the time, place, and manner that speech occurs. See *Reed*, 76 US at 155; See also *Prime Media, Inc v City of Franklin*, 181 F Appx 536, 537 (6th Cir 2006). Municipalities should avoid content-based sign regulations and strive to create a content-neutral regulatory scheme.

The distinction between content-based and content-neutral regulations matters because it controls the level of judicial review a court will use in examining a sign regulation, which in turn directly impacts the likelihood that the challenged regulation will survive. Courts apply "intermediate scrutiny" to content-neutral regulations and "strict scrutiny" to content-based regulations. The differences between these levels of judicial review are critical, since sign regulations subject to intermediate scrutiny often survive the judicial review process when challenged, but sign regulations subject to strict scrutiny are only rarely upheld.

## *Reed v Town of Gilbert*

Today, *Reed* is ubiquitous in federal jurisprudence involving municipal sign regulations. *Reed* invalidated municipal sign regulations that distinguished between signs based on content. *Reed*, 76 US at 171. In that case, the Town of Gilbert's sign code prohibited the display of outdoor signs without a permit, but exempted "political signs," "temporary directional signs," and "ideological signs" from the permit requirement. *Id.* at 155. The Town of Gilbert defined "temporary directional signs" as "signs directing the public to a church or other qualifying event" and prohibited the display of such signs "more than 12 hours before the qualifying event and 1 hour after." *Id.*

Good News Church and its pastor held church services at various temporary locations and posted signs bearing the Church's name, the time, and the location of the next service early each Saturday. *Id.* The Town of Gilbert cited the Church for exceeding the time limits for displaying "temporary directional signs" and failing to include an event date on the signs. *Id.* In response, the Church filed suit alleging that the Town of Gilbert's sign code abridged their freedom of speech. *Id.*

When the case was brought before the Supreme Court, it explained that content-based laws are "those that target speech based on its communicative content," and those laws are presumptively invalid. *Id.* The Court reasoned that the Town of Gilbert's sign code was content-based on its face, as it defined categories of signs (e.g., temporary directional signs) based on their messages and regulated them differently according to those messages. *Id.*

In *Reed*, the Court established two tests to determine whether a sign regulation is content-based. First, a regulation is content-based if an individual must **read the sign** to understand how the regulation applies (e.g., to distinguish a political sign from an advertising sign). *Id.* at 156. Second, a regulation is content-based if

the **underlying purpose** of the sign regulation is to regulate certain subject matters. *Id.* The goal of these tests is to protect “viewpoints and ideas from government censorship and favoritism.” *Id.* at 168.

In practicality, the decision in *Reed* invalidated many municipal sign regulations across the country, as it redefined what constituted content-based regulations. *Id.* at 180. Before *Reed*, courts often upheld sign regulations that exempted certain subject matters. Now, the mere mention of subject matters in sign regulations almost always renders the regulation invalid. Accordingly, municipalities should review their sign regulations to identify and remove content-based regulations and replace them with content-neutral regulations where possible.

## *Thomas v Bright*

Since the Supreme Court's decision in *Reed*, the Federal Sixth Circuit Court of Appeals—where Michigan is located—has strictly adhered to *Reed* standards compared to other judicial circuits, which have more loosely interpreted *Reed*. For example, in *Thomas v Bright*, the Sixth Circuit examined a Tennessee regulation that differentiated between “on-premises signs” and “off-premises signs.” *Thomas v Bright*, 937 F3d 721, 724 (2019). Under the regulation, signs that advertised activities conducted on the property where the sign was located (i.e., “on-premises”) could be posted without a permit, whereas signs that advertised activities occurring “off-premises” required a permit. *Id.* at 725. Before *Reed*, such distinctions were commonplace.

In *Thomas*, a billboard owner posted a sign on a billboard on an otherwise vacant lot supporting the US Summer Olympics Team. *Id.* Tennessee ordered him to remove the sign because the State denied him a permit, and the sign did not qualify for the permit exception, as it did not advertise activities conducted on the property. *Id.* The billboard owner sued, alleging that Tennessee’s “on-premises signs” and “off-premises signs” regulations violated the First Amendment. *Id.*

The Court in *Thomas* noted that the regulation distinguishing between on- and off-premises signs treated commercial speech more favorably than non-commercial speech. *Id.* The Court also recognized that an official would have to read the sign to determine its “meaning, function, and purpose” and apply the regulation accordingly. *Id.* at 730. As a result, the Court held Tennessee’s on- and off-premises regulation was content-based and struck down its sign restrictions as unconstitutional.

Applying the *Thomas* holding, municipalities should review their sign regulations to determine whether they regulate on- and off-premises signs, as such regulations are often unconstitutional. That is not to say that it is impossible to regulate on- and off-premises signs, as municipalities may still regulate such signs with a content-neutral definition based on their location (e.g., 500 ft from a store) rather than their content (e.g., advertising a business). Defining sign types in a content-neutral manner is key to regulating them properly. Municipalities seeking to regulate on- and off-premises signs in this manner should contact their counsel to determine whether their regulations are content-neutral.

## *LD Mgmt Co v Gray*

Likewise, in *LD Mgmt Co v Gray*, the Sixth Circuit Court held that Kentucky’s on- and off-premises sign regulations were content-based and in violation of the First Amendment. *LD Mgmt Co v Gray*, 988 F3d 836, 838 (6th Cir 2021). In that case, the Kentucky regulation prohibited off-premises billboards when the advertisement was not securely affixed to the ground, the sign was attached to a mobile structure, and no permit had been obtained, but none of those requirements applied to an on-premises billboard. *Id.*

The Lion’s Den, an adult superstore, installed a billboard advertising the store from a tractor-trailer parked on a former employee’s neighboring property. *Id.* The Kentucky Department of Transportation ordered the Lion’s Den to remove the sign, as it was attached to a mobile structure, which violated the on- and off-premises sign regulations. *Id.* In reviewing Kentucky’s regulation, the Court explained that it was content-based because it treated on-premises advertisements more favorably than off-premises regulations. *Id.* The Court struck down Kentucky’s regulations, reasoning on-premises advertisements posed no greater eyesore or traffic safety risk than off-premises advertisements. *Id.* at 840.

Interestingly, the Supreme Court granted certiorari to hear an appeal on a Federal Fifth Circuit Court decision in this area. So, the Supreme Court may clarify whether on- and off-premises distinctions are necessarily content-based. See *Austin, TX v Reagan Nat Advert*, No 20-1029, 2021 WL 2637836, at p \*1 (US June 28, 2021). If the Supreme Court finds on- and off- premises distinctions content-neutral, municipalities will have a great deal more flexibility regulating signs.



# ***International Outdoor v City of Troy***

Presently, there is a dispute between federal circuit courts as to whether intermediate scrutiny applies to content-based regulations on commercial signs in the wake of *Reed*. In the past, the Supreme Court applied intermediate scrutiny to content-based regulations of commercial speech, meaning that such regulations usually survived review. See *Central Hudson Gas & Elec Corp v Pub Serv Comm of New York*, 447 US 557, 561 (1980). This lesser scrutiny has been historically justified by the reduced constitutional value of commercial messages compared to noncommercial expression, like political or religious speech, which is closer to the “core” of the First Amendment, and the government’s increased interest in regulating commercial speech (e.g., to prevent false or misleading advertising).

But once again, the Sixth Circuit rigorously interpreted *Reed* and applied strict scrutiny even to content-based commercial speech regulations. In *International Outdoor v City of Troy*, the Sixth Circuit reversed the district court’s decision applying intermediate scrutiny to content-based regulations of commercial speech. *International Outdoor v City of Troy*, 974 F3d 690 (2020). In that case, the City of Troy’s ordinance treated commercial signs differently from non-commercial signs by exempting certain non-commercial messages from permitting requirements. *Id.* Despite regulating commercial speech, the Sixth Circuit Court in *International Outdoor* held that the City of Troy’s commercial speech regulations were content-based and subject to strict scrutiny under *Reed*. *Id.* at 703.

