

ARTICLE 14

OVERLAY DISTRICTS

Sec. 14.1 PURPOSE

The Overlay Zones are intended to provide additional protection to areas deemed sensitive or of special concern to the Township. The requirements and restrictions defined in this Article shall be applied as additional requirements and restrictions to the standards identified in this Ordinance for the applicable zoning district(s) within the designated overlay area.

Sec. 14.2 - FH FLOOD HAZARD AREA (Overlay)**Sec. 14.201 PURPOSE**

The Flood Hazard Area is intended to provide protection to the natural features of the Kalamazoo River and prevent damage due to flooding on adjacent properties. This area is designated to control the construction or placement of structures within the floodplain of the Kalamazoo River that will encounter damage under flood conditions and impede the natural flow of the river during flooding.

Sec. 14.202 PERMITTED USES

The following open space uses shall be permitted within the Flood Hazard Area provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels to the main stream.

- 1) Agricultural and agriculturally related uses, such as outdoor plant nurseries, horticulture, viticulture, truck farming, and sod farming.
- 2) Private and public recreational uses, such as tennis courts, picnic grounds, parks, and hiking or biking trails.
- 3) Residential uses, such as lawns, gardens, parking areas, and play areas.

Sec. 14.203 USES ALLOWED BY SPECIAL USE PERMIT

- 1) Fill or materials proposed to be deposited in the floodway provided that:
 - a) The fill or materials must be shown to have some beneficial purpose;

- b) The amount of fill or materials is not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner;
 - c) The fill or materials shall be protected against erosion by rip-rap, vegetative cover, or bulk-heading.
- 2) Structures, subject to the following provisions. In order to insure a limited flood loss to the Township and its residents along and within the limits of the designated flood hazard areas, the Otsego Township proposes to enact minimum flood proofing standards. Therefore, the following shall also apply to construction located within the Flood Hazard Area:
- a) New or replaced water supply shall be so designed so as to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water;
 - b) On-site waste disposal systems shall be located so as to avoid impairment of or contamination from the systems during flooding;
 - c) Where the limit of the 100-year flood has been established and is administratively used by the Federal Insurance Administration, all structures shall have the lowest habitable floor elevated to at least one (1) foot above the 100-year flood elevation, or together with attendant utility and sanitary facilities, shall be flood-proofed to at least one (1) foot above the 100-year flood elevation;
 - d) New construction must be anchored to prevent flotation, collapse, or lateral movement due to flood water related forces;
 - e) Construction methods and practices used shall minimize flood damage;
 - f) Construction materials and utility equipment used shall be resistant to flood damage; and
 - g) Subdivision proposals shall be designed so that potential flood damage is minimized; that adequate drainage is provided to reduce exposure to flood hazards; and that public utilities and facilities, such as sewer, gas, electrical and

water systems are located, elevated, and constructed to minimize or eliminate flood damage.

- 3) Exemption from construction standards. In the Flood Hazard Area, an applicant shall have the option to apply for a building permit in the Flood Hazard Area without conformance to the standards set forth; however, the applicant must submit the following:
- a) A statement by a registered professional engineer or licensed land surveyor that the flood-proofing measures undertaken are consistent with the flood protection elevation and associated flood factors for the particular area;
 - b) A statement from a registered professional engineer or licensed surveyor that the area in which construction is proposed is not subject to flood hazards as shown in the District boundary maps. Such a statement shall cite hydrologic, soil, elevation, historical and other technical data sufficient to support such a claim of exemption from the standards of this Ordinance; and
 - c) A legal description of the property, a sketch map showing the property and all properties within a radius of 50 feet of the exterior boundaries thereof, plans and elevations necessary to show the proposed construction and other drawings or information necessary to an understanding of the proposed building and its relationship to surrounding properties.

Sec. 14.204 SITE PLAN REVIEW repealed 7/14/08 Ord. 287

Sec. 14.3 WELLHEAD PROTECTION OVERLAY DISTRICT

Sec. 14.301 PURPOSE

The Wellhead Protection Overlay District is designed to safeguard the public health, safety and welfare of users of the Otsego Township water system by regulating the land use and the storage, handling, use, and/or production of regulated substances within the wellhead capture zone described as the land adjacent to and up gradient from existing and

proposed municipal water well fields. The intent of this designation is to protect the area's potable water supply against contamination.

