

# ZONING ORDINANCE

## Centerville Township

Leelanau County, Michigan

EFFECTIVE DATE: April 27, 2023  
AMENDED THROUGH: April 27, 2023

**Don Baty comments**  
**August 4, 2024**

# Centerville Township Zoning Ordinance

## ***Enabling Clause***

This Ordinance is created to establish land use and building occupancy districts in the Township of Centerville, County of Leelanau, in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended; to govern nonconforming land use and building occupancy; to establish the office of Zoning Administrator and a Board of Appeals, and to define their respective duties and authority for the administration of this Ordinance, to define certain terms used herein, to provide for enforcement and to impose penalties for violation of this Ordinance.

## ***Repeal of Previous Zoning Ordinance***

1. This ordinance repeals and replaces any previous Centerville Township Zoning Ordinance in its entirety.
2. The repeal of the Centerville Township Zoning Ordinance of 2020, as amended, and as proved shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any provisions of said ordinance sections released [What does "released" mean in this context? Changed by this amended ordinance?] is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

## ***Limitations of Zoning Ordinance***

The provisions of this Ordinance shall not impact the continued use of any dwelling, building or structure or any land or premises, which was lawful and existing on the adoption date of this Ordinance.

## ***Interpretation and Relationship to other Regulations***

In interpreting and applying the provisions of this Zoning Ordinance, there [typo- should be "the"] provisions must be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. It is not intended by this Zoning Ordinance to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statues, or agreements between private parties. However, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or lots or upon the height of buildings, or requires larger open spaces [the highlighted phrase should read "matters covered in this Ordinance" because this ordinance covers more things than those listed] than are imposed or required by any other applicable rule, covenant or law, the provisions of this Zoning Ordinance shall govern. The Township has no responsibility or authority for enforcing private agreements or covenants.

## ARTICLE II DEFINITIONS

### **Section 2.1 Rules Applying to the Text**

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A. Words used in the present tense include the future tense, and the singular includes the plural unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.
- C. The word "building" includes the word "structure".
- D. The word "lot" includes the words "plot", "tract", or "parcel".
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- G. Any word or term not interpreted or defined by this article [or in other places in this Ordinance][Note: terms are defined in many other places in the ordinance] shall be used with a meaning of a common or standard usage.

### **Section 2.2 Definitions**

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

**100-Year flood Plain – flood plain along waters within Centerville Township that is inundated during a 100-year flood event as mapped by the Federal Emergency Management Agency.**

**100-Year Floodway – floodway along waterways within Centerville Township that are [typo - delete "are"] convey flood flow during a 100-year flood event as mapped by the Federal Emergency Management Agency.**

**Accessory Building** - A non-habitable building or structure used for the storage of accessories that are customary and incidental to the land use district applicable.

**Accessory Lot** - A lot to be used for parking, garage, garden or septic system, if approved by the Benzie-Leelanau District Health Department. An accessory lot shall be contiguous to the primary building lot and under the same ownership.

**Agricultural Labor Housing** - A structure/parcel and all tents, vehicles, buildings and other structures pertaining thereto which is established, occupied or used as living quarters and licensed under the Michigan Department of Agriculture and Rural Development. If not used for agricultural labor housing, all structures must comply with the provisions of this ordinance.

**Agriculture** - The act or business of cultivating or using land and soils for the production of crops for the use of animals or humans and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, but not including concentrated livestock operations as defined in this

Ordinance. Flower, vegetable, or other gardens maintained only for the property owner(s) noncommercial use and/or enjoyment are not considered agriculture.

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

Assisted Care Facilities (Foster care facility, Group care home, Assisted living, Nursing home, etc.) – As defined by the State of Michigan’s Adult Foster Care Act, P.A. 281 of 1979, as amended, and the Michigan Public Health Code, P.A. 368 of 1978, as amended.