By comparison, the Ninth Circuit Court in *Lone Star Security & Video, Inc v City of Los Angeles* recently opined that “although laws that restrict only commercial speech are content based (citation omitted), such restrictions need only withstand intermediate scrutiny (citation omitted).” *Lone Star Security & Video, Inc v City of Los Angeles*, 827 F3d 1192, 1200 (9th Cir 2016) The discrepancy between judicial circuits makes this area of the law fertile for a challenge. If the Supreme Court were to revert to the *Central Hudson* test for regulations of commercial signs (i.e., intermediate scrutiny), municipalities would have a great deal more flexibility in regulating signs in their communities, as regulations subjected to intermediate scrutiny are often upheld. Such a holding would open the door to many forms of content-based regulations of commercial speech, including on- and off- premises distinction, as those regulations are currently struck down under strict scrutiny, in part, for targeting commercial speech. See *Thomas*, 937 F3d at 725 (noting that the regulation distinguishing between on- and off-premises signs treated commercial speech more favorably than non-commercial speech). Aside from on- and off-premises signs, municipalities would be able to target more general forms of advertisement.

## ***Prime Media, Inc v City of Franklin***

As distinguished from the cases involving content-based regulations above, content-neutral regulations restrict the “time, place, and manner” that signs are displayed rather than their content. For example, in *Prime Media*, the Sixth Circuit Court of Appeals upheld the City of Franklin’s amended sign regulation prohibiting “free-standing signs” from exceeding “six feet in height and 32 square feet per side.” 181 F Appx at 538. In that case, the City of Franklin’s sign ordinance neither allowed off-premises signs (signs directing attention to a business which is not conducted upon the same lot of record) nor signs exceeding 72 square feet per side to be erected within 1,500 feet of I-65. *Id.*

A company in the business of erecting and operating signs sought the City of Franklin’s permission to construct three off-premises, 14-foot by 48-foot billboards along I-65. *Id.* The City of Franklin denied the company’s request explaining that such signs were not allowed. The company sued, alleging that the regulation was unconstitutional. *Id.* In response, the City of Franklin amended its sign ordinance, eliminating the permit requirement and the distinction between on-premises and off-premises signs. The City also tightened the free-standing sign provision providing that “signs may not exceed six feet in height and 32 square feet per side.” *Id.*

Although the original ordinance was unconstitutionally content-based, the Court in *Prime Media* upheld the amended ordinance. The Court reviewed the City of Franklin’s regulation of free-standing signs under intermediate scrutiny because the regulation was content-neutral, as it only restricted the physical characteristics of the sign. *Id.* Thus, *Prime Media* illustrates how municipalities can regulate signs by physical characteristics, such as their size, rather than their content. Municipalities seeking to regulate signs should think about the signs’ characteristics and how those characteristics may impact their community.

## **APPLICATION**

*The following set of questions and answers is designed for you to apply the legal developments to simulated real-world situations.*

**Question 1.** Municipality A prohibits the display of political signs in every district 72-hours after an election. One resident has a sign that says, “[Politician] is a moron!” An election occurred four days ago, and the resident’s sign is still displayed. Can Municipality A require the resident to remove the sign?

**Answer 1.** No. Under *Reed*, Municipality A’s enforcement officer would have to read the sign to understand whether the prohibition on political signs applied to

the resident's signs. That is to say, the enforcement officer would have to read the sign to know whether the sign was political. Therefore, Municipality A's sign regulation is content-based, subject to strict scrutiny, and presumptively invalid. Municipalities should avoid regulating signs in this manner.

**Question 2.** Municipality B's sign regulation prohibits more than two temporary signs announcing any annual or semi-annual public, charitable, educational or religious event or function in the commercial district. A Church located in the commercial district has three temporary signs announcing an annual Christmas pageant on the premises. Can Municipality B's enforcement officer cite Church for violating the regulation and require the Church to take one sign down?

**Answer 2.** No. Municipality B's enforcement officer would not know that the Church's three signs announcing the annual Christmas pageant violated the two-sign limit in the commercial district unless the enforcement officer read the signs to know they were announcing an annual event in the first place. Therefore, Municipality B's regulation is content-based, subject to strict scrutiny, and presumptively invalid. Additionally, the regulation may implicate the Free Exercise Clause of the First Amendment or the Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc *et seq.*, as it targets religious activities and treats them differently than nonreligious activities, which can be an additional stumbling block for municipalities with these types of regulations.

Note that while Municipality B's regulation of temporary signs is content-based, not all regulations of temporary signs are necessarily so. Had Municipality B defined temporary signs by their physical characteristics and the duration that they are displayed, rather than by their content, the regulation would likely be a valid content-neutral regulation of signs.

**Question 3.** Municipality C bans "electronic changeable message signs," which are defined as "signs that change displays more than once every 8 seconds." Municipality C further justifies this restriction to prevent distracted driving, as a traffic study revealed that signs that change messages rapidly tend to cause accidents. Bob's Sandwich Shop, a business in the municipality, has an electronic billboard that alternates once per second between eight pictures, one picture of each of his eight grinder sandwiches. Municipality C's enforcement officer issues Bob, the owner, a citation for having an impermissible electronic changeable message sign. Can Municipality C enforce this restriction?

**Answer 3.** Yes. Municipality C's regulation involves the physical characteristics of the sign rather than the sign's content. Content-neutral regulations are those regulations that target the time, place, and manner of signs. Here, Municipality C's regulation involves the way electronic changeable message signs display their content, rather than the content itself. Thus, the regulation is content-neutral. Traffic safety is likely sufficient to justify this regulation. See *Int'l Outdoor, Inc v City of Roseville*, unpublished per curiam opinion Michigan Court of Appeals, Docket No. 313153, issued May 1, 2014, WL 1778381, at \*5 (upholding regulation of signs to avoid danger from sign collapse and to avoid traffic hazards from sign location and size). Bob's electronic sign changes eight times in an eight-second period, therefore it is prohibited under Municipality C's sign regulation.

## CONCLUSION

If your municipality is in the process of adopting new sign regulations or has not reviewed its sign ordinance in recent years, we strongly recommend consulting with legal counsel. At a minimum, legal counsel can help you establish the general parameters of review, including: 1) recognizing content-based regulations; 2) removing content-based regulations; and 3) regulating signs in a content-neutral manner. As your municipality commences regulating signs, remember that on- and off-premises sign regulations are generally prohibited, as they target the content of the signs. Though, with the help of counsel, your municipality may still regulate on- and off-premises signs with carefully tailored, content-neutral sign regulations. Also, content-based regulations targeting commercial speech are treated as any other content-based regulation and likely will not survive judicial review. Finally, if you have to read the sign to know how the regulations apply, the regulation is content-based, subject to strict scrutiny, and presumptively invalid!

For more comprehensive issues related to regulating signs, legal counsel may draft content-neutral sign regulations for your community or advise on the application of certain regulations. Please do not hesitate to contact Fahey Schultz Burzych Rhodes for any sign-related issues.

— Matthew J. Stokes and Jacob N. Witte

*This publication is intended for educational purposes only. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.*

### Upcoming Webinars

#### Content-Based Regulations of Signage | Friday, September 24th, 12-1 pm

Signs are a form of expression protected by the Free Speech Clause of the First Amendment. Due to the constitutional protections that signs are afforded, many municipalities struggle with crafting and enforcing legal sign regulations. Compounding that difficulty, the United States Supreme Court recently issued a decision in *Reed v Town of Gilbert, Ariz*, which significantly impacted the lawfulness of municipal sign regulations. Recent developments from the Federal Sixth Circuit

Court – the circuit in which Michigan is located – further jeopardize the legality of existing regulations, such as certain on-premises and off-premises designations and certain regulations of commercial speech.