Sec. 14.302 SUPPLEMENTARY DEFINITIONS

The following definitions shall apply to the provisions of this Section:

1. Aquifer means the glacial formation, group of glacial formations or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.
2. Direct Recharge Area means that portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.
3. Groundwater Gradient means the slope (gradient) of the groundwater surface thereby defining the direction of groundwater movement.
4. Potable Water means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
5. Recharge Pond/Lagoon means a natural or manmade recharge area or pond designed and maintained to recharge storm water, cooling and/or treated water to the groundwater and a rate greater than that occurring naturally.
6. Regulated Substances mean substances to be regulated and consist of chemicals and mixtures of chemicals which are health hazards. Regulated substances include those listed by MIOSHA and as currently reported on MIOSHA material safety data sheets and petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).
7. Ten Year Capture Area means the area around and up gradient from the public water supply well fields delineated by the ten year travel time contour capture zone boundary.
8. Travel Time Contour means a locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.

9. Underground Storage Tank means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the underground piping connected thereto) is ten (10) percent or more beneath the surface of the ground. Flow through process tanks are excluded from the definition of underground storage tank.
10. Underlying Zone means the present zoning classification as it exists under the overlay zone.
11. Well Field means a tract of land that contains a number of wells for supplying water.
12. Wellhead Protection Zone means that area outlined on the zoning map as determined to be a well field capture zone by computation and in consideration of natural surface runoff boundaries.
13. Zone of Influence means a zone delineated by iso-travel time contours around well fields. The zone is calculated on the rate of movement of groundwater in the vicinity of the wells with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.

Sec. 14.303 PRINCIPAL USES PERMITTED

The uses permitted in the Wellhead Protection Overlay Zone shall include all of the uses as allowed in the underlying zoning district, except for the following:

1. The processing or compounding of chemicals or drugs or bulk storage.
2. Foundries.
3. Heavy equipment repair.

Sec. 14.304 SPECIAL PERMIT APPROVAL

Any of the uses subject to special approval in the underlying zone may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the Township Board after a recommendation from the Planning Commission, with the exception of the following:

1. Sanitary landfills of any type.
2. Mining, extraction, excavation, or processing of sand, gravel or limestone.
3. Gasoline stations or convenience stores selling gasoline or farm fuels.
4. Bus or truck terminals.
5. Junk or salvage yards.
6. Automobile and truck body shops.
7. Concrete or asphalt plants.
8. Metal processing plants and/or electroplating plants.
9. Painting and coating manufacturing plants.

Sec. 14.305 GROUNDWATER PROTECTION STANDARDS

1. Use of regulated substances in conjunction with the permitted and special approval uses in this zone shall be limited to:
 - A. The aggregate of regulated substances in use may not exceed twenty (20) gallons of one hundred and sixty (160) pounds at any one time.
 - B. The total use of regulated substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.
2. A limited exclusion from the provisions of Section 14.404 Permitted Uses After Special Approval is hereby authorized for non-routine maintenance or repair of property in the Wellhead Protection Overlay Zone provided the uses are limited as follows:
 - A. The aggregate of regulated substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.
 - B. The total use of regulated substances may not exceed one hundred (100) gallons or eight hundred (800) pounds at any time.

3. A limited exclusion from the provisions of this Section is hereby authorized for regulated substances which are cleaning agents, provided however that such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and shall exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall regulated substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.
4. A limited exclusion from the provisions of this Section is hereby authorized for medical research laboratory uses in the Wellhead Protection Overlay Zone, provided that regulated substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of regulated substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.
5. Storage of fuel or lubricants for vehicle operations and fuel for building and/or processing or heating in conjunction with permitted and conditional uses in this zone shall be in aboveground storage tanks.
6. Notwithstanding other provisions of this Article, non-conforming uses in this zone presently using, underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or processing heating shall be permitted to replace existing tanks with those constructed pursuant to specifications of PA 423 of 1984 and all regulations enacted pursuant thereto and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than the above-noted fuels and lubricants not permitted.