Background sound - The sound level that exists in the absence of and unrelated to wind turbine sound being evaluated for compliance with this Ordinance and includes sounds that would normally be present at least 90 percent of the time. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background sound unless they were present for at least 90 percent of the time. In terms of sound measurements, background sound is defined as being the sound level exceeded 90 percent of the time, and it is statistically referred to as L<sub>90</sub>. Background sound shall not be measured during sporadic noise events such as seasonal farming activities, events permitted under the Centerville **Agriculture-related enterprises section** and/or the Michigan to Farm Act (1981 PA 93, MCL 286.471 et seq.) and applicable Generally Accepted Agricultural and Management Practices, traffic or weather events that would distort the establishment of a baseline level representative of the L<sub>90</sub> rural environment.

Basement - The lowest level of a building or the one just below the main floor, usually wholly or partially lower than the surface of the ground.

Bed and Breakfast - An owner-occupied single family dwelling with bedrooms available for guest use for compensation.

Blade Glint - The intermittent reflection of the sun off the surface of the blades of a single or multiple wind energy system.

Boat House - Any private structure on lakes or water courses, either temporary or permanent, **with or without living quarters** and having a roof and used for the shelter or enclosure of a boat or boats, and the equipment and supplies for such boat or boats. ~~A Boat House, which is permitted only by virtue of the provisions of Section 3.8 4.10 (Boat House – GP) of this Ordinance, shall possess a Michigan Department of Environment Great Lakes & Energy (EGLE) Part 301: Inland Lakes and Streams Act and/or Part 303: Wetland Protection Act permit and shall not have living quarters or be used for any purpose other than that stated in this definition.~~

Building - Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, or personal property of any kind. **This shall include vehicles and include but not limited to [this double use of “include” is awkward and should read “This shall include but not be limited to vehicles], mobile homes, tiny homes, and park model recreational vehicles/ units [either delete “units” throughout or include it in the definition because the term park model recreational vehicles is in different places in the Ordinance with and without the addition of /units”],** whether mounted or not on wheels and situated on private property and used for purposes of a building.

**Building, Principal - The main building on a lot in which the principal use exists or is serviced within a zoning district.**

Campground - A parcel of land upon which five (5) or more campground sites are located, established or maintained for occupancy by recreational vehicles, tents, or other individual camping units by the general public as temporary living quarters for recreational purposes regardless of whether they are public or private or there are fees. Campgrounds are regulated by the Michigan Department of EGLE *[is this merely a statement or fact or is a business only a campground if it is regulated by the state? This needs to be clarified]* pursuant to the Michigan Public Health Code, P.A. 368 of 1978, ~~asa~~ *[typo - delete "a"]* amended. Park model recreational vehicles/units are prohibited from campgrounds within Centerville Township.

Cidery - A state-licensed facility where agricultural fruit production is maintained; juice is processed into cider and/or hard cider; and sold at wholesale or retail to the public with or without the use of a cider tasting facility.

Clinic - An establishment where patients who are not lodged overnight are admitted for examination and treatment by a state-licensed healthcare professional or a group of state-licensed healthcare professionals practicing medicine, dentistry, veterinary medicine or osteopathy.

Club - An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political or social purposes, which are not conducted for gain and which do not provide merchandising, vending, or commercial activities except as required incidentally for the membership and purpose of such club.

Commercial - Occupied with or engaged in commerce, or work intended for commerce (i.e., the buying and selling of goods and services).

Commercial Garage - A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles.

Commercial Wind Energy System - A wind energy system that exceeds the maximum thirty (30) kilowatt generator size limit allowed for net metering by the public utility.

Concentrated Animal Feed Operation - As defined by United States Department of Agriculture and/or the laws and regulations of the State of Michigan.

Day Care - A state licensed facility in which minor children are received for care and supervision for periods of less than 24 hours per day, unattended by a parent or ~~or~~ *[typo- delete extra "or"]* other legal guardian, except children related to an adult staff member. Day care facilities provide care to unrelated children for more than four (4) weeks during a calendar year. *[is it the intent of this last sentence that to be a "day care facility" as used in the ordinance, that the 4 week test must be met? Or, that the state only regulates if care is provided for more than 4 weeks? This ambiguity should be fixed].*

Decibel - A logarithmic unit of measurement of sound that expresses the magnitude of a physical quantity, or sound intensity, relative to a specified sound reference level. Decibel is a ratio of two quantities with the same unit, and is therefore dimensionless. A decibel is one tenth of a bel, a seldom-used unit of sound measurement.