Join attorneys Matthew Stokes and Jacob Witte as they discuss the latest legal developments in sign regulation and the practical steps to take in implementing enforceable sign regulations in your community, while preserving First Amendment rights.

The webinar will touch on:

- Distinguishing between content-based and content-neutral sign regulations
- Recent legal updates on sign regulations
- On- and off- premises regulations of signs
- Commercial sign regulations
- Defining and regulating signs in a content-neutral manner
- Simulated real world examples of content-based and content-neutral sign regulations
- Questions and answers from attendees

[Click here to Register](#)

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Fahey Schultz Burzych Rhodes PLC, Your Township Attorneys, is a Michigan law firm specializing in the representation of Michigan townships. Our lawyers have more than 150 years of experience in township law and have represented more than 150 townships across the state of Michigan. This publication is intended for our clients and friends. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.

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 <b>Charter Township of Garfield</b> <b>Planning Department Report No. 2024-55</b>		
Prepared:	July 17, 2024	Pages: 3
Meeting:	July 24, 2024 Planning Commission	Attachments: <input checked="" type="checkbox"/>
Subject:	City of Traverse City Master Plan & Mobility Plan Review	

**BACKGROUND:**

In accordance with the Michigan Planning Enabling Act, local units of government considering adopting or amending their Master Plan are required to request comment from the planning commissions of all neighboring municipalities. The Traverse City Planning Commission has prepared a draft Master Plan to replace the current Master Plan, which was adopted in 2009 and updated in 2017. They also conducted a parallel planning process for a Mobility Action Plan, which is proposed to be incorporated as an appendix to the Master Plan as a sub-topic/area plan and will be adopted with the Master Plan.

On June 3, 2024, the City Commission voted to distribute the draft plan and begin the 63-day public review period. Pursuant to MCL 125.3841, you are receiving this notice to inform you of the opportunity to comment on the draft plan. The 63-day public review period will end on Tuesday, August 6, 2024. The Traverse City Planning Commission will hold a public hearing later that month with a notice provided to this distribution list as well.

To access the documents, visit: <https://www.traversecitymi.gov/projects/master-plan-rewrite.html> or search for “traverse city master plan rewrite.” This page includes three documents: the Draft Master Plan Magazine, Draft Master Plan Supplemental Report, and the Draft Mobility Action Plan.

**STAFF COMMENTS:**

Staff have provided three specific topic areas from the Master Plan and Mobility Action Plan, as follows:

***Future Land Use Framework***

The City’s Master Plan includes a Future Land Use Framework, which is provided as an attachment to this report along with the Township’s Future Land Use Map. These are presented to the Planning Commission as an opportunity to review the compatibility of the future land use (FLU) designations along the city and township border. Staff offer the following chart comparing the two future land use maps:

<b><i>Area along Border</i></b>	<b><i>City FLU</i></b>	<b><i>Township FLU</i></b>
Along M-72	Transitional Neighborhood Commercial Gateway Neighborhood Center	High Density Residential Low Density Residential Mixed Use Neighborhood
M-72 to Front St	Traditional Neighborhood Contemporary Neighborhood	Low Density Residential Recreation / Conservation
Front St to Silver Lake Rd	Institutional	Mixed Use Neighborhood Grand Traverse Commons
Silver Lake Rd to US 31	Recreation / Conservation Commercial	Public / Semi-Public Commercial
Veterans Drive	Transitional Neighborhood Traditional Neighborhood	Low Density Residential
Cass Rd / West side Boardman Lake	Recreation / Conservation Transitional Neighborhood	Low Density Residential Industrial
East side Boardman Lake – Woodmere Ave	Recreation / Conservation Innovation, Production, Tech	High Density Residential

<b><i>Area along Border</i></b>	<b><i>City FLU</i></b>	<b><i>Township FLU</i></b>
Along Boon St (Woodmere Ave – Barlow St – Garfield Ave)	Transitional Neighborhood Traditional Neighborhood Commercial Gateway	Mixed Use Center Moderate Density Residential Commercial
Garfield Ave and South Airport Rd	Commercial Gateway Institutional	Commercial Industrial High Density Residential Low Density Residential Public / Semi-Public

The City’s Future Land Use Framework is generally compatible with the Township Future Land Use Map. The city has a mostly built-out and established development pattern. Future development may take place at certain nodes or corridors, including some where the Township has designated mixed use areas along its side of the border such as M-72 / West Bay, Cedar Run Campus, and Barlow Park.

### ***Future Corridor Planning***

The Traverse City Master Plan includes a section on Future Corridor Planning, looking at key corridors in the city and the current zoning and future zoning plan along these corridors. Corridors which border the Township include those in the following chart:

<b><i>Corridor</i></b>	<b><i>FLU Category</i></b>	<b><i>Existing Zoning</i></b>	<b><i>Future Zoning</i></b>
Division / US-31 (south)	Commercial Gateway	C-3; R-3	Revised C-3, or new Corridor Commercial District
M-72 / M-22	Neighborhood Center Commercial Gateway	C-1; C-3	Revised C-2; revised C-3; new corridor commercial district; Development District (D)
Garfield Corridor	Commercial Gateway Neighborhood Center Innovation, Production, Tech Transitional Neighborhood	R-1b; R-2; R-3; C-1; C-2; C-3; I	New corridor commercial district; revised C-3; Revised C-3/new neighborhood center district; Revised I district; R-2 to R-3
Woodmere Avenue	Innovation, Production, Tech Neighborhood Center Transitional Neighborhood	I; C-1; C-2; R-3	R-3 along Woodmere; R-2 in from Woodmere; Revised C-2 or new neighborhood center district

Like the Future Land Use Framework, the Future Corridor Planning section highlights certain corridors in the city, including some where the Township has designated mixed use areas along its side of the border. For example, the Division / US-31 South corridor shows a future zoning of “Revised C-3, or new Corridor Commercial District” which is compatible with the Township’s zoning on this portion of US 31 including C-G General Commercial, C-H Highway Commercial, and C-P Planned Shopping.

Two corridors in the city: M-72 / M-22 and Woodmere Avenue, show the potential for new zoning districts which may function as mixed-use districts. The township side of these corridors are designated as Mixed-Use Neighborhood and Mixed-Use Center, respectively. These areas on both the city and township sides may potentially become concentrated nodes of development.

### ***Traverse City Existing Sidewalk Network and Mobility Network***

The Mobility Action Plan documents the city’s goals around non-motorized transportation, including trails and sidewalks. Staff have included maps of the city’s Existing Sidewalk Network and the Traverse City Mobility Network as attachments to this report, along with the Township’s Non-Motorized Plan, to show each community’s plans regarding sidewalks and trails. Staff offer the following comments:

- Some of the areas currently missing sidewalks border the Township, including M-72 / M-22 near West Grand Traverse Bay, along Boon Street, and along Garfield Avenue in front of Cherry Capital Airport. The Township Non-Motorized Plan includes several proposed connections with sidewalks and trails in the city such as Boon Street, Garfield Avenue, and Veterans Drive.
- Sidewalks along Garfield Avenue will require cooperation with Cherry Capital Airport since part of the sidewalk network passes in front of the airport runway approach area. The Township's Non-Motorized
- The Township also proposes a pathway connection between the Grand Traverse Commons Natural Area and the city's pathway along Griffin Street (see Township's Non-Motorized Plan and City's Mobility Network – Northwest Quadrant).
- The city should ensure that there is a sidewalk planned for West Front Street near Medical Campus Drive. The Township Non-Motorized Plan envisions a complete sidewalk network on its portion of West Front Street. Two properties recently installed sidewalks along this corridor.
- The Township hopes to collaborate with the city where feasible on non-motorized transportation opportunities whenever they arise and can benefit both communities.

