

**Vergennes Township
Kent County**

Ordinance #2017-1
Adopted Date: May 15, 2017_

AN ORDINANCE TO AMEND CHAPTER 2 DEFINITIONS AND CHAPTER 3, ZONING DISTRICTS OF THE VERGENNES TOWNSHIP ZONING ORDINANCE.

VERGENNES TOWNSHIP HEREBY ORDAINS:

Section 1. Amend Section 201.202 Definitions to add new additional terms as shown below:

201.202 Definitions

Appurtenance: means a structure or accessory building incidental to a principal or exempt use including all of the following: (i) Detached garage. (ii) Residential storage shed. (iii) Barn and other agricultural storage and livestock structure. (iv) Pump house. (v) Private access roads and driveway. (vi) Electrical service line.

Bankfull: means the width of the stream that corresponds to the depth where water fills a main channel to the point of overflowing.

Bluff: means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet. If an existing flat area begins at the water's edge before rising into the bank, the bluff setback does not apply.

Bridge: means any structure of any span length designed to provide a pedestrian, vehicle, livestock, or any other stream crossing, including but not limited to, a culvert, open bottom arch, and clear-span or multi-span structure.

Cutting edge of the river: means the outside bend of a river or stream channel where the water velocity is such that it may cause soil or stream bank erosion.

Designated Natural River: means a river designated by the director under the authority of part 305, natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515.

River Access Dock: means a seasonal or permanent platform constructed of primarily natural materials located at the water's edge or extending into the river channel, intended for securing and facilitating access to watercraft or to facilitate access to deeper water for swimming, fishing, or other water-oriented recreational activity and does not include a wall, railing, a storage locker, an attached bench, or any similar structure attached thereto. A seasonal dock is not permanently attached to the riverbed and is intended to be moved seasonally. A permanent dock is attached to the riverbed and is not intended to be moved seasonally.

River access boardwalk: A permanent walkway constructed primarily of natural materials used

to provide access to the river where a marshy area is present, and no other access point is available; which does not exceed three (3) feet in width nor does it exceed the length determined by the Zoning Administrator needed to reach the river's edge.

River access stairs: A permanent stairway constructed primarily of natural materials on steep slopes to the river where no other environmentally sound footpath access is feasible; which does not cut into the stream bank; which does not exceed four (4) feet in width and allows transitional landings between stair sections.

River stairs transitional landing: One or more horizontal areas not exceeding four (4) feet in width to connect sections of stairs for topography and safe stair step rise and run.

Impervious surface: means a surface, including a paved and unpaved driveway, deck, rooftop, road, patio, swimming pool, or parking lot, that does not allow storm water to infiltrate the ground.

Setback: The minimum horizontal distance on a lot or parcel that a building or structure (or any portion thereof) situated thereon is required to be located from the front line, side line and rear lot line or if the lot or parcel abuts the Flat River from the ordinary high water mark of the river or crest of a bluff, and for a lake, measured from the outside edge of the building to the nearest point of intersection with the front line or ordinary high water mark of the lake.

Structure: means anything constructed, erected, or moved to or from any lot and located above, on, or below the ground, including a building, mobile home, road, boardwalk, sign, billboard, satellite dish greater than 32 inches in diameter, any communication structure, ornamentation or a fence. Within the Flat River District, an enclosed, self-contained camping unit is not considered a structure if on site fewer than 30 days per calendar year and if located landward of the natural vegetation strip in the Flat River District, or if the structure is located on a campsite within a campground licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, if both the individual campsite and the campground were established before the effective date of these rules.

Wetland: means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in the wetlands protection act, part 303, 1994 PA 451, MCL 324.30301 to 324.30329.

Section 2. Amend Section 201.307 Zoning Districts to amend language as shown below:

Flat River District amendments:

201.307 "FR" Flat River District.

3.07.

- A. *Statement of Purpose and Description.* The "FR" District as established to preserve, protect and enhance the river environment in a natural state for the use, and enjoyment of present and future generations, and to ensure that any development which may occur shall be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream by regulating the use of land along the waterway. This district consists of land lying within three hundred (300) feet from the ordinary high water mark on each side of and paralleling the Flat River, including the river water area and all designated streams flowing through the Township as defined in 201.307 H. The State of

Michigan designated the Flat River as a Natural River in November of 1979 under the provisions of the Natural Rivers Part 305, 1994 PA 451.

The Flat River District is established as an overlay zoning district. Such district is construed as not to be a separate and distinct district, but a secondary district which overlays those parts of the following underlying districts: "R-A", "R-1", "R-2", "R-3", etc., which are adjacent to the Flat River. In all cases, applicants for zoning and/or building permits in the Flat River District must meet all requirements of the underlying district, receive their respective permit, and in addition, must conform to the additional provisions, requirements and restrictions of the Flat River District. Where there is conflict between other provisions of this Ordinance and those specifically applied to the Flat River District, the latter shall control.

B. *Permitted Uses.*

1. Single or two family dwellings as permitted in the underlying District in which the particular use is proposed.
2. Essential Services (See Section 4.11).
3. River Access Docks. Construction of docks along the Flat River is discouraged because of the visual impact to the Natural River and potential hazards to anglers and watercraft users. Vergennes Township regulates permanent structures on land within the Flat River District. Temporary structures in the river itself are also regulated by Vergennes Township with guidance from the Natural Rivers Program Administrator of the Michigan Department of Natural Resources. Permanent structures placed in the river itself are regulated by Vergennes Township with consultation and approval by the Michigan DEQ.
 - a. River Access Dock. One (1) dock per parcel containing a residence is permitted if necessary to provide safe and ecologically sound access for riparian landowners. A portion of the dock will be constructed within the setback from the river. Owner must obtain a zoning compliance permit from Vergennes Township prior to installation or construction, and may need a permit from the Michigan Department of Environmental Quality depending upon individual circumstances.
 - (1) Docks constructed seasonally on the natural course of the river, or within the No-Wake-Zone where the river is less than five hundred (500) feet in width may not exceed four (4) feet in width with no more than four (4) feet extending over the water, nor longer than twelve (12) feet in length extending along the shoreline. Previously approved zoning permits for docks 16 feet in length may remain and be maintained.
 - (2) Docks constructed in the No-Wake Zone within the portion of the river defined as the "No-wake Zone", and where the river is over five hundred (500) feet in width, the length of temporary docks may be such as to allow access to a river depth of up to three (3) feet, but not to exceed fifty (50) feet in length out into the water. Permanent docks needing to extend over four (4) feet into the water in this portion of

the river require a permit and review from the Michigan Department of Environmental Quality.

- (3) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.

b. River Access Stairs. Stairways are permitted if there is no other safe, feasible, environmentally sound footpath access to the river. A stairway shall be low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface, except if site and soil conditions dictate that a recessed stairway is appropriate. A landing shall not be constructed unless required by building code, in which case the landing shall be the minimum number and size required by building codes. Not more than 1 handrail shall be associated with a stairway unless for safety purposes a handrail is needed on both sides. A stairway shall be constructed using natural materials. A stairway shall be located and maintained to blend with the natural surroundings, and where removal of vegetation in the natural vegetation strip can be minimized. Replanting of native vegetation around the disturbed areas are required. A zoning compliance permit and building permit are required prior to construction.

c. River Access Boardwalk. One (1) boardwalk per parcel containing a residence associated with a footpath to the river's edge placed only in an area that is generally too wet to be traversed without significant disturbance of the soils is permitted; constructed within the setback from the river; all parts shall be constructed of natural materials; must be low profile with top of boardwalk not more than twelve (12) inches above grade without disturbing natural plant and animal habitats; which does not exceed three (3) feet in width nor does it exceed the length determined by the Zoning Administrator needed to reach the river's edge, a handrail is allowed on each side for safety; must obtain a zoning compliance permit and a building permit from Vergennes Township prior to construction, and may need a permit from the Michigan Department of Environmental Quality if constructed within the 100-year floodplain or wetlands.

4. Improved park, when direct access is provided from a public paved road.

5. Unimproved park.

C. *Special Exception Uses.*

1. Any use permitted in the underlying District in which the particular use is proposed, EXCLUDING, HOWEVER, mining operations, wireless communication facilities, barns, stables, silos, concentrated livestock or poultry operations (see Section 201.304,C, 2)

