

ERIE TOWNSHIP ORDINANCE NO. 117-B (Amendment to Erie Township Zoning Ordinance No. 117)

An ordinance enacted pursuant to the authority granted in Act 110, Public Acts of 2006, as amended, better known as the Michigan Zoning Enabling Act, and according to the General Development Plan of the Township, dated May 8, 2012, as amended from time to time, and to further provide for the public health, safety and general welfare of the persons and property of the Township of Erie, and to amend Erie Township Ordinance #117, known as Erie Township Zoning Ordinance, by amending the following sections, for the purposes of promoting and protecting the public health, safety and general welfare of the residents and property of the Township of Erie:

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ERIE, COUNTY OF MONROE, STATE OF MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ARTICLE 3, SECTION 3.04 – GENERAL PERMIT PROCEDURES and REGULATIONS – ADD EXCEPTION TO 3.04(A)

1. Exception: A Zoning Permit and Site or Plot Plan shall not be required for Accessory Storage Sheds and Farm Market Stands of 100 Square feet, or less, provided the installation or use conforms to all of the requirements of this Ordinance.

SECTION 2: AMENDMENT TO ARTICLE 10, ZONING DISTRICTS, REGULATIONS, AND MAP, TO AMEND TABLE 10-2:

- A: to permit a solar power plant as a by-right use in the I-1 district
- B: to require a Special Use Approval for a Home Occupation, Class 2, in the A-RB District

SECTION 3: AMENDMENT TO ARTICLE 11, SECTION 11.22 - HOME OCCUPATION, CLASS 2:

(A) The following site and developmental requirements shall apply:

1. Minimum lot size shall be one-half (1/2) acre, except that the minimum lot size for a home occupation located in a detached garage or other detached accessory structure shall be two (2) acres.
2. Accessory buildings housing home occupations shall not exceed the total floor area of the first floor area of the dwelling on the lot (except in the case of a Caregiver Home Occupation as described in Section C below).

(B) The following special performance standards shall apply to all Class 2 Home Occupations:

1. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
2. The home occupation shall not employ more than two (2) persons not residing in the home.
3. No article shall be sold or offered for sale on the premises except such as is produced within the accessory building, or is provided as an incidental activity associated with the principal service offered by the home occupation.
4. A special land use application for a Class 2 home occupation shall specify, at a minimum, the following information in addition to that required by Section 4.03(A).
 - a. The type and frequency of vehicular traffic to be generated by the home occupation and the location of all outdoor parking and storage areas, if proposed.
 - b. Proposed landscaping and screening measures in association with any parking and/or outdoor storage areas.
 - c. The extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used or created by the home occupation activities, and the measures to be used for proper handling, storage, and disposal of such materials.

(C) Caregivers provided for in the Michigan Medical Marihuana Act are considered to be Class 2 Home Occupations and shall comply with the following additional special performance standards.

1. Caregiver home occupations are only permitted in detached single family dwellings and are not permitted in multi-family or apartment buildings.
2. If the Caregiver is not the property owner, the property owner must consent, in writing, to the Home Occupation.
3. Caregiver home occupations may not be located within 1,000 feet of any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements and outside a 500 foot radius of any church or township park. This distance shall be measured from property line to property line. Only one (1) Caregiver Home Occupation may be permitted per parcel and must be operated only by a member or members of the immediate family residing on the premises.
4. No Caregiver can devote more than 25 percent of his or her home or accessory structure to growing and dispensing medical marijuana. This space must be located within the single family dwelling (including basement), attached garage or accessory building, as long as all residential Building Code and State requirements are met.
5. If the room in which plants are grown contains a window(s), and lighting in that room exceeds typical residential levels to support plant growth, the window(s) shall be shielded with shades, blinds or other devices to reduce light spillover to levels commonly associated with residential areas.
6. The premises must be open for inspection upon request from the Building/Zoning Official, Fire Department and Police Department.
7. The Caregiver must comply at all times with applicable laws and regulations in Michigan, and must be registered with, and possess, a valid State of Michigan Caregiver Registry Identification Card.
8. All Medical Marijuana must be contained within an enclosed, locked facility inside a primary or accessory structure and the Home Occupation shall not be visible from the street nor change the outside appearance of the structures nor alter the residential character of the premises.
9. A valid Zoning Permit shall be readily available for inspection at all times and such permit may be revoked, at anytime, for any Home Occupation not in complete compliance with this section and/or the Special Use as approved.
10. Zoning permits for a Caregiver Home Occupation shall be valid for no more than Two (2) years from date of issue, permits may be renewed on a bi-annual basis, by the Zoning Official, after an application is filed and provided the Home Occupation remains to conform to the original approval and the requirements of this section. Any Caregiver Home Occupation that has expired, been revoked or has found to not be in compliance with this section and/or original approval, shall be considered a new use and require application and review as such.