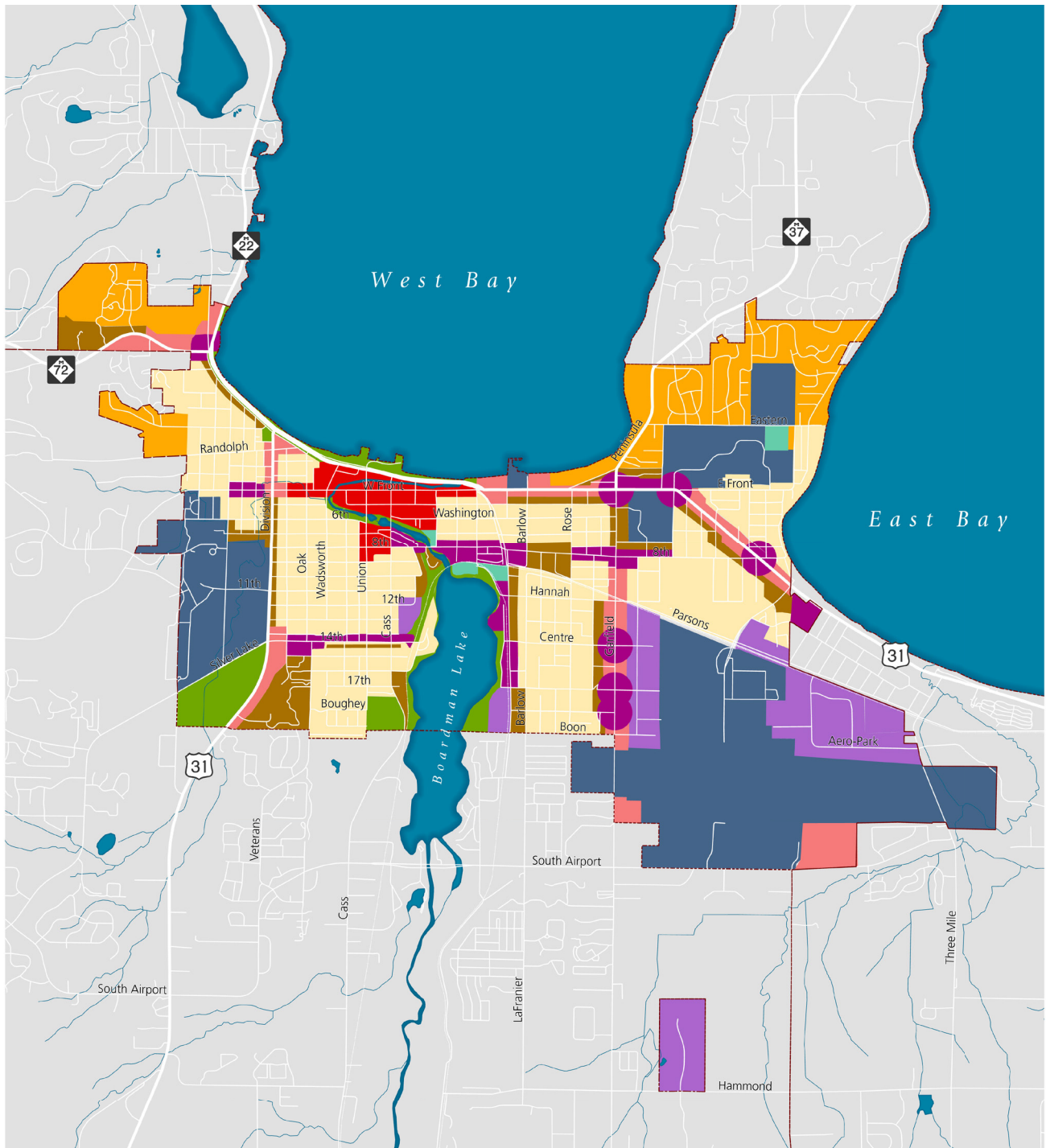
**ACTION REQUESTED:**

No action is required. However, if the Planning Commission has comments they would like to forward to the City of Traverse City, then the following motion is suggested:

MOTION THAT Planning Staff is directed to prepare and send a letter to the City of Traverse City Planning Commission outlining the comments of the Planning Commission.

**Attachments:**

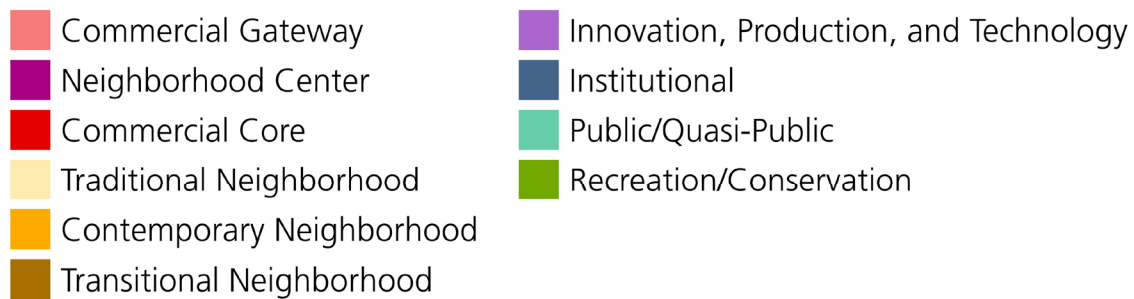
1. Excerpt from the City of Traverse City Master Plan, page 19, Future Land Use Framework
2. Excerpt from the Garfield Township Master Plan, Map 4, Future Land Use
3. Excerpt from the City of Traverse City Master Plan, pages 62-65, Future Corridor Planning
4. Excerpt from the City of Traverse City Mobility Action Plan, page 33, Existing Sidewalk Network
5. Excerpt from the City of Traverse City Mobility Action Plan, pages 46-49, Mobility Network maps
6. Excerpt from the Garfield Township Master Plan, Map 6, Non-Motorized Plan



## Future Land Use Framework

Sources: Michigan Open Data Portal, City of Traverse City

0.5 Miles  
Beckett & Raeder, Inc.





# Map 4 Future Land Use

## Legend

### Future Land Use Designations

- Agricultural / Rural Residential (<=1 unit/acre)
- Low Density Residential (1-3 units/acre)
- Moderate Density Residential (3-6 units/acre)
- High Density Residential (6-10 units/acre)
- Mobile Home Residential
- Mixed Use Center
- Mixed Use Neighborhood
- Commercial
- Industrial
- Recreation / Conservation
- Public / Semi-Public
- Grand Traverse Commons