2. Accessory Dwelling subject to section 201.441.

D. *Height.* No residential or other building shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.

- E. *Lot Area and Lot Width.* The minimum lot area and lot width for use in this District shall be not less than the minimum lot area and lot width of the underlying district in which the particular use is proposed.
- F. *Setback and Side Line Spacing.* The setback and side line spacing requirements in this District shall be not less than the setback for front and side line spacing requirements of the underlying district in which the particular use is proposed, AND IN ADDITION, the following special requirements shall apply:
1. *Building and Structure Setback From River.* There shall be a setback of one hundred (100) feet from the ordinary high water mark or twenty-five (25) feet from the identified 100-year floodplain line, whichever results in the greatest distance from the edge of the water and, further, that for parcels with a shoreline constituting a bluff, as defined in Section 201.202, Definitions (Bluff), new buildings, structures and appurtenances must additionally be set back not less than fifty (50) feet from the top of the bluff.
 2. *Sanitary Facilities Setback From River.* All septic tanks, drain fields and other sanitary facilities shall be set back a minimum of one hundred (100) feet from the ordinary high water mark or twenty-five (25) feet from the identified one hundred (100) year floodplain line, whichever results in the greatest distance from the edge of the river. Such facilities shall meet the requirements for Kent County Health Department approval specified in Chapter 4, Section 201.421, and, in addition, the bottom of the absorption field shall not be less than four (4) feet above the ordinary high water table.
 3. *Natural Vegetation Strip (Greenbelt).* A natural vegetation strip not less than twenty-five (25) feet in width measured perpendicular to the ordinary high water mark shall be maintained along, parallel to and on each side of the Flat River and its tributaries. This vegetation strip or greenbelt shall be left in its natural state and shall consist of native trees, shrubs and vegetation which shall not be killed, destroyed, removed or moved, provided, however, that dead, diseased, unsafe or fallen trees, and poisonous plants may be removed, and provided further, that trees, shrubs and vegetation may be selectively trimmed or pruned for landscaping purposes to provide a filtered view of the river not more than 50 feet wide parallel to the river, so long as a root system remains intact to provide for stream bank stabilization and erosion control, and to serve as an aid to infiltration of surface runoff, AND so long as sufficient natural vegetation is retained to provide cover to shade the water and to maintain the vegetation strip essentially in its natural condition. Up to a four (4) foot wide footpath may be cut through the strip leading to a single point on the river's edge and placement of wood chips in the path are permitted. Mowing is prohibited in the natural vegetation strip except in an area maintained in a mowed condition before the effective date of these rules. Any island in any stream segment is subject to the natural vegetation strip standards as described in these rules. Camping, except for tent camping, is not permitted in the natural vegetation strip. A motorized vehicle shall not be operated off road in the natural vegetation strip except for an existing or approved boat launch. Selected removal or trimming of trees for timber harvest, access or woodlot improvement, landscaping, or public utility lines to service dwellings is permitted upon

approval of the zoning administrator after consultation with the State Natural Rivers Administrator.

4. *Access to and Use of Property for Recreational Purposes.* Development and use of private land along the Flat River and its tributaries for recreational purposes such as hunting, fishing, camping and picnicking shall be at the discretion and under the control of the owner of the land subject to the conditions, limitations and restrictions applicable in this District, and access to the Flat River and its tributaries across private land shall be subject to the discretion and control of the owner of the land, provided, however, that no canoe rental, canoe livery or other business or commercial activity involving the lease or rental of canoes, boats or other watercraft shall be permitted to operate in or from this District except that any such proposed use shall be deemed a Special Exception Use and shall be subject to the Special Exception Use Standards and Procedures set forth in Chapter 5 [201.500] of this Ordinance.
5. *Land Alterations.* Land alterations shall not occur within the natural vegetation strip except for the placement of wood chips for a foot path. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities. No improved surface paths are allowed except for wood chips or a stairs in the river setback. A seawall, vertical bulkhead, gabion basket, concrete bag riprap, broken concrete, and other similar structures are prohibited in the river or bank edge.
6. *Advertising Signs and Billboards Prohibited.* No advertising signs or billboards of any size or type shall be erected or maintained in this District.
7. *Boating and Canoeing.*
 - a. Non-motorized boating and canoeing is permitted.
 - b. Use of motorized watercraft will be permitted in accordance with local controls promulgated under the Marine Safety Act, MCLA 324.8010 Et. Seq., FKA MCLA 281.1001. Such local controls consist of the Flat River Slow-No Wake Ordinances.
- G. *Floor area requirements.* Residential buildings in this district shall comply with the floor area requirements set forth for the R-2 District.
- H. Flat River Boundaries. The boundaries of the Flat River and its tributaries in Vergennes Township are as follows:
 1. The mainstream of the Flat River from the entrance into the Township into section 1 from Ionia County to the northern limits of the city of Lowell in section 35, T7N, R9W.
 2. Clear creek from Lincoln Lake avenue in section 27, T10N, R9W to its confluence with Coopers creek.
 3. Coopers creek from Lincoln lake Avenue, in section 34, T10N, R9W to its confluence with the Flat River.

- 4. All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (1) to (3) of this rule.
- (5) The lands lying within 300 feet of the river's edge as described in subdivisions (1) to (4) of this rule.

Section 3. Conflicts. If any provision of the Vergennes Township Ordinance conflicts with this amendment to the Zoning Ordinance, the most restrictive provision shall be applied.

Section 4. 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.

Section 5. 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: _____
Heather Hoffman, Clerk

Date Published: _____

Certification

I, Heather Hoffman, Township Clerk of the Township of Vergennes, hereby certify that Ordinance 2017-1 was adopted at a regular meeting of the Vergennes Township Board on May 15, 2017, and the Ordinance or a summary of the ordinance was published in the Lowell Ledger, a newspaper of general circulation in the Township of Vergennes, on May 24, 2017.

Heather Hoffman
Vergennes Township Clerk