Development - A planning or construction project involving property improvement and usually a change in land use character within the site. This includes the act of using land for building or extractive purposes.

Districts - Shall mean areas of the Township of Centerville for which the Zoning regulations governing the use of building and premises, the height and size of buildings, size of yards, and the intensity of use are uniform.

Distillery - A state-licensed facility where spirits are produced; and sold at wholesale or retail to the public with or without the use of a spirits tasting facility.

Dock - Any structure, temporary or permanent, built or extending over a body of water, supported by pillars, pilings or other devices.

Driveway - An access serving three (3) ~~four (4)~~ or fewer residential units or lots, or a maximum of one (1) commercial or industrial use.

Duplex - A building containing not more than two (2) dwelling units designed or occupied as the homes of two (2) families living independently of each other.

Dwelling - Any building or part thereof, occupied as the home, residence or sleeping place of one or more persons either permanently, transiently, or seasonally.

**Earth Change – an artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Prior to engaging in any earth change activity within five-hundred (500) feet of a lake, river or stream, a valid soil erosion and sedimentation control permit is necessary from the Leelanau County Soil Erosion and Sedimentation Control Officer [a requirement like this does not belong in a definition – it should be a requirement in the Ordinance itself, or if it is merely a statement of otherwise applicable law, it should so indicate].**

Easement - A right of use created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of land (appurtenant), such as right to cross A to get to B, or “in gross” such as a public utility easement.

Erected - Includes built, constructed, reconstructed, moved upon or any physical operations on the land required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

Essential Public Services - The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including towers, or office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots. Telecommunication towers or facilities licensed via state or federal agencies, alternative tower structures, wireless communication antenna and wind turbine generators are not included within this definition.

**Filtered View of Waters – the maintenance or establishment of woody vegetation of sufficient density to screen development from waters, to provide for stream bank and lakeshore stabilization, nutrient and erosion control, to serve as an aid to infiltration of surface water runoff, and to provide cover to shade the water in a manner while providing [“in a manner that also provides”]/ an adequate view to the water.**

Flea Market - A place where merchandise, is sold by two or more persons, each selling their own merchandise, whether owned by them or sold on commission or consignment to them.

Floodplain - As defined by ~~the laws and regulations of the State of Michigan’s Part 31: Water Resources Protection Act, P.A. 451 of 1994, as amended, MCL 324.301 et seq.~~

**Gravel - means the unconsolidated, natural accumulation of rounded rock or rock created through erosion, glaciation or the natural movement of water consisting predominantly of particles larger than sand, having a diameter of between 2.0 mm to 7.6 cm (i.e., 3 inches) as defined by the USDA textural classification system.**

**Generally-Accepted Agricultural and Management Practices (GAAMPS) - guidelines for farm management developed and adopted by the Michigan Commission of Agriculture and Rural Development pursuant to the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.**

Guest House - An accessory ~~defined as a dwelling detached from the owner-occupied main residence, however on the same property; which handles an overflow of company that is visiting said residence for a limited period of time.~~ A guest house will not [may not] be used as a rental income producing structure. [Again, this is a zoning requirement and should not be in a definition, but rather should be set forth as a land use limitation].

Hardship - Special or specified circumstances that partially or fully exempt a person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle. With regard to Zoning Board of Appeals proceedings, in order to find hardship, the ZBA must find conditions to exist as detailed in Section 18.10.

Height, Building - In all districts building height is limited to thirty-two (32) feet and no more than two and one-half (2.5) stories. In the case of a principle building, the vertical distance measured from the natural grade with the greatest building height (i.e., to the highest point of the roof surface for flat and A-frames, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs) building height shall be determined as the greatest vertical distance from the natural grade of any side to the highest point of the roof surface. A cupola, widow’s watch or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. The measurement of the height of an accessory building or structure shall also be determined as the greatest vertical distance from the natural grade of any side to the highest point of the roof surface. For a commercial wind energy system, height is defined as: the distance between the ground at the base of the wind energy system and the highest point of the wind energy system with the blade in the uppermost vertical position.

Home Occupation - A gainful occupation conducted by occupants of a dwelling within its [their] place of residence, provided that space used is incidental to residential use.