Data Source: Charter Township of Garfield

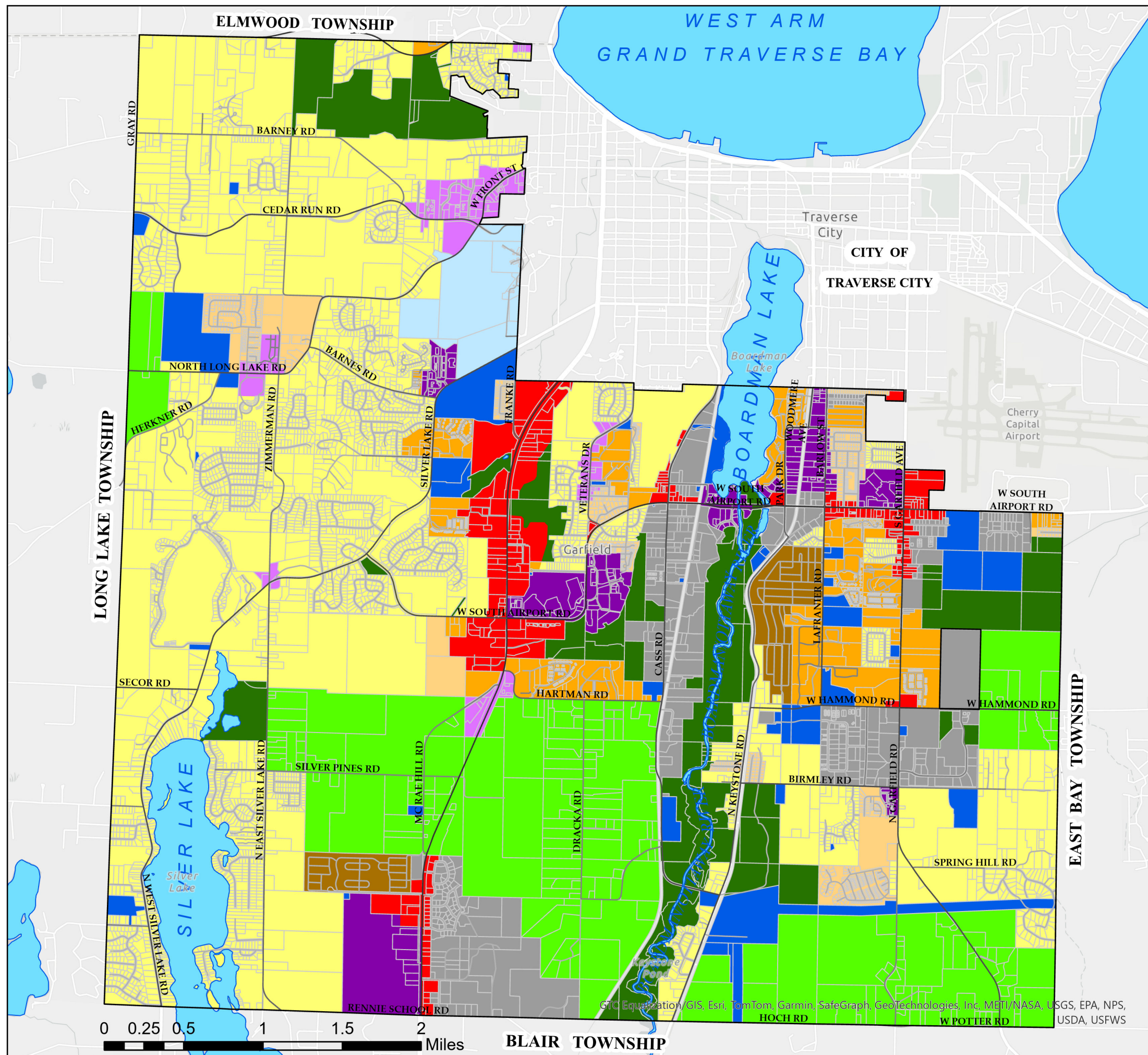
### Charter Township of Garfield

3848 Veterans Drive  
Traverse City, MI 49684  
Phone: 231.941.1620  
Fax: 231.941.1688



### NOT A LEGAL SURVEY

This map is based on digital databases prepared by the Charter Township of Garfield. The Township does not provide any warranty, either express or implied, or accept any responsibility for any errors, omissions, or that the information contained in the map or the digital databases is currently or positionally accurate. Always contact a surveyor to be sure of where your property lines are located.





# FUTURE CORRIDOR PLANNING

## Fourteenth Street



FLU Category: Neighborhood Center



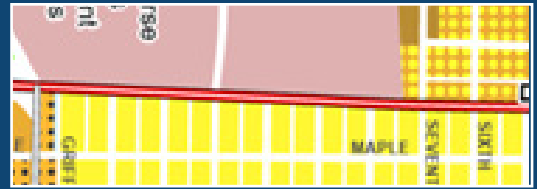
Existing Zoning: R-3; R-1b; C-1; C-2; C-3

Future Zoning: New mixed use development-focused district (D); priority overlay district

## Division / Seventh Street



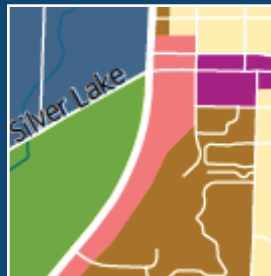
FLU Category: Transitional Neighborhood



Existing Zoning: R-1b; R-2; R-3

Future Zoning: R-2 along Division; keep R-2 along Elmwood & north; R-3 along Seventh Street

## Division / US-31 (south)



FLU Category: Commercial Gateway



Existing Zoning: C-3; R-3

Future Zoning: Revised C-3, or new Corridor Commercial District

## W Front (west of Division)



FLU Category: Neighborhood Center

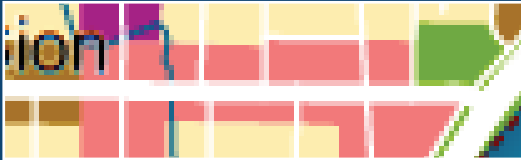


Existing Zoning: C-1; C-2

Future Zoning: Revised C-2; new C-1

# FUTURE CORRIDOR PLANNING

## Division (north)



FLU Category: Commercial Gateway



Existing Zoning: C-1; C-2; C-3(A)

Future Zoning: Revised C-3; revised C-2

## M-72 / M-22



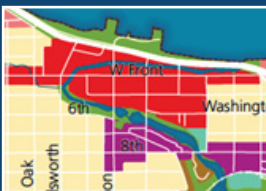
FLU Category: Neighborhood Center;  
Commercial Gateway



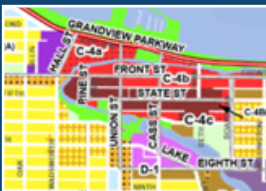
Existing Zoning: C-1; C-3

Future Zoning: Revised C-2; revised C-3; new corridor commercial district; Development District (D)

## Downtown



FLU Category:  
Commercial Core  
(change Old Towne to this designation)



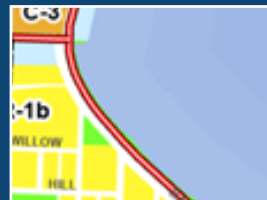
Existing Zoning:  
C-4a/b/c; D-3; C-1;  
C-2

Future Zoning:  
Maintain C-4b and C-4c designations; change others to C-4a

## Bay Street Corridor



FLU Category:  
Transitional  
Neighborhood

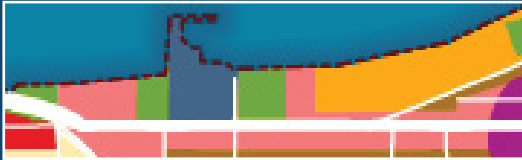


Existing Zoning:  
R-1b

Future Zoning: New C-1; revised C-2; R-2; R-3;

# FUTURE CORRIDOR PLANNING

## E Front Street



FLU Category: Commercial Gateway; Transitional Neighborhood



Existing Zoning: H-R; C-2; C-3; R-1b

Future Zoning: R-1b to R-2; new corridor commercial district; revised C-3

## Munson Avenue



FLU Category: Commercial Gateway; Neighborhood Center (add Transitional Neighborhood



Existing Zoning: R-3; HR; H-2; C-2; C-3; C-1

Future Zoning: Transitional area to be R-2; Commercial Gateway to new corridor commercial district/revised C-3; C-2/or new neighborhood center district

## Garfield / E Front Street



FLU Category: Neighborhood Center; Transitional Neighborhood; Commercial Gateway



Existing Zoning: C-1; C-2; C-3; R-3; R-1b

Future Zoning: Anderson St – R-2; new priority overlay district; new corridor commercial district; Revised C-3

## Garfield Corridor



FLU Category: Commercial Gateway; Neighborhood Center; Innovation, Production, Technology; Transitional Neighborhood