SECTION 4: AMENDMENT TO ARTICLE 12, SECTION 12.05 - DESIGN STANDARDS (B)

1. Additional Dwelling Units for Dedicated Open Space: The percent increase in the number of dwelling units in excess of those attainable under the Conventional Plan based upon the portion of the project site placed in dedicated open space, shall be as specified in Table 12-1 below. For example purposes only, an 80-acre AC parcel developed with 8 dwellings under a Conventional Plan could be alternatively developed with 50% more dwellings, resulting in a total of 12 dwellings, provided a minimum of 70% of the parcel is set aside in dedicated open space.

Percent of Parcel in Dedicated Open Space*	Permissible Percent Increase in Dwelling Units, by District*	
	AP, AC and BC	R-1, R-2, R-3, and R-4
20%	10%	5%
21 - 30%	20%	10%
31 - 40%	30%	15%
41 - 50%	40%	20%
51 - 60%	50%	25%
61 - 70%	60%	30%

* Percent of Parcel in Dedicated Open Space and increases in Dwelling Units Are to be rounded up or down to the nearest whole number.

2. Additional Dwelling Units for Superior Design: The Township Board may grant additional dwelling units above and beyond that available under (1) above for land development proposals that exhibit superior design character. A five percent (5%) density increase in the R-1, R-2, R-3 and R-4 Districts, and a ten percent (10%) density increase in the AP, AC and BC Districts, shall be authorized when at least three of the following attributes are found to exist in the proposed development design. This determination shall be made by the Township Board following consideration of a recommendation made by the Planning Commission. Superior design characteristics include the following elements:

- a. Preservation of sensitive natural resources, topography, vegetation, and stream corridors.
- b. The dedication of usable open space to a public entity or nonprofit land or nature conservancy that has the effect of increasing or enhancing the public use and enjoyment of scenic areas, waterfronts, natural areas, or other significant environmental areas; and/or the dedication of usable open space for other public use that clearly addresses a need in the community.
- c. Effective preservation of rural character along the public road frontages that the OSC abuts, either through building setbacks, retention of existing vegetation and topography, proposed native plantings, strategic placement of dedicated open space, and/or other means.
- d. Strategic placement of dedicated open space in relation to abutting OSC projects to support continuous networks of important environmental resource systems including, but not limited to, wetlands, woodlands, stream corridors, and wildlife corridors and habitats.
- e. Strategic placement of dwellings and dedicated open space in relation to adjacent agricultural operations to minimize conflicts between ongoing farming activities and residents in the OSC.
- f. In the AP, AC and BC District, easement provisions for the allowance of farming operations within the dedicated open space.
- g. Storm water management program that relies upon natural systems to the greatest extent possible and preserves the quality and integrity of such systems, rather than systems that encourage unnecessary topographic alternations, erosion, heightened impurities directed to surface and ground water systems, and similar negative impacts.
- h. Establishment of a traditional village setting in or near Erie Town Center, including comparatively narrow streets and setbacks, sidewalks, street trees, and or/other traditional village design features, provided public sewer is available.

