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Superintendent of Planning &  
Zoning Division

## **MEMORANDUM**

Date: February 1, 2021

To: Honorable Township Board Members

From: Jeffrey M. Polkowski, Superintendent of Planning and Zoning

RE: Item# 2021-Z-006  
Proposed Zoning Ordinance Text Amendment for Waterfront Setbacks  
SECTION 3-901 Footnote 4

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Attached for your review and consideration, please find a proposed Zoning Ordinance Text Amendment. This proposed amendment will correct an issue regarding waterfront setbacks that staff has encountered on numerous occasions.

### **Description**

The historical development pattern of Waterford's lakefront zoning lots is diverse, where many lake shorelines were developed with deeper lakefront yard building setbacks than the minimum required by the Zoning Ordinance. Because of such diversity, establishing a uniform lakefront yard building setback may threaten the established character of lakefront neighborhoods and established open views of the lakefront. In order to protect the established character of lakefront neighborhoods, ensure compatibility with the scale of surrounding homes, and protect established open views of the lakefront, a lakefront setback was established where the shoreline of any new building shall not be less than the average shoreline setback of buildings within two hundred (200) feet in both directions.

However, because of Section 2-213.2(C) in the Zoning Ordinance, sheds, detached garages, boat houses, and other accessory buildings that are under 8 ft. in height and 80 square feet in lot coverage are exempt from this setback averaging requirement, allowing them to be moved closer to the shoreline.

The Zoning Ordinance, in the current way that it is written, considers accessory buildings as a type of building, and therefor factors them into the calculated lakefront setback made by the average shoreline setback of buildings within two hundred (200) feet in both directions. This proposed ordinance amendment is intended to exclude these accessory buildings with reduced setbacks by factoring in only principal buildings to calculate a waterfront setback for a house.

**With us there are no  
boundaries**

**Planning Commission Recommendation and Findings**

The Planning Commission reviewed this proposed Rezoning at the regularly scheduled meeting on January 26, 2021 and resolved unanimously, to forward a favorable recommendation to the Township Board.

**Motions**

Based upon the Planning Commission's favorable recommendation at the January 26, 2021 regular meeting for this zoning ordinance amendment, should the Board want to consider adopting the proposed ordinance amendment, the appropriate motion would be to introduce the attached Ordinance and schedule it for possible adoption at the February 22, 2021 meeting. However, if the Board does not want to adopt the requested rezoning, the appropriate motion would be to not introduce the Ordinance and deny the rezoning.

Staff will be available at Monday's meeting for any questions on this case. However, if you have any questions in advance of the meeting, please contact this office.

Should you have any questions, please do not hesitate to contact this office.

ARTICLE III, DIVISION 3-9, Section 3-900 cont.)