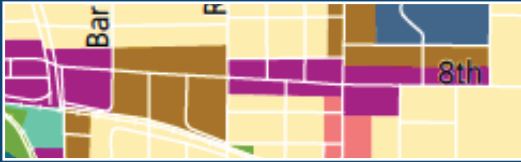


Existing Zoning: R-1b; R-2; R-3; C-1; C-2; C-3; I

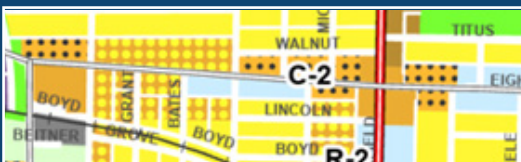
Future Zoning: New corridor commercial district; revised C-3; Revised C-3/new neighborhood center district; Revised I district; R-2 to R-3

# FUTURE CORRIDOR PLANNING

## Eighth Street Corridor (west of railroad)



FLU Category: Neighborhood Center;  
Transitional Neighborhood



Existing Zoning: R-1; R-2; C-1; C-2; C-3

Future Zoning: R-2 to R-3 along Eighth;  
revised C-2 or new neighborhood center  
district; R-1b to R-2

## Woodmere Avenue



FLU Category: Innovation, Production,  
Technology; Neighborhood Center;  
Transitional Neighborhood

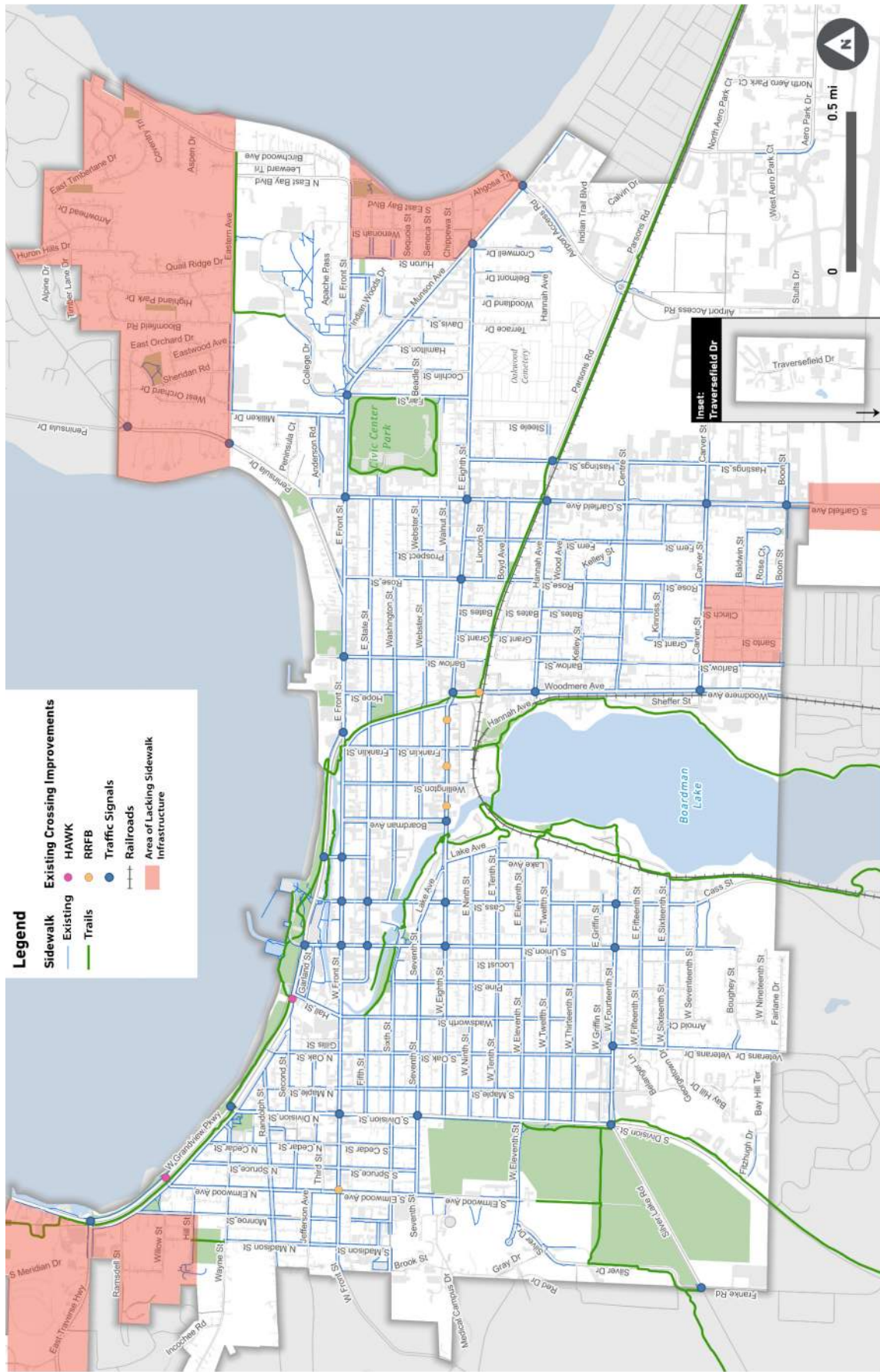


Existing Zoning: I; C-1; C-2; R-3

Future Zoning: R-3 along Woodmere; R-2  
in from Woodmere; Revised C-2 or new  
neighborhood center district

