

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS IN KEARNEY TOWNSHIP OF ANTRIM COUNTY, MICHIGAN IN ACCORDANCE WITH THE PROVISIONS OF TOWNSHIP RURAL ZONING ACT 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED: TO PROVIDE FOR THE ADMINISTRATION OF THIS ORDINANCE, AND FOR A BOARD OF APPEALS, THE KEARNEY TOWNSHIP BOARD OF ANTRIM COUNTY, MICHIGAN ORDAINS:

ARTICLE I
TITLE, PURPOSE, INTERPRETATION AND DEFINITIONS

Section 1.01 TITLE. This Ordinance shall be known as the Kearney Township Zoning Ordinance.

Section 1.02 PURPOSE. The fundamental purpose of this Ordinance is to promote the health, safety, comfort, peace, morals, convenience and general welfare of the inhabitants of the Township. The provisions hereinafter adopted are intended to carry out the goals of the Kearney Township Future Land Use Plan:

To promote the orderly development of the Township that will result in the conservation of expenditures needed for public improvements and services.

To encourage the use of lands and resources of the Township in accordance with their suitability by directing development towards areas most suitable and provide guidelines for best development practices.

To promote economic progress, and protect and enhance property values; To reduce hazards to life and property, promote safety in traffic and provide protection from spread of fire.

To protect the surface and groundwater quality of the Township as the main ingredient of the quality of life.

Section 1.03 INTERPRETATION. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of public safety, health, convenience, comfort, property and general welfare. It is not intended by this Ordinance to interfere with, abrogate, annul or repeal any ordinances, rules or regulations previously adopted, and not in conflict with any of the provisions of this Ordinance or which shall be adopted, pursuant to law relating to the use of buildings or premises, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or premises or upon the height of buildings or require larger open spaces than are imposed or required by such ordinances, covenants or other agreements, the provisions of this Ordinance shall control.

Section 1.04 DEFINITIONS. For the purpose of this Ordinance, the following terms are herewith defined.

Accessory Building or Structure. A supplemental building or structure on the same lot as the main building occupied by, or devoted exclusively to an accessory use, but not including for dwelling, lodging, or sleeping purposes.

Accessory Use. A subordinate use incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Aerator or bubbler. Any device or equipment used within a lake or that affects the lake surface so as to prevent the normal formation of ice on the lake surface.

Alternative Tower Structure. Manmade trees, clock towers, bell steeples, light poles and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers, or which currently exist in a manner which would support the placement of an antenna without the need for an additional tower.

Airport. A place maintained for landing and taking off of aircraft, for receiving and discharging passengers and cargo, and any related facilities. This facility is licensed by the Michigan Department of Transportation Bureau of Aeronautics under Sec. 86 of the Aeronautics code of the State of Michigan, 1945, P.A. 327, MCL 259.86.

Antenna. Any exterior transmitting or receiving device mounted on a tower, building, structure or Alternative Tower Structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Apartment. A room or group of rooms designed to function as a single, complete dwelling unit and is located in a multiple family dwelling. Apartments may be leased or purchased as a condominium or cooperative housing.

Bed and Breakfast Establishments. A private, owner occupied residence with one to three guest rooms whose use is clearly subordinate and incidental to the main residential use of the structure. The length of stay is limited to one week and one parking space is required for each guest room in addition to the two spaces required for the residence. One sign not exceeding three square feet in area that identifies the establishment is permitted. Only breakfast may be served and food preparation facilities shall be approved by the Health Department prior to the issuance of a land use permit by the Zoning Administrator. Applicable fire codes must also be complied with.

Blight. See Kearney Township Nuisance Ordinance No. 1 of 2017.

Boarding, Lodging or Rooming House. A building other than a hotel where for compensation and by prearrangement for definite periods, lodging, meals or both are provided for three (3) or more persons, but not exceeding twenty (20) persons.

Building Width. The width of a lot for building after side yards are provided.

Building. Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals or property of any kind.

Building Line. For the purpose of this Ordinance, the building line is the same as required front yard setback line.

Club. Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or rendering a service customarily carried on as a business.

Condominium. A form of housing ownership by which a person may purchase and own a dwelling unit in a multi unit building or development. In addition, together with other condominium owners the person owns a proportionate interest in the common elements of the development and pays a monthly maintenance fee or charge for the cost of administering and maintaining the common elements.

Cooperative Housing. A form of housing ownership in which a person may acquire a form of property interest akin to ownership in one dwelling unit of a multi unit building or development. Rather than owning a direct interest in the real estate, the person owns shares of stock in a corporation that owns the entire building or development. A monthly fee is charged to cover the cost of maintaining the building, administering the cooperative, real estate taxes and amortization of the mortgage.