**SECTION 3-900. TABLE OF ZONING LOT, AREA, AND BULK REGULATIONS**

| ZONING DISTRICT   | Maximum Height of Building  |         | Minimum Yard Setback In Feet<br><i>(Refer to Footnote 4 for front setback where noted below)</i> |                                       |              |      | Minimum Floor Area Per Dwelling Unit In Sq. Ft. |
|---|---|---------|--|---------------------------------------|--------------|------|---|
|   | In Stories  | In Feet | Front  | Sides<br><i>(Refer to Footnote 7)</i> |              | Rear |   |
|   |   |         |  | Least One                             | Total of Two |      |   |
| <b>R-1 Single-Family</b>  | 2   | 30      | 35 <sup>4</sup>  | 10                                    | 20           | 35   | 1,100   |
| <b>R-1A Single-Family</b>   | 2   | 30      | 35 <sup>4</sup>  | 10                                    | 20           | 35   | 1,100   |
| <b>R-1B Single-Family</b>   | 2   | 30      | 35 <sup>4</sup>  | 5                                     | 10           | 35   | 800   |
| <b>R-1C Single-Family</b>   | 2   | 30      | 35 <sup>4</sup>  | 5                                     | 10           | 35   | 800   |
| <b>R-1D Duplex (Two Family)</b>   | 2   | 30      | 35   | 10                                    | 20           | 35   | 800   |
| <b>R-1E Single-Family Attached</b>  | 2   | 30      | <i>Refer to Footnote 8</i>   |                                       |              |      | 800   |
| <b>R-M1 Low Density Multiple-Family</b>   | 2   | 30      | <i>Refer to Footnote 8</i>   |                                       |              |      | <i>Refer to Footnote 9</i>                      |
| <b>R-M2 Multiple-Family</b> <i>(Refer to Footnote 10 for allowances for independent living facility developments)</i> | 3   | 35      | <i>Refer to Footnote 8</i>   |                                       |              |      | <i>Refer to Footnote 9</i>                      |
| <b>R-MH Mobile Home Park</b>  | 1   | 15      | 20   | 10                                    | 35           | 10   | n/a   |
| <b>O-1 Local Office</b>   | 2   | 30      | 35   | 15                                    | 30           | 20   | n/a   |
| <b>O-2 General Office</b>   | 4   | 50      | 35   | 20                                    | 40           | 20   | n/a   |
| <b>C-1 Neighborhood Business</b>  | 1   | 20      | 25   | 15                                    | 30           | 20   | n/a   |
| <b>C-2 Small Business</b>   | 1   | 20      | 25   | 15                                    | 30           | 20   | n/a   |
| <b>C-3 General Business</b>   | 2   | 40      | 25   | 20                                    | 40           | 20   | n/a   |
| <b>C-4 Extensive Business</b>   | 2   | 40      | 30   | 20                                    | 40           | 20   | n/a   |
| <b>C-UB Urban Business</b>  | 2   | 40      | 25   | 15                                    | 30           | 20   | n/a   |
| <b>C-UL Union Lake Business</b>   | 2   | 40      | 25   | 15                                    | 30           | 20   | n/a   |
| <b>PL Public Lands</b>  | 2   | 40      | 25   | 20                                    | 40           | 20   | n/a   |
| <b>CR Commercial Recreation</b>   | 2   | 40      | 25   | 20                                    | 40           | 20   | n/a   |
| <b>A-1 Airport</b>  | <i>As authorized by the Airport Manager, with setbacks from all State highways and County roads compliant with M-1 requirements</i> |         |  |                                       |              |      | n/a   |
| <b>HT-1 High Tech Office</b>  | 2   | 30      | 25   | 15                                    | 30           | 30   | n/a   |
| <b>HT-2 High Tech Industrial and Office</b>   | 4   | 50      | 35   | 15                                    | 30           | 40   | n/a   |
| <b>M-1 Light Industrial</b>   | 2   | 30      | 40   | 15                                    | 40           | 40   | n/a   |
| <b>M-2 General Industrial</b>   | 3   | 40      | 50   | 20                                    | 60           | 50   | n/a   |

**(ARTICLE III, DIVISION 3-9 cont.)**

**SECTION 3-901. FOOTNOTES GOVERNING ZONING LOT, AREA, AND BULK REGULATIONS**

**Footnote 1** - In all zoning districts a tax parcel must conform as a zoning lot to all requirements of the Schedule of Regulations for the Zoning District in which it is located before it can be developed, with the following exceptions:

- A. In the A-1, Airport District, tax parcels established by the County of Oakland as lease property within areas of a County-owned zoning lot shall possess such setbacks within tax parcels as established by the County of Oakland. If such tax parcels are established along a State highway or County road, the setbacks required by **Section 3-900** shall be required within the tax parcel.
- B. Tax parcels established within areas of a zoning lot by the Township for purposes of identifying lease property for wireless communication facilities regulated by **Section 2-600** shall not require setback requirements within the boundaries of such tax parcels.
- C. As part of a condominium development that is not a site condominium, the Planning Commission may exempt areas within individual tax parcels established as condominium units from the setback requirements of **Section 3-900** where such condominium developments conform to all other Zoning Ordinance requirements.