**Horizontal Axis WECS Turbine (HAWT) – A WECS mounted on a WECS tower whose blades rotate around a shaft or similar devise that is roughly parallel to the surface of the ground.**

Hotel (or Inn) - A building where lodging with or without meals is furnished to transient or resident guests for compensation, containing sleeping rooms, and wherein a restaurant may be located. **Hotels and Inns do not include [buildings used for] agriculture-related enterprise stays.**

**Impervious Surface – developed portions of a parcel that preclude or inhibit the infiltration of precipitation or stormwater runoff. Impervious surfaces are typically covered by roofs, asphalt or concrete and include but are not limited to building envelopes/footprints, parking areas, driveways, graded areas, walkways, pathways, patios, and similar structures. Impervious surfaces do not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.**

Impulsive Noise - Short acoustical impulses or thumping sounds, which vary in amplitude. Impulsive noise may be a single noise event or an intermittent repetitive noise event with an impulse rate of one or more per second.

Industrial **use or structure** - A **land use**, building or structure ~~housing~~ **accommodating an industrial or** manufacturing process.

Infrasound - Sound frequency less than twenty (20) Hz.

Institution - A building occupied by a municipal or non-profit corporation or non-profit establishment for public use.

Junk - Any type of waste materials, refuse or equipment no longer useful to the degree for which it was originally intended, which yet may or may not have some salvage value.

Kennel – A lot or premises on which four (4) or more dogs, cats, or other domestic pets, six (6) months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, or transfer.

Keyholing - The practice of using one or more lake lots as lake access for one or more off lake lots.

Land Application Of Septage Waste - the disposal of Septage Waste by applying the septage to the surface of the land or by injecting the septage into the ground.

**Lake – as used in this ordinance refers to the definition of inland lake found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended, MCL 324.30101).**

Licensed Septage Waste Servicer - A person or entity engaged in the business of servicing Septage Waste under a license granted by EGLE for the servicing of Septage Waste.

Lighting Fixture – A permanently installed lighting or illumination device.

Living Quarters – That portion of a dwelling that is suited for human habitation, is finished in a similar manner to the rest of the dwelling and meets all local and State construction codes for permanent occupancy.

Lodge - A structure for use as a meeting place for members of private clubs, and other non-profit fraternal or religious organizations.

**Lot – a parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet all minimum dimensional and use requirements and to provide such setback area and other open space as required by this ordinance. Such lot shall have frontage on a public road or**



street or an approved private street or drive [is this intended to be a requirement for property to be a "lot"? Or is it intended to say that a landlocked parcel is not a "lot"], and may consist of: (a) a single lot or record; (b) a portion of a lot of record; (c) any combination of complete and/or portions of contiguous lots of record; or (d) a parcel of land described by metes and bounds; provided that in no case of lot division or combination shall the area of any lot or parcel created, including residuals be less than the minimum size required by this ordinance [this appears to be a limitation on land splits and does not belong in a definition]. A lot is a parcel of land on which one (1) principal building and its accessories are placed, together with the open space required by this Ordinance. [What is the purpose of this sentence? It could be read to mean that a parcel is only a "lot" if it has a building on it. This ambiguity needs to be fixed.].

Lot Coverage, Percent - lot area, stated in percentage of the total, covered by all principal and accessory buildings and structures, all impervious surfaces (including previously graded areas, paved and concrete covered areas, patios, sidewalks, roofed structures, etc.) [is the parenthetical intended to expand on or change the defined term "impervious surfaces"? If not it should be deleted], decks, graded areas including private roads, parking areas, driveways, and similar graded and compacted structures. [consider adding the concept of "buildable" area of a lot. For example, if 2 acre lot includes 1.9 acres of wetland (i.e. not buildable), could the remaining buildable 1/10<sup>th</sup> acre be entirely covered by an impervious surface and thus the lot coverage would only be 5%? Or would the wetland be considered an impervious surface?]

Lot of Record - A lot which is part of a subdivision or condominium, the map of which has been recorded in the office of the Register of Deeds of Leelanau County; or a parcel of land described by metes and bounds, and/or created via the Township Land Division Ordinance, the description of which has been recorded in the office of the Register of Deeds of Leelanau County.