Sec. 14.306 INFORMATION REQUIRED FOR SITE PLAN REVIEW

All buildings and structures constructed or remodeled requiring the approval of a site plan as set forth in Article 18 of this Ordinance and are within the Wellhead Protection Overlay Zone shall also comply with the following additional site plan requirements:

1. A copy of the MIOSHA Material Safety Data Sheet or "Hazardous Reporting Form for Site Plan Review."
2. Location of existing and proposed facilities and structures, above and below ground, including but not limited to the following:
 - A. Public and private groundwater supply wells on site and in adjacent properties.
 - B. Septic systems and other waste water treatment systems.
 - C. All interior and exterior areas to be used for the storage, use, loading and unloading, recycling or disposal of hazardous substances.
 - D. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and similar uses.
 - E. Location of interior and exterior drains, dry wells, catch basins, retention/detention areas, storm water retention ponds, sumps and other facilities designed to collect, store or transport storm water or waste water, and the point of discharge for all drains and pipes shall be identified on the site plan.
3. Location of existing wetlands, water bodies, water courses and flood plains.
4. Soil characteristics of the site, e.g. the US Soil Conservation Service.
5. Delineation of areas on the site which are known to be contaminated, together with a report on the status of the site cleanup.

Sec. 14.307 SITE PLAN REVIEW

In addition to the standards set forth in Article 18, the Planning Commission and the Township Board shall be governed by the following standards:

1. Groundwater Protection Standards:

- A. The project and the related improvements shall be designed to protect the natural environment, including wetlands, water bodies, water courses, flood plains, groundwater and soils.
 - B. Storm water management and drainage facilities shall be designed to retain natural retention and storage capacity of any wetland, water body or water course and shall not increase flooding or the possibility of polluting surface or groundwater, on-site or off-site.
 - C. General purpose floor drains shall be connected to a public sewer system, an onsite holding tank or a system authorized through a State of Michigan groundwater discharge permit.
 - D. Chemical loading and unloading areas shall not have drains which discharge into the storm sewer piping or collection system unless equipped with an appropriate sump pump which can be shut down in the case of a spill. Further, chemical loading and unloading areas should be designed to contain or direct spillage in such a manner as to prevent potential discharge to the ground or groundwater, storm water piping or recharge lagoons.
 - E. Sites at which hazardous substances are loaded and unloaded, stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, wetlands, water bodies, water courses or groundwater.
 - F. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
2. Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials:
 - A. Secondary containment of hazardous substances shall be provided. Secondary containment shall be sufficient to store one hundred ten (110) percent of the

stored substance for the maximum anticipated period of time necessary for the recovery of any released substance.

- B. Secondary containment structures such as buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to nearby drains, soils, wetlands, water bodies, water courses, or groundwater. Where allowed, the secondary containment provided in subsection 2A above shall apply.

3. Underground Storage Tanks:

- A. Existing underground storage tanks or replacements allowed under Section 14.405 6. shall be registered with the State Police Fire Marshall Division and in accordance with US EPA.
- B. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with the requirements of the State Police Fire Marshall Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring of inventory control must be kept and made available for review by the Township and other applicable government officials.
- C. Out-of-service or abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police Fire Marshall Division and the MDEQ.

4. Sites with Contaminated Soils and/or Groundwater:

- A. Site plans shall take into consideration the location and the extent of any contaminated soils and/or groundwater on the site and the need to protect the public health and the environment.
- B. Development shall not be allowed on or near contaminated areas of a site unless information from the MDEQ is available with an indication that the cleanup will proceed in a timely fashion.

All Ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of any such conflict hereby repealed.

Sec. 14.4 WEST M-89 - CORRIDOR OVERLAY DISTRICT**Sec. 14.401 PURPOSE**

M-89 is the primary east - west route through the Township, providing direct access to U.S. 131 to the east and the City of Allegan to the west. At the time of the adoption of this Ordinance, the properties on both sides of M-89 between the City of Otsego and the western Township border are relatively undeveloped. The community perceives this corridor, as it is ultimately developed, to be a valuable asset to the Township's economic and physical development. To that end, the Township desires to ensure that the M-89 corridor is designed and constructed to provide for optimum aesthetics, safety, and efficient flow of traffic. This District is intended to "overlay" all of the existing zoning districts along this corridor through the application of more stringent setback, landscaping and access standards.

Sec. 14.402 LOCATION

The M-89 Corridor Overlay District covers the existing M-89 right-of-way from the Kalamazoo River bridge west of the City of Otsego to the western Township border and the area sixty (60) ft. on each side of the edge of the M-89 right-of-way as the right-of-way is ultimately established for the portion of M-89 described above. The total width of the Overlay District is two hundred forty (240) feet. The M-89 Corridor Overlay District is depicted on the Official Zoning Map.