**Footnote 2**

- A. The intent of establishing a maximum impervious surface for the development of a zoning lot is:
  - (1) to ensure that each zoning lot possesses sufficient surface area to provide onsite stormwater drainage capacity that will prevent all but the most catastrophic flow of stormwater from flowing onto neighboring properties,
  - (2) to prevent an excessive total impervious surface area that would severely restrict or eliminate such onsite stormwater drainage capacity,
  - (3) to make certain that there is sufficient area on a zoning lot for the installation and maintenance of required landscaping and natural buffering, and
  - (4) to implement Master Plan Goal Six, *To Ensure and Enforce Land Use Development Practices that are Sensitive to Waterford's Natural Environment*.
- B. The availability of new engineering techniques for stormwater control and green building practices may be utilized to increase the maximum impervious surface on a zoning lot after review and approval by the Township Engineer. The Township Engineer may authorize an increase in the maximum impervious surface for a zoning lot provided that such increases shall not supersede or reduce required yard setbacks, open space, and landscape buffering; and shall conform to the Township Engineering Standards and the following limitations:
  - (1) For zoning lots in the R-1 through R-1E zoning districts:
    - (A) The total impervious surface area within the required front yard of a zoning lot shall not exceed a maximum of thirty-five (35) percent of the total required front yard area.
    - (B) The impervious surface for the zoning lot shall not exceed fifty (50) percent of the lot area.
  - (2) For zoning lots in the R-M1 and R-M2 zoning districts, the impervious surface for the zoning lot shall not exceed seventy-five (75) percent of the lot area.
  - (3) For zoning lots in all nonresidential zoning districts, the impervious surface for the zoning lot shall not exceed ninety (90) percent of the lot area.

**Footnote 3** - A lot of record that is part of a subdivision plat approved prior to the effective date of this Zoning Ordinance shall be considered in conformance with the lot area and lot width standards of this Zoning Ordinance when such lot of record can conform to all of the following:

- A. All buildings shall be contained within a building envelope where the front yard and rear yard setbacks are each a minimum of thirty-five (35) feet;
- B. All buildings and building appurtenances shall be contained within a building envelope where each side yard setback shall be a minimum of five (5) feet and where applicable comply with **Footnote 7.A**; and
- C. The principal building shall conform to the minimum floor area requirement for the zoning district in which the lot of record is located.

**(ARTICLE III, DIVISION 3-9, SECTION 3-901 cont.)**

**Footnote 4** - The historical development pattern of Waterford's lakefront zoning lots is diverse, where many lake shorelines were developed with deeper lakefront yard building setbacks than the minimum required by the Zoning Ordinance. Because of such diversity, establishing a uniform lakefront yard building setback may threaten the established character of lakefront neighborhoods and established open views of the lakefront. In order to protect the established character of lakefront neighborhoods, ensure compatibility with the scale of surrounding homes, and protect established open views of the lakefront, the setback from the shoreline of any building erected after the effective date of this Zoning Ordinance shall not be less than the average shoreline setback of **principal** buildings within two hundred (200) feet in both directions, as calculated by the Building Official, except as otherwise permitted by this Zoning Ordinance (Please also refer to *Figure VII-66* on Page VII-35 in **Article VII**).

**Footnote 5** – After the effective date of this Zoning Ordinance, when a zoning lot conforming to the minimum lot area requirement is proposed to be subdivided, in accordance with the procedures established in the **Waterford Code of Ordinances, Subdivision and Land Management Regulations**, into one or more zoning lots not conforming to the minimum lot area, the Township shall require rezoning of the resultant zoning lots to a zoning district established under the same Division as the zoning district of the parent zoning lot and where the minimum lot area of the resultant zoning lot(s) will be conforming (i.e., a 25,000 sq. ft. zoning lot in the C-3 General Business zoning district that is subdivided into resultant 10,000 sq. ft. and 15,000 sq. ft. zoning lots shall each be required to be rezoned to the C-2 Small Business zoning district).

**Footnote 6** – Zoning lots established in this zoning district will not conform to this minimum lot area requirement unless the buildable area (*See **Buildable Area** in **Section 1-007***) of such zoning lots is equal to or exceeds the minimum lot area.

**Footnote 7**

- A. Where the side yard of a zoning lot within a zoning district abuts both a street right-of-way and the required front yard of one or more zoning lots within the same zoning district, the required setback for such side yards shall align with the required front yard setback of the abutting zoning lot(s) and conform to all regulations for required front yards.
- B. Where the side yard of a zoning lot within a nonresidential zoning district abuts both a street right-of-way and the required front yard of one or more zoning lots within a residential zoning district, building setbacks for the nonresidential zoning lot shall align with the required front yard setback of the abutting residential zoning lot(s). Fencing not to exceed a height of six (6) feet may be installed along such shared nonresidential/residential property lines to provide effective screening, provided that such fencing does not interfere with clear vision areas.