Dwelling, Single Family. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

1. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
2. It complies in all respects to the minimum height, density, area, square footage and width requirements as set forth in Article III, Section 3.22 of this Ordinance. Where a dwelling is required by law to comply with any federal, state, or county standards or regulations for construction different than those imposed by applicable building codes, then such federal, state, or county standards or regulations shall apply.
3. It is firmly attached to a permanent foundation that complies in all respects to the building code in effect, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings. In the event that the dwelling is a mobile home, as defined in this Ordinance, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall have a perimeter wall as required above.
4. In the event that such a dwelling is a mobile home, as defined in this Ordinance, it shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis, and shall be skirted using an acceptable exterior grade of skirting material so as to be compatible with the exterior construction of the mobile home and so as to conceal the towing mechanism, undercarriage and chassis.

5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local Health Department and the Antrim County Building Department.
6. The dwelling contains a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to the principal dwelling, which storage area shall be no less than ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever is less.
7. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including being permanently attached to the principal structure and being constructed on a foundation as required herein.
8. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home manufactured on or after June 1, 1975, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards", being 24 CFR 3280, June, 1976, as amended. For mobile homes manufactured before June 1, 1975, they shall conform to the Antrim County "Building Policy on Older Mobile Homes", as amended.
9. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by federal or state law or otherwise specifically required in this Ordinance.
10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

Dwelling, Temporary. A building, portion of a building, mobile home, travel trailer, or recreational vehicle which has provisions for sleeping, cooking, bathing, living, water, and sanitation and which is occupied wholly as the home or residence of one (1) family.

Dwelling, Two Family. A building consisting of two dwelling units occupied exclusively by two families living independently of each other.

Dwelling, Multi Family. A building consisting of three or more dwelling units including apartment houses, cooperatives and condominiums.

Essential Services. The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, or sewer transmission, distribution, collection, supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, and wireless communication antenna are not included within this definition.

Erected. Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general property improvements shall not be considered as erection.

Family. An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Farm. All of the contiguous, neighboring, or associated land operated as a single unit on which bonafide farming is carried on directly by the owner, operator, manager or tenant farmer by his own labor, or with the assistance of members of his family, or hired employees, provided that land to be considered a farm hereunder shall include a continuous, unplatted parcel of land not less than ten (10) acres in area, provided that establishments conducted primarily as chicken hatcheries, integrated poultry or livestock feeding enterprises; egg factories, keeping or raising game or fur bearing animals; fish hatcheries, stockyards; riding academies; livery or boarding stables; and dog kennels shall not constitute a farm hereunder.

Filtered View. See illustration in the Appendix.

Floor Living Area. The square feet of floor space within the outside walls, but not including porches, breeze ways, garages, attic, basement or cellar area, utility areas or crawlspace.

Garage, Public. A building, or part hereof, other than a private garage, designed or used for equipping servicing, repairing, hiring, storing or parking motor driven vehicles.

Gasoline Service Station. Any land, building or structure used for sale at retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories.

Gazebo. An open, small roofed structure that may be screened on all sides, used for outdoor entertaining and dining.

Greenbelt. An open space area left in its natural condition or landscaped to provide a natural limit or boundary to urban development.

Guest House. A structure for human habitation, containing one or more rooms with bath and toilet facilities, but not including a kitchen or facilities which would provide a complete housekeeping.

Home-Based Business. Any activity, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain, and meets all of the following requirements:

1. The activity is conducted on the premises and/or the premises serves as a base of operation from which to conduct the activity off-site.
2. The activity, including the temporary storage of waste and trash, is conducted within the principal dwelling, an accessory structure and/or outdoors on an area of the premises which is completely screened from the view of neighboring residents and from view by the general public along public rights-of-way by vegetation, natural topographic features, fencing or other constructed visual barriers.

3. The exterior of the accessory structure and/or the vegetation, natural topographic features, fencing, or other constructed visual barriers will retain the residential character of the neighborhood.
4. The activity does not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, or electrical interference.
5. Adequate off-street parking is provided for patrons, clients, and all nonresident employees.
6. Any sign used in connection with the activity meets the sign requirements of Article VIA of this Ordinance.

Home Occupation. Any activity which is clearly secondary to a residential use, carried out for economic gain, and which meets all of the following requirements:

1. The activity is conducted entirely within the principal dwelling or entirely within an accessory structure.
2. The activity is conducted using no more than one (1) nonresident employee.
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3. The exterior of the principal dwelling in which the activity is conducted will retain its residential character.
4. The activity does not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, or electrical interference.
5. Adequate off-street parking is provided for patrons, clients, and the nonresident employee.
6. Any sign used in connection with the activity meets the sign requirements of Article VIA of this Ordinance.

Hotel. A facility offering transient lodging accommodations on a daily rate to the general public which may include additional services such as restaurants, meeting rooms and recreational facilities.

Housekeeping Cabin Park. A parcel of land on which two (2) or more buildings, tents, or similar structures are maintained, offered, or used for dwelling or sleeping quarters for transients, but shall not include boarding or lodging houses, tourist homes, or motels.

Junk. Worn out and discarded material that may be returned to some use. Rubbish of any kind that may be returned to some use.