Low Frequency (Sound) - Sound frequency range from twenty (20) Hz to two hundred (200) Hz.

Marina - A **commercial operation** ~~boat basin~~ providing dockage, supplies, sales and services for watercraft.

Meadery - A state-licensed facility where agricultural fruit production is maintained; juice and honey are processed into mead; and sold at wholesale or retail to the public with or without the use of a mead tasting facility.

Meteorological Tower (MET) - The tower and associated structures and equipment including the base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Mineral - means a naturally occurring solid chemical substance formed through biogeochemical processes, having characteristic chemical composition, highly ordered atomic structures, and specific chemical properties.

Mining Operation - means the excavation, excavation operation, removal, movement, loading/unloading or processing, storage of soil, subsoil, sand, stone, gravel, minerals or non-metallic minerals. Mining operation does not include the following activities:

1. Excavation of a limited scope and duration undertaken primarily for the immediate use and development of land for the construction of buildings, structures or the installation of water wells, septic and sewage facilities,

**landscaping, activities within a cemetery, and construction which is otherwise ancillary to a land use.**

**2. Excavation done as part of a farm or farming operation as defined by the Michigan Right to Farm Act. P.A. 93 of 1981, as amended.**

Mobile Home - Shall mean any portable structure used for living purposes, mounted on jacks, blocks or foundation with skirting.

Mobile Home Park - A lot, parcel or tract of land used as the site of occupied mobile homes, including any building, structure, vehicle or enclosure used as part of the equipment of such mobile home park, and licensed or licensable under the provisions of Act 96, Public Acts 1987, State of Michigan, as amended, for such purposes.

Motel - Shall mean a building or group of buildings having units containing sleeping accommodations only that are available for temporary occupancy.

Motor Boat - Any vehicle having an engine (combustion, electric or steam) and capable of being used on or in a body of water.

Multiple Family Dwelling - A building or portion thereof containing more than two (2) dwelling units designed for, or occupied as, the home of two or more families living independently of each other. This definition includes cooperatives and condominium units having a minimum of 800 square feet of living quarters for each unit, (exclusive of porches, attached garages, patios and etc.).

**Name Plate Capacity - the designed full-load sustained generating output of an energy facility as determined by reference to the sustained output of an energy facility even if components of the energy facility are located on different parcels, whether contiguous or noncontiguous.**

**Net Metering - The difference between the electricity supplied over the electric distribution system, i.e. the “grid,” and the electricity generated by the small WECS which is fed back into the grid over a period of time in accordance with Michigan’s Clean, Renewable and Efficient Energy Act (Public Act 295 of 2008) and Michigan Public Service Commission’s statewide net metering program.**

Noise - Any sound that would be unwanted by a reasonable person.

Non-conforming Structure - A building or structure lawfully existing at the time of enactment of this Ordinance or a subsequent amendment thereto that does not conform to area, height and placement regulations of this Ordinance for the Zoning District in which it is located.

Non-conforming Use - Any building or land lawfully occupied by a use at the effective date of this Ordinance or amendment thereof, which does not conform after passage of this Ordinance or amendment thereto with the requirements of the Zoning District in which it is situated.

**Nonmetallic mineral - means a product, commodity or material consisting principally of naturally occurring inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to stone, sand, gravel, clay, cobbles, and topsoil.**

**Owner - The individual or entity that intends to own and operate the small WECS in accordance with this ordinance. [The term “owner” is used in many places in the Ordinance (see, for example, Article 3) unrelated to WECS. This should probably be changed to “WECS Owner”].**

**Owner/Operator, Mineral Extraction** - means an owner, lessee or any other person engaged in or preparing to engage in excavation operations, mining operations or quarrying operations, or any other person engaged in or preparing to engage in these activities.