**Footnote 8**

- A. Buildings within developments in the R-1E, Single Family Attached, R-M1, Low Density Multiple Family, and R-M2, Multiple Family zoning districts shall possess the following minimum setback requirements:
  - (1) A minimum setback of thirty-five (35) feet shall be required between all buildings and the development exterior property lines (Please also refer to *Figure VII-67* on Page VII-36 in **Article VII**).
  - (2) The minimum setback between any building and any common interior access drive within the development shall be twenty-five (25) feet.
  - (3) The minimum setback between any building and any off-street parking facility within the development shall be twenty-five (25) feet.
  - (4) For buildings not separated by a common interior access drive or off-street parking facility within the development:
    - (A) The minimum side-to-side distance between buildings shall be twenty (20) feet.
    - (B) The minimum side-to-rear and side-to-front distance between buildings shall be thirty-five (35) feet.
    - (C) The minimum rear-to-rear distance between buildings shall be fifty (50) feet.
    - (D) The minimum front-to-front distance between buildings shall be seventy-five (75) feet.
- B. The Planning Commission may increase these minimum setbacks for a proposed development where physical site conditions and design considerations, in the opinion of the Fire Chief, Building Official, or Township Engineer, require such increases to provide for fire safety, storm drainage, building maintenance, emergency vehicle access, nonmotorized pathways, underground utilities, or snow clearance.

**(ARTICLE III, DIVISION 3-9, SECTION 3-901 cont.)**

**Footnote 9**

- A. Dwelling units within developments in the R-M1, Low Density Multiple Family and R-M2, Multiple Family zoning districts shall possess the following minimum floor area requirements:

| <b><u>Dwelling Unit Type</u></b> | <b><u>Total Floor Area (sq. ft.)</u></b>                                     |
|----------------------------------|--|
| Efficiency unit                  | Three-hundred fifty (350)  |
| One bedroom unit                 | Five-hundred-fifty (550)   |
| Two-bedroom unit                 | Six-hundred-eighty (680)   |
| Three bedroom unit               | Nine-hundred (900)   |
| Four or more bedroom unit        | Nine-hundred (900) plus one-hundred-twenty (120) per bedroom above three (3) |

- B. The length of each individual building within developments in the R-M1, Low Density Multiple Family and R-M2, Multiple Family zoning districts shall not exceed the maximum length established by the Fire Chief and Building Official for purposes of fire safety.

**Footnote 10** – For independent living facility (*See Elder Care Facilities in Section 1-007*) developments in the R-M2, Multiple Family zoning district, provided that all other applicable Zoning Ordinance requirements can be met, the Planning Commission may:

- A. Increase the maximum dwelling units per buildable acre for an independent living facility development up to a maximum of twenty (20) units per buildable acre; and
- B. Increase the maximum height of proposed buildings for an independent living facility development up to a maximum of six (6) stories and seventy (70) feet in height.

**Footnote 11** – For dwelling unit condominiums, the minimum lot area, width, and yard setbacks and compliance with them shall be determined as provided in Section 4-004.4.D.

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CHARTER TOWNSHIP OF WATERFORD  
ORDINANCE NO. 2021-Z-006

**TEXT AMENDMENTS TO ZONING ORDINANCE**

An ordinance to amend the Waterford Township Zoning Ordinance No. 135-A (Zoning Ordinance) to amend the Zoning Ordinance by limiting the building setbacks to the average shoreline setback of principal buildings within two hundred (200) feet in both directions as calculated by the Building Official, except otherwise permitted in the Zoning Ordinance.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

**Section 1 of Ordinance**

Section 3-901. Footnote 4 of the Waterford Township Zoning Ordinance that lists that lists zoning lot, area, and bulk regulations for waterfront lots, is amended to read as follows:

**Footnote 4** - The historical development pattern of Waterford’s lakefront zoning lots is diverse, where many lake shorelines were developed with deeper lakefront yard building setbacks than the minimum required by the Zoning Ordinance. Because of such diversity, establishing a uniform lakefront yard building setback may threaten the established character of lakefront neighborhoods and established open views of the lakefront. In order to protect the established character of lakefront neighborhoods, ensure compatibility with the scale of surrounding homes, and protect established open views of the lakefront, the setback from the shoreline of any building erected after the effective date of this Zoning Ordinance shall not be less than the average shoreline setback of principal buildings within two hundred (200) feet in both directions, as calculated by the Building Official, except as otherwise permitted by this Zoning Ordinance (Please also refer to *Figure VII-66* on Page VII-35 in **Article VII**).

**Section 2 of Ordinance**

The effective date of this Ordinance shall be on the 8<sup>th</sup> day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

**CERTIFICATION**

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kim Markee, Township Clerk

Introduced:

Adopted:

Published: