

**Vergennes Township
Kent County**

Ordinance # 2007-2

Date Adopted 10-15-07

AN ORDINANCE TO AMEND SECTION 2.02, DEFINITIONS; SECTION 3.04, RURAL AGRICULTURAL DISTRICT; SECTION 3.075, LAKE RESIDENTIAL DISTRICT; SECTION 201.400, GENERAL AND SPECIAL REGULATIONS; OF THE VERGENNES TOWNSHIP ZONING ORDINANCE.

VERGENNES TOWNSHIP HEREBY ORDAINS:

1. Section 201.202 (Definitions) shall be amended to include the following definitions:

201.202 Specific Terms.

Boat Slip: A space designed for the mooring of a single watercraft. Such spaces may extend from a dock or shoreline.

Marina: A facility which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include retail and/or sales facilities intended primarily for the marketing of marine related products and/or services.

Key Street Segment: Specific streets and portions of streets identified in Chapter 4 and subject to additional standards of this Ordinance.

Neighborhood Local Business: Retail uses, ~~offices~~, and personal or professional service businesses intended to serve convenience needs for only a localized area within Vergennes Township as opposed to a regional area of several townships or counties. Uses intended to have minimal physical impact upon adjacent residential neighborhoods which may include but are not limited to: Bait shops, barber/beauty shops, floral shops, cafes and ice cream parlors, insurance and medical offices, and uses similar in impact upon surrounding properties.

Wind Energy Conversion System (Wind Turbine): A wind energy conversion system shall mean all or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wind Energy Conversion Systems, Small (Windmill, Small): A Wind Energy Conversion System, as defined herein, which has a rated capacity of not more than 100kW/1MW and which is intended primarily to reduce on-site consumption of utility power.

2. Section 201.304, C (“R-A” Rural Agricultural District), shall be amended to include the following item “17”:

3.04

C. *Special Exception Uses.*

17. Neighborhood Local Business, subject to Section 201.440 (Key Street Segments). All developed portions of a Neighborhood Local Business in the R-A District shall have primary access upon a Key Street Segment. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the front setback. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the front setback.

3. Section 201.304, (“R-A” Rural Agricultural District), shall be amended to include the following item “H”:

3.04.

H. *Key Street Segments:* Within the R-A district, the following Key Street Segments are established:

- ◆ Alden Nash Avenue, north of Lally Road to the Township Boundary.
- ◆ Lally Road, between Alden Nash and Murray Lake Road.

4. Section 201.3075, C, (Lake Residential District, “R-L”), shall be amended to read as follows:

3.075.

C. *Special Exception Uses.*

1. Planned Unit Development (PUD) subject to Section 201.429.
2. Marina, subject to Section 201.438 (*Marinas*) and Section 201.440 (*Key Street Segments*)
3. Neighborhood Local Business, subject to Section 201.439 (*Neighborhood Local Business*), and Section 201.440 (*Key Street Segments*). All developed portions of a Neighborhood Local Business shall have primary access upon a Key Street Segment, being either Alden Nash Avenue or Lally Road. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the front setback. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the front setback.

5. Section 201.3075, “R-L” Lake Residential District, shall be amended to include part G, as follows:

3.075

G. *Key Street Segments.* Within the R-L district, the following Key Street Segments are established:

- ◆ Alden Nash, north of Lally Road to the Township Boundary
- ◆ Lally Road, between Alden Nash and Murray Lake Road.

6. Chapter 4 (General and Special Regulations), shall be amended to include the following Section 4.37, Marinas:

201.437 Marinas

4.37. *Purpose.* To provide for the storage and maintenance of boats, watercraft and related activities within the Lake Residential (L-R) District and along Key Street Segments within the Rural Agricultural (R-A) district.

A. *Regulations and Conditions:*

1. Such facilities shall maintain, at all times, all required state and local licenses and permits, and any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a Special Exception permit.
2. All developed portions of a marina shall have primary access upon a Key Street Segment, being either Alden Nash Avenue or Lally Road. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the right-of-way. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the right-of way.
3. Where a marina is located on a body of water, vehicular ingress and egress from the water body to the marina shall not interfere with the normal and customary use of neighboring property.
4. All Marinas shall be similar in architectural design, scale and character to adjacent structures in the vicinity, and shall be constructed of durable materials, such as brick, stone, wood, or similar material approved by the Planning Commission.
5. Onshore storage of boats and/or trailers may only be incorporated in a Marina special exception use approval where the Planning Commission is satisfied that such storage will be effectively screened from view from adjoining properties and rights-of-way and meets the height and setback standards of Section 201.3075. Screening shall consist of one or both of the following:
 - a. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than five (5) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential use.
 - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.

No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way.

6. All off-street parking shall be in compliance with Section 201.417 of this Ordinance, except that the parking requirement for a Marina shall be one parking space for each 3 boat slips or 1 space for each 300 square feet of retail and office space, whichever is greater.
7. All on-site activity shall be in compliance with all applicable standards set forth in the Natural Resource Environmental Protection Act, 451 of 1994.
8. If boat storage is provided, all boat storage shall be contained within a fully enclosed building, or outside within a rear or side yard only. Boats for sale may be displayed without regard to season, but not within any minimum required setback.
9. All outdoor lighting shall comply with Sections 4.13 and 3.08, F of this ordinance.
10. Buildings associated with a Marina shall meet all district standards required in the underlying zoning district.