SECTION 5: AMEND ARTICLE 20, SECTION 20.21 – OUTDOOR MERCHANDISE SALES, DISPLAY and STORAGE

20.21 Outdoor Merchandise Sales, Display and Storage

(A) No outdoor display and sales or the display and sales from temporary or non-permanent structures, of any merchandise shall be permitted, except where expressly authorized in this section.

1. As an Accessory Use to and pursuant to an approved site plan for a business predominantly characterized by retail sales, and shall not extend into the District's required setbacks for principal buildings.
2. The maximum permitted outdoor display or sales area shall be a total of ten percent (10%) of the use's indoor retail sales floor area but shall not extend more than thirty (30) feet from the principal building.
3. Open Air Businesses such as the Sales of Vehicles, Landscape Supplies and Similar Outdoor Activities shall additionally conform to the Special Use requirements of Section 11.16
4. Farm Markets, Roadside Stands and the Outdoor Sales of Agricultural Products shall be permitted only in the AP and AC Agricultural Districts provided no less than fifty percent (50%) of the products offered for sale are produced on the parcel or contiguous property. Additionally, such use shall follow the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for Farm Markets.

(B) Excepting as provided for in section A, and unless specifically noted otherwise elsewhere in this Ordinance, all storage of materials or products in Commercial and Industrial districts, including equipment, vehicles, lumber piles, crates, boxes, building materials and discarded materials, shall be completely enclosed or otherwise screened by an opaque fence or wall of not less than six (6) feet in height. The height of the wall or fence shall be increased to equal the height of any equipment, vehicles, or materials within the enclosed area.

SECTION 6: AMEND ARTICLE 20, SECTION 20.23 – TEMPORARY USES and NON-RESIDENTIAL BUILDINGS and STRUCTURES, 4. (B) 3.

3. Garage Sales: Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any Conservation or Residential district subject to the following conditions:

- a. A garage sale, rummage sale or similar activity shall be allowed without a zoning permit for a period not to exceed sixteen (16) days.
- b. In no instance shall more than four (4) garage sales, rummage sales or similar activity be held in any one location within any twelve (12) month period and the total number of days shall not exceed sixteen (16).
- c. All such sales shall be conducted a minimum of thirty (30) feet from the front lot line and fifteen (15) feet from a side lot line.
- d. No garage sale or similar activity shall be conducted before 8:00 a.m. or continue later than 9:00 p.m.
- e. Items purchased specifically for the sale are prohibited.
- f. All signs advertising a garage sale shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.
- g. Any garage sale, rummage sale or similar activity proposing to exceed the requirements of this section may petition for approval, after a Site/Plot Plan review is conducted as required in Article 4 of this Ordinance, and a Zoning Permit is issued.

SECTION 7: AMEND ARTICLE 20, SECTION 20.23 – TEMPORARY USES and NON-RESIDENTIAL BUILDINGS and STRUCTURES, 4. (B) 7.

7. Large Public Gatherings: No large public gathering shall occur prior to the issuance of a temporary zoning permit after the Township Board has determined that the large gathering will be adequately served by potable water, sewage disposal, emergency services, and the conditions of this section, and that such large gathering shall not threaten the public health, safety, and welfare. For the purposes of this subsection, a large public gathering shall be defined as a gathering of more than two-hundred (200) persons for the purposes of entertainment of an outdoor nature such as, but not limited to circuses, carnivals, theatrical exhibitions, public shows, displays, and musical festivals.

A. Site Plan Required: The Township Board shall require the submittal of a site plan prepared according to Section 4.04(B) to adequately evaluate the merits of the request.