**Ordinary High Water Mark (OHWM)** – The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation; or the ordinary high water mark for a water body as determined by the Leelanau County Circuit Court as defined by the Inland Lake Level Act, Part 307 of Michigan’s Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

**Parent Parcel** – A parcel or tract of land lawfully in existence on the effective date of this Ordinance.

**Park** - ~~Park~~ is any non-commercial recreational area.

**Park Model Recreational Vehicle (PMRV)** - *[As the notes below highlight, this definition has multiple deficiencies that create interpretation issues and a high potential for disputes. Because the intent is to now prohibit PMRVs in campgrounds, this definition should be clear and unambiguous. I recommend that the definition of “park model vehicle” in MCL Section 257.38a be used as a basis for the definition in the Ordinance as it addresses the deficiencies in the proposed new defined term<sup>1</sup>] A recreational unit/vehicle (formerly referred to [as] recreational park trailers)[where was the term “formerly referred” to? Should it read “sometimes referred to”?] built on a single trailer chassis, mounted on wheels with a gross trailer area not exceeding 400 square feet in set-up mode[what does this mean? Including porches or pull-outs?], fixed in location by permanent attachment to utility services [by common usage, a PMRV is not permanent so why must utilities be permanent for a unit to be within the definition of PMRV?] and/or otherwise fixed to the ground [what does “fixed to the ground” mean?], and sited in RV parks or campgrounds. PMRVs must be certified by the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard [is certification a requirement to be a PMRV? What if a unit that otherwise meets the definition of PMRV is not certified? Does that mean it is not a PMRV as used in the Ordinance?] PMRVs are excluded from the definition of a manufactured home under regulations of the U.S. Department of Housing and Urban Development (HUD) specifically because they are a type of RV (24 C.F.R. § 3282.8(g)). [This CFR section has been deleted. See <https://www.ecfr.gov/current/title-24/subtitle-B/chapter-XX/part-3282/subpart-A/section-3282.8> . Also, what is the purpose of this last sentence? The HUD regulations cover construction and safety standards for manufactured homes, and because a PMRV is treated as a RV, it is not*

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<sup>1</sup> MCL 257.38a:

"Park model trailer" means a vehicle that meets all of the following:

- (a) Is built on a single chassis, mounted on wheels, and designed to be towed by a motor vehicle from time to time.
- (b) Depending on its size, may require a special highway movement permit under section 719a to be towed on a street or highway.
- (c) Is designed to provide recreational, seasonal, or temporary living quarters.
- (d) When used as recreational, seasonal, or temporary living quarters, may be connected to utilities necessary for the operation of installed fixtures and appliances.
- (e) Is not a mobile home as that term is defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

Restaurant - A facility whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or more of the following characteristics:

- a. Customers **ordering from a** ~~normally provided with an individual~~ menu are served their food and beverage by a restaurant employee inside or outside, at the same table or counter at which food and beverage are consumed; or
- b. A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.;
- c. **Take-out, take away operations, whether food is consumed on or off-site;**
- d. **Mobile catering operations, food trucks, mobile food operations, and restaurant "pop-ups" and start-ups.** [While a Google search identified the term "pop-up restaurant," an internet search did not pull-up a term "restaurant start-up" or a similar phrase. Perhaps a better phrase would be "restaurant 'pop-ups' or other temporary food service operation."].

Retail Store - A store, market or shop in which commodities are sold, or offered for sale to the retail trade.

**River – as used in this ordinance refers to the definition of rivers, streams, creeks, drains, channels, etc. found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.**

**Riverfront Setback Line – the minimum required principal structure setback from the ordinary high water mark.**

Road - Any public or semi-public thoroughfare, except alleys, in the Leelanau County, Centerville Township road system, including Federal and State highways and County roads.

Roadside Stands - Shall mean any accessory structure or building, but expressly prohibits vehicles, located along the roadway, (Section 9.4 Roadside Stand – Agricultural District) , used or intended to be used solely for the purpose of the sale of seasonal farm products, situated upon or adjacent to lands used for farming in conjunction with a **farm** residence.

**Rotor diameter - The diameter of the circle swept by the rotating blades.**

Security Lighting - Fixtures and/or practices intended to discourage, or make visible, intrusions on the premises.