7. Chapter 4, (General and Special Regulations), shall be amended to include the following Section 4.38, Wind Energy Conversion Systems:

201.438 Small Wind Energy Conversion Systems/ Wind Turbines

4.38. The purpose of this Section is to promote the safe, effective, and efficient use of small wind turbines installed to reduce the on-site consumption of utility-supplied electricity. All small turbines shall be subject to the requirements of Section 201.502, D (Site Plan Review Procedures), and the following requirements:

- A. Small wind turbines may be attached to an existing structure or mounted on a tower structure with the following height limitation, measured from the natural grade directly below the turbine to the uppermost component of the system with its blade in a vertical position:
 1. For parcels in all districts, wind turbines which are no greater than thirty-five (35) feet in height shall be a permitted accessory use.
 2. All other wind turbines shall require a Special Exception Use permit and shall conform to the standards of this section and any additional height or setback standards deemed reasonable for the specific site conditions by the Planning Commission.
- B. The minimum vertical blade tip clearance from grade shall be twenty (20) feet.
- C. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the combined height of the installation measured to the vertical tip of its blade.
- D. Small wind turbines shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.

- E. Small wind turbines shall be equipped with an automatic braking, governing or a feathering system to prevent uncontrolled rotation or over-speeding. Small wind turbines and towers shall be equipped with lightning protection.
- F. Building permit applications for all wind turbines shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall be provided.
- G. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations in close proximity to an airport.
- H. All responsibilities for on-site wind turbines shall be transferred with the ownership of the land.
- I. Any wind turbine which sits idle, does not function, or fails to meet the requirements of this section for a period greater than six (6) months shall be considered abandoned and shall be dismantled at the cost of the owner.
- J. No small wind energy conversion system which is proposed to be connected to a public electric utility grid system shall be approved until evidence has been given indicating that the utility company has approved such installation.

8. **Amend Chapter 4, General and Special Regulations, to include part 201.439 and the following language:**

201.439 Neighborhood Local Business

4.39 The following standards shall apply only to those commercial facilities which are compatible with nearby residential development. This use is intended to serve a local area within Vergennes Township as opposed to a regional area of several townships or counties. The standards for developing the Neighborhood Local Business use are intended to limit the conflicts that might arise due to commercial and residential districts being located adjacent to one another. Decisions to permit such uses in any district within the Township shall be subject to the following standards and shall be informed by the Vergennes Township Comprehensive Plan and Future Land Use map.

A. *Uses.*

- 1. A Neighborhood Local Business shall be permitted as a Special Exception Use only along key street segments identified by the R-A and R-L district regulations in Chapter 3 of this ordinance.
- 2. Uses shall be limited in size and scale to those which can be determined to have a minimal impact upon the surrounding residential neighborhoods and rural character as determined by the Planning Commission. Such indicators as automobile traffic, noise, vibration, smoke, fumes, and light shall be considered.
- 3. Expected uses shall be comparable to ice cream parlors, bait and tackle shops, canoe liveries and/or rental facilities, small convenience stores, bakeries and cafes, and shall be intended to primarily serve the local population surrounding identified key street segments.

B. *Regulations and Conditions.*

1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
2. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels and no objectionable vibration shall be carried onto adjoining property zoned for, or occupied by, residential uses.
3. Such facilities shall be located and designed such that no objectionable odor, fumes or lighting shall be carried onto any adjacent property.
4. The Planning Commission may establish reasonable hours of operation.
5. Such facilities shall meet all required regulations of the underlying zoning district.
6. Such facilities shall front on and be accessed primarily from a key street segment, as defined in the underlying zoning district.
7. All parking areas shall be in conformance with Section 4.17 (Off-street parking of motor vehicles) of this ordinance and shall meet all applicable lighting and screening requirements of this ordinance.
8. Such facilities shall be constructed and maintained in accordance with the rural and/or residential character of the surrounding properties. Local business facilities shall be designed with architectural features similar in style and appearance to the surrounding residential structures and shall be constructed of wood, brick or stone masonry.

9. Chapter 4, (General and Special Regulations), shall be amended to include the following Section 4.40, Key Street Segments:

201.440 Key Street Segments

4.40 Key street segments are identified in the particular zoning districts established in Chapter Three herein. Key street segments tend to include a mix of land uses, and, due to traffic patterns, are appropriate locations for certain uses within a zoning district. If a property fronts on, and gains access from, a key street segment, certain uses shall be permitted as Permitted or Special Land Uses that are not otherwise permitted in other locations within the zoning district boundaries. For the purposes of this ordinance the street segments are described in the respective zoning district sections of Chapter Three, and shall include both sides of the street unless specified otherwise.

10. **Conflicts.** If any provision of the Vergennes Township Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall be applied.
11. **Severability.** Should any section or part of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts of this Ordinance.
12. **Effective Date.** This Ordinance shall become effective eight (8) days after its publication in a newspaper of general circulation in the Township.

VERGENNES TOWNSHIP

Dated: _____

By: _____

Timothy Wittenbach, Supervisor

Dated: _____

By: _____

Mari Stone, Clerk

Date Published: _____