B. Conditions of Approval: No temporary use application shall be approved, or shall such use be permitted to continue, which does not comply with the following conditions:

- a. The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
- b. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
- c. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
- d. The temporary use will not create hazardous vehicular or pedestrian traffic conditions, and the applicant shall provide the design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion, as may be required.
- e. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located. The entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.
- f. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
- g. Temporary restroom facilities shall be required in instances where the proposed gathering is expected to exceed 100 people at a single time. Such a determination shall be made by the Zoning Administrator depending on local circumstances and the availability of restroom facilities in adjacent buildings.
- h. Adequate sanitary facilities, utility, drainage, refuse management, emergency services and access, and similar necessary facilities and services will be available to serve employees, patrons or participants.
- i. Where a tent or similar structure is to be used, such structure shall be directly related to or accessory to, the proposed use, and shall additionally comply with the requirements of subsection C.
- j. Provide details on the proposed Signage related to the temporary use, demonstrated to be in general conformance with the sign regulations of this ordinance.
- k. Applicant shall provide information on or what precautions that will be taken to lessen the impact of such use or structure, in the area, as to not threaten the public health, safety, and welfare.
- l. The Zoning Administrator or Township Board may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this Section and a permit issued thereunder.

C. Tents and other Temporary Structures: any temporary structure, including multiple structures, exceeding two hundred (200) square feet in total area shall additionally comply with the following conditions.

a. Comply with the requirements of the Township and State fire code;

b. Demonstrate that the tent is flame resistant by providing a certificate of flame resistance or other assurance that the structure has been properly treated with flame retarder and has been maintained as such.

c. Shall obtain a Building Permit and comply with all requirements of the Michigan Building Code.

d. Provide the Township with a certificate of insurance to cover the liability of the applicant or sponsor.

D. Permits: A temporary zoning permit may be approved, modified, conditioned, or denied by the Zoning Administrator. A written temporary zoning permit will be issued for all approved temporary uses and shall contain the following information:

a. The applicant's name.

b. The location and effective dates of the temporary use.

c. Conditions specified by which the permit was issued, such as: 1) use and placement of signs. 2) Provision for security and safety measures. 3) Control of nuisance factors. 4) Submission of performance guarantee.

E. Performance Guarantee: The Zoning Administrator or Township Board may require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, be deposited with the Township Clerk in an amount equal to the estimated cost of removing any temporary structure authorized under this Section should it not be removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.

SECTION 8: DEFINITIONS - Add the following:

A: **Michigan Medical Marihuana Act:** PA 2008, Initiated Law 1, MCL 333.26421 et seq., as amended.

B: **Caregiver:** A person who is at least 21 years old who possesses marihuana plants and assists with a patient's medical use of marihuana in accordance with all associated Michigan laws and regulations. A Caregiver possesses a Registry Identification Card issued by the State of Michigan and may assist not more than 5 qualifying patients with their medical use of marihuana.

C: **Registry Identification Card:** A card issued by the State of Michigan pursuant to the Michigan Medical Marihuana Program within the Michigan Department of Licensing and Regulatory Affairs, that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

D: **Class 2 Home Occupation:** Any Home Occupation meeting either of the following:

A. An occupation or profession conducted within an accessory building on the same lot as the dwelling in which the owner of such business or profession resides, including an attached or detached garage.

B. Such business, or any Home Occupation that has any potential to create; traffic nuisances or hazards from increased traffic, and/or, noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the parcel, or may cause fluctuations in line voltage off the premises. These characteristics may be exhibited by a high level of package pick-up or delivery, large numbers of customers coming to the site for goods or services, the processes or the operation of equipment (indoors or outdoors).

SECTION 9: REPEAL.

All ordinances or parts of ordinances, in conflict with this Ordinance are hereby repealed.

SECTION 10: SEVERABILITY.

This Ordinance, and the various parts, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is determined unconstitutional or invalid by a court of law, the remaining Ordinance will not be affected.

SECTION 11: EFFECTIVE DATE.

This Ordinance shall become effective eight (8) days after publication in a newspaper of general circulation in the Township of Erie, County of Monroe, State of Michigan, unless otherwise provided by law.

THE TOWNSHIP BOARD OF THE TOWNSHIP OF ERIE, COUNTY OF MONROE, STATE OF MICHIGAN

ADOPTED: May 8, 2018

PUBLISHED: May 16, 2018

EFFECTIVE: May 24, 2018

A copy of this Ordinance can be reviewed or downloaded or at erietownship.com after the effective date or at the Erie Township Office.