Sensitive Areas - Sleeping Bear Dunes National Lakeshore, or an identified habitat for threatened or endangered species, or other designated areas, including those with important natural resources, as identified by Centerville Township, Leelanau County, state, or federal authorities. Such areas may include, but are not limited to:

- Floodplains and floodways
- **Lakeshores, lakes, rivers and streams**
- **Wetlands**
- ~~Environmental areas, such as wetlands and migration routes~~
- High risk erosion areas ·

Critical sand dunes

Trailer Homes - Any RV, house trailer, **park model [recreation vehicle]**, or **camper trailer [this term already included in the definition of recreational vehicle]** or similar unit used or so constructed as to permit it to be used as a seasonal or vacation type home for sleeping or housekeeping by one (1) or more persons.

Trailer Parks - Any size lot, field, tract or parcel of land upon which four (4) or more occupied trailer homes are harbored either free of charge or for revenue purposes, as licensed by the Michigan Department of Community Health, having such required accessory buildings as central shower and toilet facilities, central laundry and utility building, also recreational facilities such as playground areas, etc., all designed and used primarily to serve transient or seasonal type guests in said trailer park.

Use - The purpose for which land or a building thereon is designed, arranged or intended to be occupied or used.

Uses Permitted by Right - Uses permitted by right are the primary uses and structures for which the zoning district has been established. Such uses are allowed without a special use permit.

Variance - A modification of the literal provisions of this Ordinance granted when strict enforcement thereof would cause practical difficulty owing to circumstances unique to the specific property on which the modification is granted by the Zoning Board of Appeals.

Water Craft - Any vehicle capable of being used on or in a body of water.

Water's Edge - Shall mean the "ordinary high water mark" as defined in Part 301: Inland Lakes and Streams Act of the Michigan Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended, as the margin of a water body and/or legally established lake level. MCL 324.30101 *et seq.*

**Wetland - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh as defined by Part 303: Wetland Protection Act of Michigan's NREPA, P.A. 451 of 1994, as amended, ~~Section 30301(p) of the Act, 1994 PA 451, MCL 324.30301 et seq.(p)~~ and delineated in accordance with the U.S. Army Corps of Engineers' Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, Version 2.0, January 2012.**

**Vertical Axis WECS Turbine (VAWT) – A WECS mounted on a WECS tower whose blades rotate around a shaft or similar device that is roughly perpendicular to the surface of the ground.**

**Wind Energy Conversion Systems (WECS) - "Wind Energy Conversion System" (WECS) shall mean any wind-driven device which converts wind energy into electrical or mechanical energy.**

~~Wind Energy Conversion System (WECS) – A commercial wind energy system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.~~

**Wind Energy Conversion System (WECS), Small - A WECS which either has a rated capacity of not more than thirty (30) Kilowatts (kW) and is intended to primarily produce electricity for on-site use, or is designed and used primarily to produce mechanical energy for use on the property where located.**

feet of contiguous water frontage. In the event two (2) or more owners of easement grantee lots elect to share a dock, mooring, shore station or similar facility, such dock, mooring, shore station or similar facility shall accommodate not more than one (1) boat for each easement grantee lot sharing the dock, mooring, shore station or similar facility. No dock, mooring, shore station or similar facility shall be constructed within the side setbacks of the property on which it is located. All docks, moorings, shore stations or similar facilities shall be separated by a distance of no less than fifty (50) feet at any given point, and shall not be within thirty (30) feet of a neighboring property riparian interest area. A dock, mooring, shore station or similar facility, located on an easement to water established after (insert date of amendment adoption), that is removed and replaced either on a seasonal basis or permanently, shall be located in conformance with the terms of this paragraph. Storage of petroleum, gasoline, lubricants or other hazardous or toxic substances on a dock shall be prohibited.

8. **Lighting:** Lighting shall be prohibited on easement[s] to water lots except when reasonably required as security. Lighting fixtures shall be downward directed and incorporate full cutoff shielding and shall be installed to not direct any light toward adjoining properties, properties located on an opposite shoreline, buffer zones, water surfaces and the night sky.
9. **Parking:** One (1) parking space shall be provided for each easement grantee lot as defined herein. All driveway and parking areas shall be located within the easement to water lot, and shall not exceed fifteen percent (15%) of the area of the easement to water lot.
10. **Water frontage separation:** An easement to water lot shall be located no closer than one thousand-five hundred (1,500) feet from any other easement to water lot with frontage on South Lake Leelanau.
11. **Easement to water lots shall meet the requirements of Section XXX: Waterfront Overlay of this Ordinance.**
12. **Restrictions:** Easements to water which provide access to lakes other than South Lake Leelanau shall not be permitted.