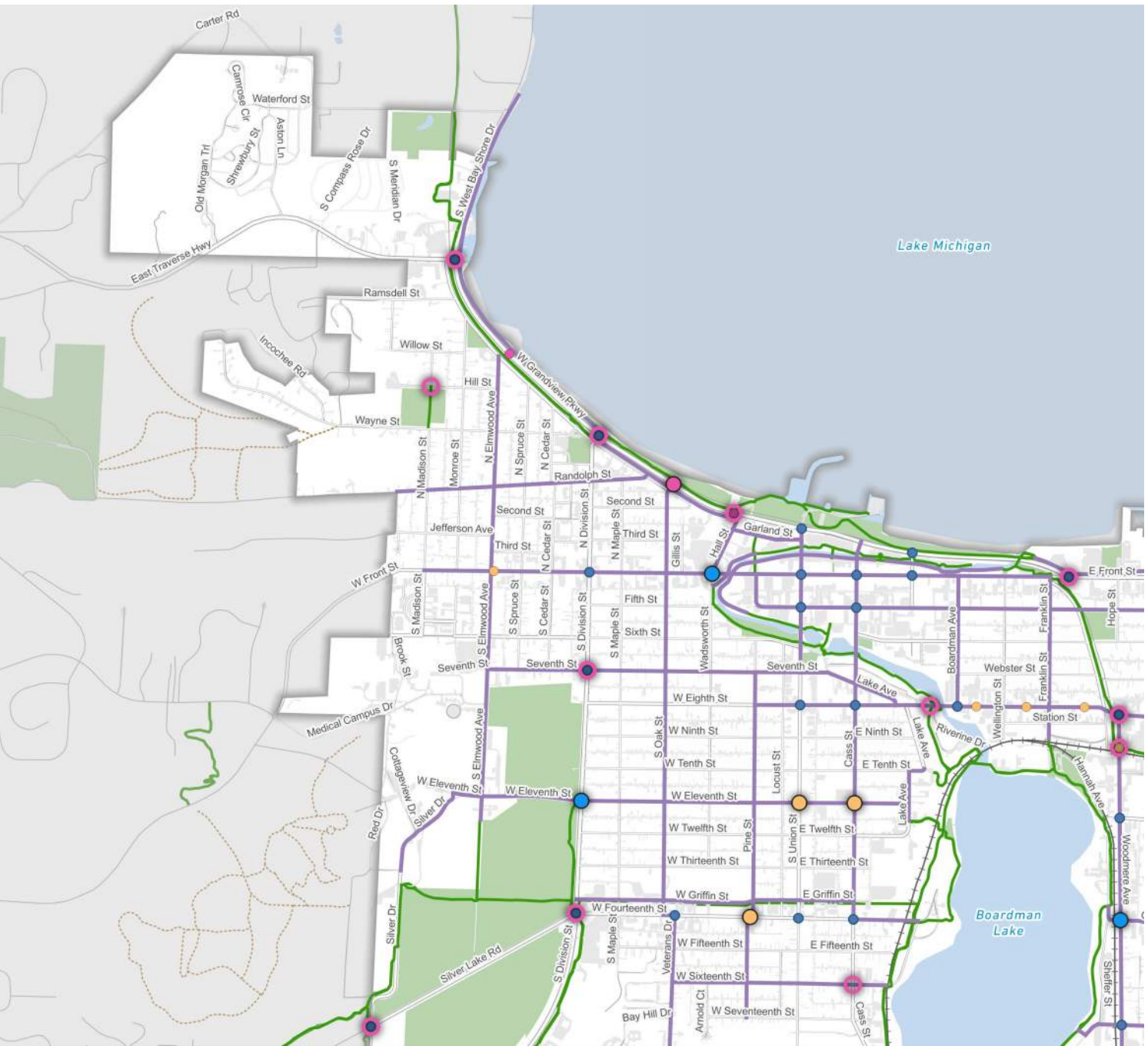


# Existing Sidewalk Network



# Traverse City Mobility Network

## Northwest Quadrant



### Legend

- Nature Trails
- Paved Trails
- +—+—+ Railroads

### Existing Crossing Improvements

- HAWK
- RRFB
- TrafficSignals

### Potential Crossing Improvements

- HAWK
- RRFBs
- Traffic Signal
- Crossing Improvement

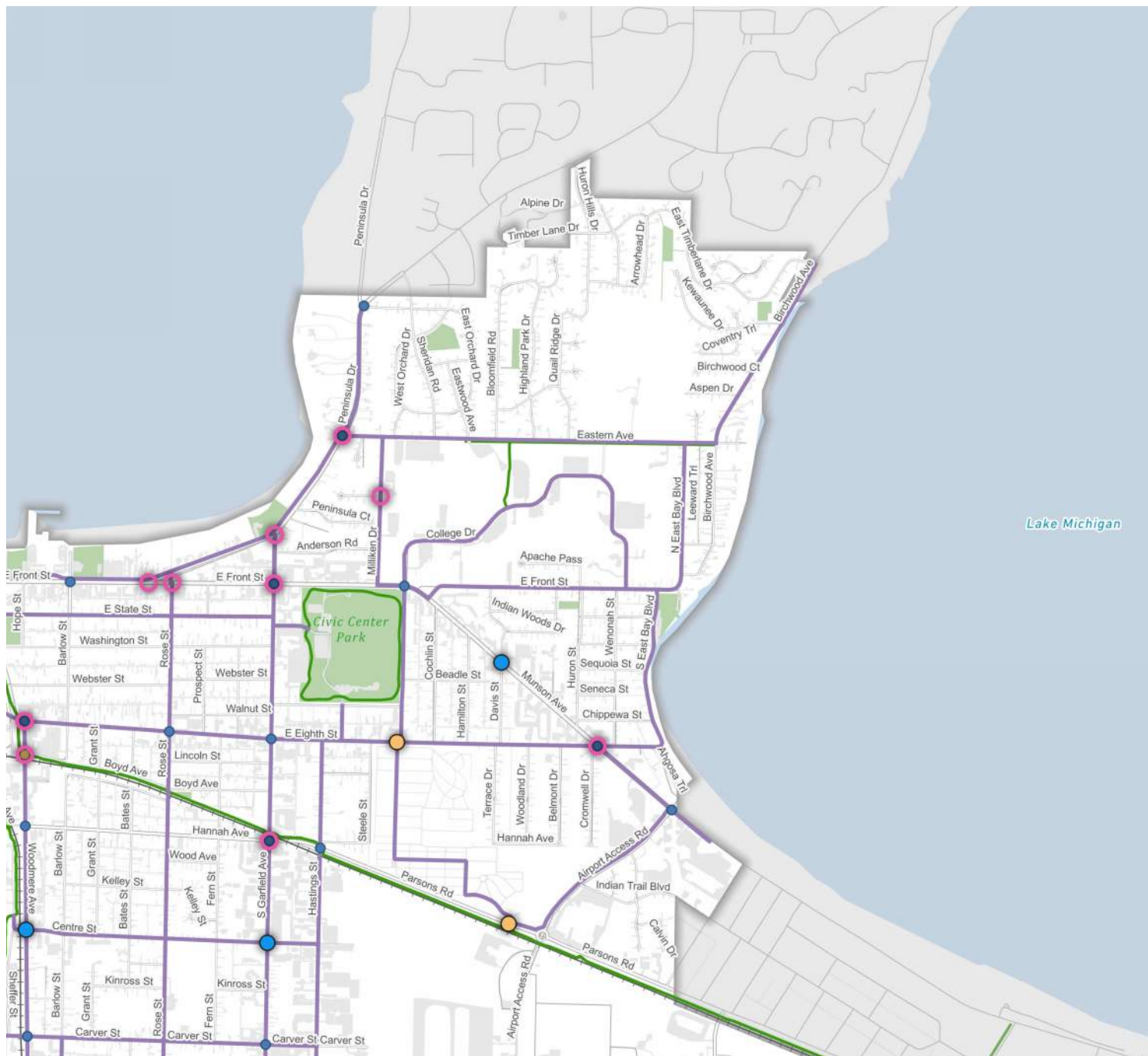
### Potential Bike Network Improvements

- Proposed Vision Bike Network



# Traverse City Mobility Network

## Northeast Quadrant



### Legend

- Nature Trails
- Paved Trails
- Railroads

#### Existing Crossing Improvements

- HAWK
- RRFB
- Traffic Signals

#### Potential Crossing Improvements

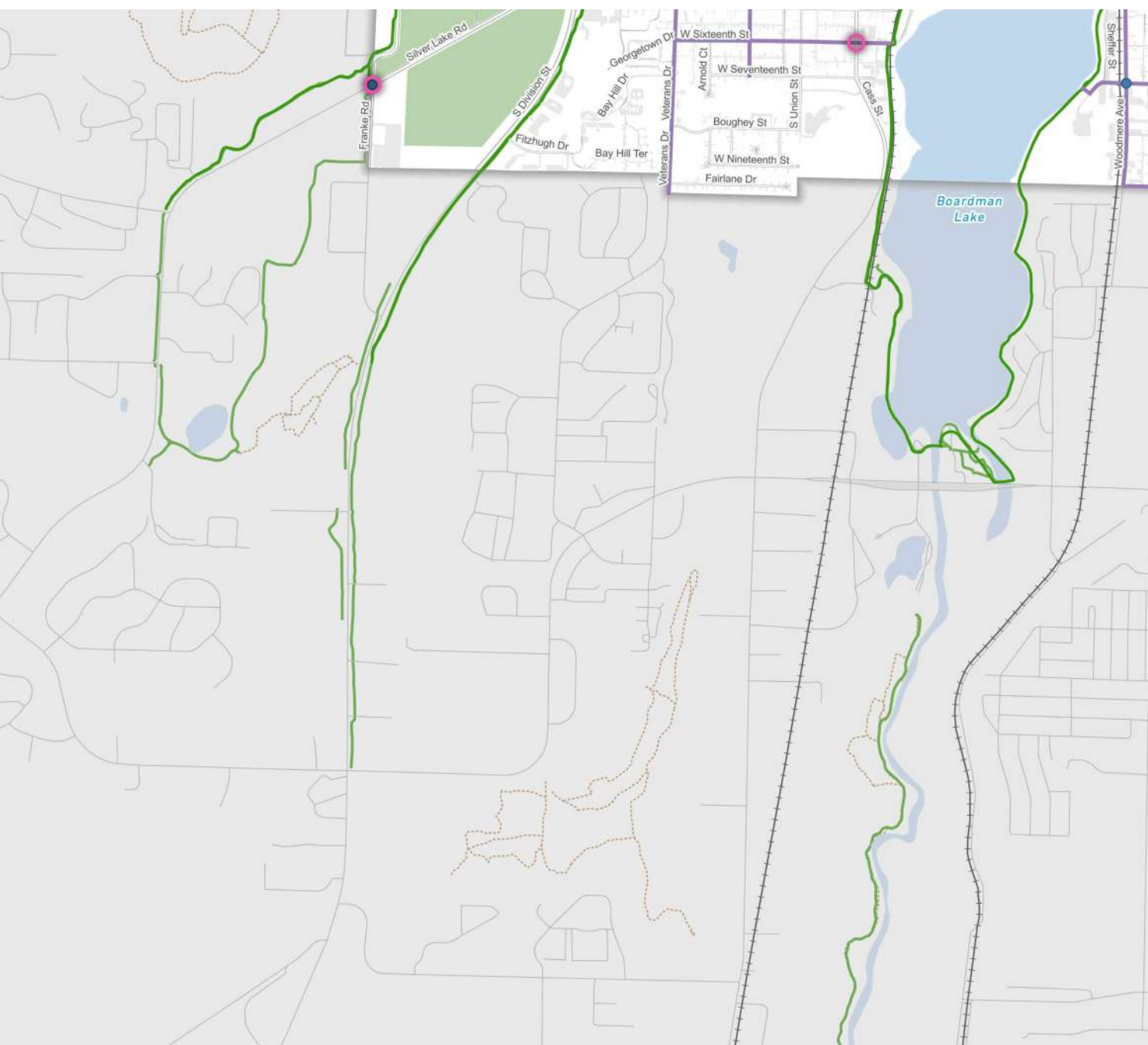
- HAWK
- RRFBs
- Traffic Signal
- Crossing Improvement

#### Potential Bike Network Improvements

- Proposed Vision Bike Network

# Traverse City Mobility Network

## Southwest Quadrant



### Legend

- Nature Trails
- Paved Trails
- Railroads

#### Existing Crossing Improvements

- HAWK
- RRFB
- TrafficSignals

#### Potential Crossing Improvements

- HAWK
- RRFBs
- Traffic Signal
- Crossing Improvement

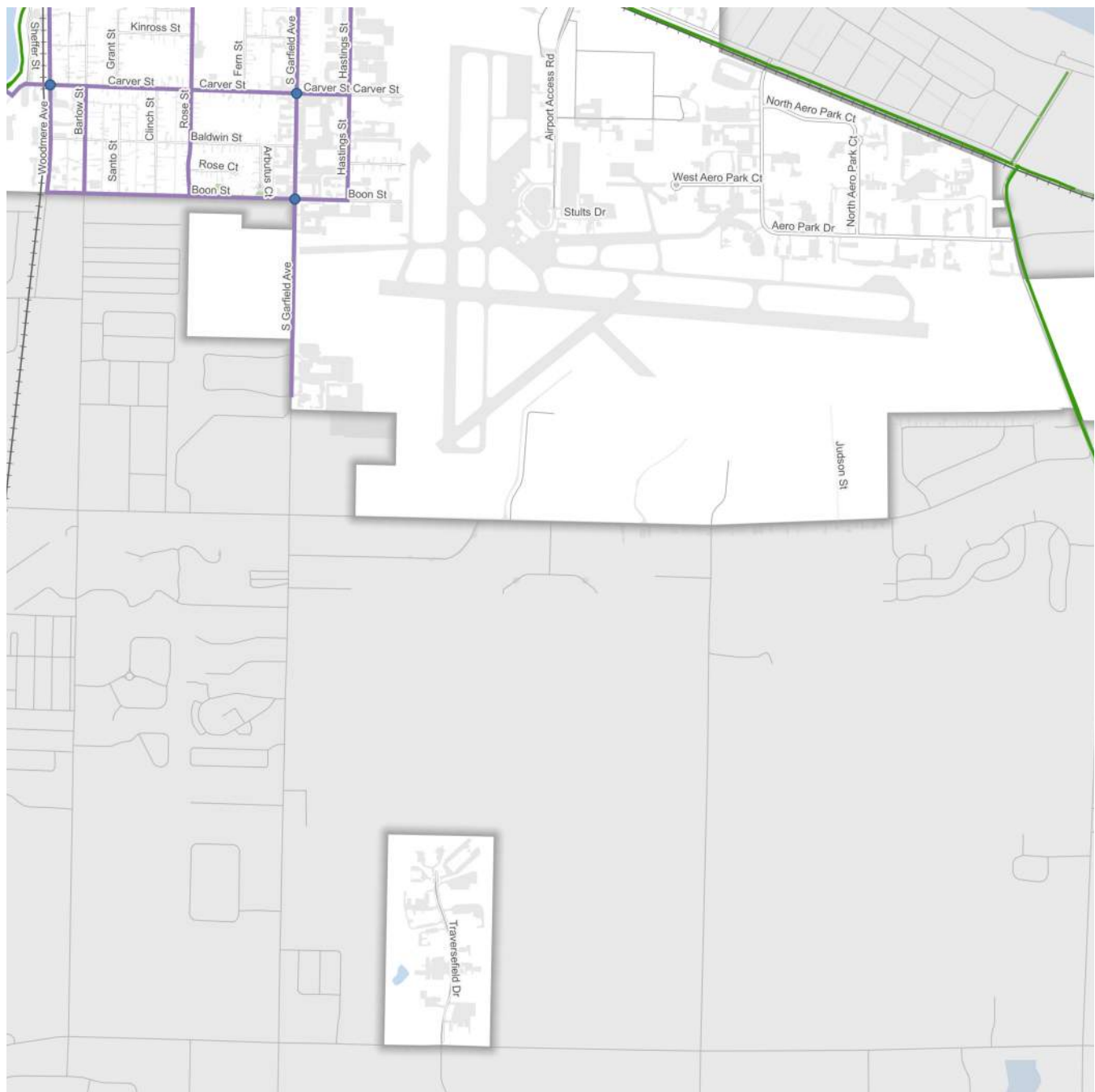
#### Potential Bike Network Improvements

- Proposed Vision Bike Network



# Traverse City Mobility Network

## Southeast Quadrant







### Legend

- Nature Trails
- Paved Trails
- +—— Railroads

### Existing Crossing Improvements

- HAWK
- RRFB
- TrafficSignals

### Potential Crossing Improvements

-  HAWK
-  RRFBs
-  Traffic Signal
-  Crossing Improvement

### Potential Bike Network Improvements

- Proposed Vision Bike Network

# Map 6

## Non-Motorized Plan

### Legend

Township Boundary

### Non-Motorized Plan

#### Type

- - - On-Road Routes
- Shared-Use Pathways
- Sidewalks
- Nature Trails

This map shows the major non-motorized routes in Garfield Township. This map shows both the existing and proposed non-motorized facilities and depicts a theoretical complete network of these facilities including on-road routes, shared-use pathways, sidewalks, and nature trails.

Please also see Map 23, Existing Non-Motorized Network in Garfield, in the Appendix for a map showing only existing non-motorized facilities, including the above facility types along with internal walkways within developments.

Data Source: Charter Township of Garfield

### Charter Township of Garfield

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Traverse City, MI 49684  
Phone: 231.941.1620  
Fax: 231.941.1688



This map is based on digital databases prepared by the Charter Township of Garfield. The Township does not warrant, expressly or impliedly, or accept any responsibility for any errors, omissions, or that the information contained in the map or the digital databases is currently or positionally accurate.