Junkyard. Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition or use of junk, including scrap metals, motor vehicles, machinery, buildings, structures, construction material or other salvaged material. Also, any premises upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored outside a building for a period of fifteen (15) days or more. The purchase and storage of used cars in operable condition and used or salvaged materials, used furniture and household equipment are

excluded from this definition if carried on in enclosed buildings.

Land Division. See Kearney Township Parcel Division Ordinance No. 6 of 1998.

Lot of Record. A lot of record in the office of the Antrim County Register of Deeds, or which is part of a subdivision on record in said office, on the effective date of this Ordinance.

Lot or Premises. The parcel of land occupied by, or to be occupied by, a use or building and its accessory building or structures together with such open spaces, minimum area, and width required by this Ordinance for the District in which located and having its frontage on a road, street or highway, but not necessarily located in a subdivision. The lot shall not include any area within any abutting right of way or traffic lane.

Mobile Home. A single-family dwelling manufactured in one or more sections, containing a minimum of seven hundred twenty (720) square feet designed for year-round dwelling purposes, capable of being transported upon its own or a separate wheeled chassis. The term shall not include travel trailers, motorized recreational vehicles, nor other types of transient dwellings.

Motel. A building or group of buildings designed and used for providing sleeping accommodations for travelers and having parking space adjacent to the room.

Nonconforming Use. Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this Ordinance or amendments thereto, which does not conform after the passage of this Ordinance or amendments thereto with the regulations of this Ordinance.

Open Space. Land that is either undeveloped or is relatively free of buildings and other structures. It includes all lands that act as a contrast to the manmade environment and may include parks, cemeteries, golf courses, farmland and forest land if they are expected to remain undeveloped for extended periods of time.

Platted Subdivision. A parcel of land divided into lots for sale or use as separate entities as provided for by the applicable plat laws of the State of Michigan. For the purpose of this Ordinance, the Zoning Administrator may consider the term "platted subdivision" to include any other lawful arrangement of cooperative ownership, management, rental and use of a parcel of land containing four (4) or more building lots or dwelling units including "condominiums" as defined and regulated by Public Act 288 of the Public Acts of Michigan, 1967 as amended; providing such use is consistent with the purpose of this Ordinance. Any parcel of land under this definition shall have its ingress and egress road approved by the Antrim County Road Commission. Any disturbance of the natural land contours shall be seeded, sodded or otherwise protected so as to prevent any washing or erosion into any nearby lake, river, or stream; providing such protective measures have been approved in advance by the Zoning Administrator.

Private Access Area. An area on a lake or river shore line reserved for the use of residents of an offshore platted subdivision.

Private Road. See Kearney Township Private Road Ordinance No. 1 of 2001.

Screened. A sight barrier between public or private property and property use.

Seasonal. Any use of such a nature that the activity cannot, or should not, be performed during each season of the year.

Sexually Oriented Business. Means an adult bookstore, adult video store, adult motion picture theater, adult mini-theater, adult entertainment establishment, or adult cabaret.

Shoreline. A lot or parcel of land, any part of which uses any of the following as a part of its boundary: Lake Bellaire, Intermediate Lake, Intermediate River, Cedar River, and other waters considered a part of the "Chain of Lakes".

Sign. An object, including a structure, movable object, wall or image displaying any message visible to the public.

Site Condominium. A residential development type similar to a subdivision including the principle structure and the land around it developed under the Condominium Act (Act 59 of 1978 as amended) rather than the Subdivision Control Act (Act 288 of 1967 as amended).

Street, Highway, Road. A thoroughfare which affords the principle means of access to abutting property.

Structure. Something that is constructed and is either located on the ground or is attached to an object on the ground, including buildings, signs, swimming pools and mobile homes, satellite dish antennae and towers, but not paving or surfacing.

Structurally Altered. Any change of a supporting member of a building or structure, such as bearing walls, columns, beams or girders.

Telecommunications Towers and Facilities or Tower. All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Timeshare. Purchase of the ownership of or the right to use real estate or other property for a designated portion of each year which offers property value appreciation without maintenance or rental responsibilities and standard prorated real estate tax deductions.

Tower Compound. The area enclosing any telecommunications tower or alternative tower structure and the related accessory buildings and structures including, but not limited to, facilities, guy wires, tower access area, antenna, fence, lights, and signs.

Yard. A space between a building and the lot lines of the parcel of land on which located, unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

Yard, Front. A yard across the full width of the lot extending from the front lines of the principal building to the front lot line, or highway right of way lines as the case may be. In the case of any principal building that fronts on a lake, the front yard shall be that area that lies between the front line of the principal building, excluding steps and unenclosed porches, and the waters edge.

Yard, Rear. A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

Yard, Side. A yard extending between the side lot line and the nearest side line of the building.

Wind Energy Facility. A power generating facility consisting of one or more wind turbines under common ownership or operation control, and included substations, towers, cables/wires, and other building accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Wind Energy Systems (Small On-site). A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control of conversion electronics which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.