Sec. 14.403 APPLICATION TO LAND USE ACTIVITIES

The requirements of this Article apply to any person, firm, or corporation within the M-89 Corridor Overlay District when new or expanded land uses are proposed.

Sec. 14.404 SITE PLAN REVIEW REQUIREMENTS

All land uses proposed or expanded within the M-89 Corridor Overlay District shall conform to the permitted uses or uses allowed by special permit for the applicable underlying district and shall meet the Site Plan Review standards specified in Article 18.

Sec. 14.405 STANDARDS TO BE APPLIED TO THE OVERLAY DISTRICT

In addition to the Standards and Requirement of the underlying district in which the proposed land use is to occur, the following standards shall apply to that portion of the proposed use located within the M-89 Corridor Overlay District:

- A. No principal or accessory buildings shall be allowed.
- B. No off-street parking shall be allowed.
- C. Landscaped berms shall be required with a combination of ground level shrubs and plants and trees. Berms shall be of a standard slope of three (3) ft of horizontal distance for each foot of vertical distance, with a minimum top surface width of three (3) ft.
- D. Access driveways shall be separated by a distance of at least three hundred (300) feet as measured from the center of each driveway.
- E. No driveway, or point of ingress and egress, shall be located within one hundred (100) feet of an intersecting street.
- F. Commercial access, or part of ingress and egress, shall be separated by a distance of at least four hundred fifty (450) feet as measured from center of each access point.
- G. Signs that identify a business or are used for on-premise advertising and are not attached to the building in which the business is located shall be limited to pole signs and pylon signs. Such pole and pylon signs shall be allowed no closer than twenty (20) feet from the edge of the M-89 right-of-way. Businesses, up to a maximum of five, are encouraged to consolidate their identification and on-premise advertising signs on one pole or pylon sign structure. Such signs shall be located no closer than two hundred (200) feet from any other pole or pylon sign identifying or advertising a business and shall otherwise meet the sign requirements of Article 20, except that where multiple businesses are identified on such signs, the maximum cumulative sign area shall not exceed eighty (80) percent of the allowable combined maximum area of each sign.

(Section 14.5 East M-89 Corridor Overlay District-Reserved)

SECTION 14.6 OSP-OPEN SPACE PRESERVATION OVERLAY DISTRICT

SECTION 14.601 PURPOSE

The establishment of this overlay district is to satisfy the requirements of P.A. 110 of 2006, the Michigan Zoning Enabling Act. It requires that qualified townships provide, at the option of the landowner, for the clustering of residential units on a portion of the property provided that fifty percent (50%) or more of the land is preserved in permanent open space. This district is an overlay over those existing districts that have a residential density of three (3) units per acre or less (with public sewer) or two (2) units per acre or less (without public sewer). This shall be a development option for landowners within the following districts: “AG”, “R-1”, and “R-2”.

SECTION 14.602 PERMITTED USES

All permitted residential uses within the underlying district are permitted within the “OSP” Overlay District. At the landowner’s option, single family dwellings shall be permitted within residential clusters subject to the following:

A. Application Procedure

1. An application shall be filed identifying the landowner’s desire to exercise the open space preservation development option. With the application, the landowner shall submit a comparison plan that adheres to site development requirements for the underlying zoning district. This can be in the form of a proposed plat establishing lots, a land division plan creating parcels or a site condominium development creating sites and/or units. This comparison plan shall determine the number of dwelling units that can be developed within the open space preservation plan. This application and comparison plan may be reviewed administratively with the applicant prior to the submission of a site plan.
2. A site plan, adhering to the standards within the ordinance under Article 18, shall be submitted for review and recommendation by the Planning Commission and approval by the Township Board. It shall be titled “Open Space Preservation Plan” and a copy of the comparison plan shall be included with the site plan. A copy of these plans shall be submitted to the Allegan County Health Department by the applicant for their review and

any correspondence received from them shall be submitted by the applicant to the Township.

3. The Planning Commission shall review the site plan and determine compliance with the ordinance standards for: a) site plan review; b) requirements within the underlying zoning; and c) requirements of this overlay district. They may recommend approval of the site plan as presented, recommend approval subject to conditions or changes reflected in the motion to approve, table pending the submission of additional information, or recommend denial of the request based upon noncompliance with the ordinance standards. The Township Board, in making their final decision, may accept such conditions or revise such conditions in granting approval or deny the application for noncompliance.
4. The applicant shall submit a timeline for development and identify any phases that may require further Township review and approval. The Planning Commission may recommend and the Township Board may impose conditions on this development timeline and in no case can required open space in each phase not meet a minimum of 50% of the area for that phase.

B. Conditions for Approval

The required conditions shall be based upon the layout and design of the dwelling units and preservation of the open space as follows:

1. Layout/Design Provisions: The layout and design of the dwelling units shall be in a manner that achieves the greatest compatibility with surrounding land use and with the intent and purpose of this overlay district and the underlying zone. It shall balance what is economically feasible for efficient cluster development with the need to preserve the character of the area. Individual parcels, lots or sites within the residential cluster shall meet the following:
 - a. (Lot) Width: The parcels, lots, or sites (units) shall have a minimum lot width of no less than fifty percent (50%) of the lot width within the underlying zone or seventy-five (75) feet, whichever is greater.

- b. (Lot) Area: The parcels, lots, or sites (units) shall have a minimum lot area of twenty-five percent (25%) of the lot area within the underlying zone or 7,500 square feet, whichever is greater.
 - c. (Lot) Coverage: The parcels, lots or sites (units) shall have a maximum lot coverage of twenty-five percent (25%), including accessory buildings.
 - d. Floor Area: The minimum floor area for the dwelling unit shall meet the minimum standard within the underlying zone.
 - e. Yard/Setback: The dwelling units shall meet the following setback provisions:
 - Front: Fifty percent (50%) of the underlying zone but no less than thirty (30) feet.
 - Side: Fifty percent (50%) of the underlying zone but no less than fifteen (15) feet.
 - Rear: Fifty percent (50%) of the underlying zone but no less than twenty-five (25) feet.
 - f. Height: The maximum height shall meet the maximum height standard within the underlying zone.
2. Open Space Provisions: The intent of this overlay district is to preserve the character of the area consistent with that of the underlying zone. In order to achieve this intent, the following conditions shall apply:
- a. In order to comply with the Act, the following definition shall be used to describe the nature of the open space to be preserved:
 - Undeveloped State: A natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to use of the public.

- b. The applicant shall provide calculations for the open space area and documentation of the means to preserve the open space, whether in the form of a conservation easement, deed restriction or similar method, and the party responsible for maintenance of the open space area. If proposed for dedication to the public, a letter of support from the public entity, indicating acceptance and responsibility for maintenance, shall be included with the application. A single entity, such as a private association, non-profit organization or a public body, shall have responsibility for maintaining the land in permanent open space.
- c. No part of the parcels, lots or sites shall be counted toward the open space, nor any land devoted to roadways or other impervious surfaces, other than those of a recreational nature (such as bike paths, tennis or basketball courts, or for pavilions or picnic shelters). Private water and wastewater systems shall be located within the boundaries of the parcels, lots or sites. If a shared community system is proposed, the area devoted to such use may be located in common area but shall not be counted toward the required open space. Fenced retention or detention areas shall also not be counted toward the required open space area.
- d. The open space shall be arranged in a manner so that it is contiguous and accessible by residents within the residential cluster. It shall be also be arranged to connect to other open space areas on adjoining properties and/or connected to possible pedestrian or non-motorized trails.
- e. The Planning Commission and the Township Board may seek to approve the preservation of those areas where protection of the highest quality of natural resource is achieved. This includes areas of mature tree stands or forested areas, habitat areas for wildlife or similar areas that could otherwise be developed.

SECTION 14.603 USES ALLOWED BY SPECIAL USE PERMIT

No special use within the underlying zoning district shall be allowed unless such use is processed separately under the conditional use process for review and approval.

SECTION 14.604 SITE DEVELOPMENT REGULATIONS

The following regulations are based upon the relationship of the residential cluster(s) and the restricted open space to the adjoining properties, including the road right-of-way:

A. Setback and Access

1. **Cluster Setback:** The placement of any residential cluster shall be setback fifty (50) feet from any abutting property line and one hundred (100) feet from any existing public road right-of-way. This area shall not include land devoted to parcels, lots or sites and shall be included within the calculated open space.
2. **Access:** Access to the dwelling units within the residential cluster may be in the form of a public road or private road, with any private road adhering to those standards within the ordinance.