### **Section 3.9 Docks, Moorings and Boats**

Unless otherwise specifically provided for in the ordinance, the following shall apply:

- A. ~~On in-land lake properties, docks shall be limited to one seasonal dock per one hundred (100') feet of lake lot width, or fifty (50') feet lot which has been grandfathered in. Each legally created lakefront lot shall be entitled to one (1) seasonal dock, one (1) mooring, and one (1) boat hoist/shore station or similar structure. A minimum of two (200) hundred feet of frontage is required for a second dock. Each additional dock or boat hoist/shore station shall require an additional one (100) hundred feet of water frontage.~~
- B. On in-land lakes, no more than **two (2)** ~~three~~ motor-boats and **four (4)** ~~ten (10)~~ watercraft other than motor boats shall be allowed per 100' of lot width, or per lot if the lot is less than 100' in width and grand-fathered in. No more boats **and watercraft** than this may be stored on hoists, beached, moored, docked, or anchored; no more than one (1) motorboat and one (1) watercraft other than a motorboat shall be allowed for each additional **25' fifty (50) feet** of lot width on hoists, beached, moored, docked, or anchored. **No person may be allowed to rent slippage or mooring rights unless that person possesses a commercial marina permit. [Delete this sentence - marina operating permits are no longer required by EGLE]**

- C. **One (1) swimming/diving raft, floating platform, floating trampoline or similar apparatus is allowed per legal waterfront lot. A minimum of two-hundred (200) feet of water frontage is required for a second raft, floating platform, floating trampoline or similar apparatus. Each additional raft, floating platform, floating trampoline or similar apparatus shall require an additional one hundred (100) feet of water frontage.**
- D. **All waterfront parcels are required to utilize underground utilities within one hundred (100) feet of the waterfront.**
- E. Shoreline alterations to riparian properties for on site boat launching and/or development of launch sites for multiple party use, private or commercial, is prohibited.
- F. **Docks may only extend lake ward from [m] the water's edges to a three (3) foot maximum water depth, as measured during the Lake Leelanau summer water elevation of 589.21 feet above mean sea level (amsl).**

### **Section 3.10 Maximum Height**

In order to preserve the pastoral character of the area, no building or structure or any part thereof shall be constructed having a height greater than **thirty-two (32)** feet or 2.5 stories. This does not include antenna systems or communications towers that might require a greater height for adequate signal reception, WECS/ windmill towers, or any structure actively used for agricultural purposes.

### **Section 3.11 Completion**

Any structure requiring a Land Use Permit must be completed on the exterior surface with a suitable finishing material, within one (1) year from date of issuance of the Land Use Permit. If hardship can be shown, only on approval of the Zoning Administrator a Land Use Permit may be renewed for one (1) additional year by payment of an additional fee.

### **Section 3.12 Trailer Homes**

A maximum of **one (1)** trailer homes may be located on any parcel of land in the Residential I, Residential II, Recreational and Agricultural Districts without issuance of a land use permit, provided the following conditions and limitations are met:

1. ~~Each~~ A trailer home shall:
  - A. Be maintained in a reasonable state of repair and in working condition.
  - B. Meet all applicable set back requirements.
  - C. Not be located in a public right-of-way.
  - D. Not be used for commercial or business purposes.
  - E. Not constitute a public or private nuisance.
  - F. Not be used for residential purposes for more than sixty (60) days in any calendar year.
  - G. Not be used as a permanent dwelling, and;
  - H. Meet Benzie-Leelanau District Health Department requirements for sanitary waste disposal and **potable** water supply.

7. Sales ~~[or uses]~~ **[campgrounds and restaurants are uses, not sales]** not allowed include but are not limited to:

- a. Fuel or related products
- b. Tobacco products
- c. Marijuana products
- d. Alcoholic beverages unless the operation is licensed by the State of Michigan.
- e. e. Lottery tickets
- f. Vehicles, recreational vehicles or related products
- g. Flea markets
- h. Fireworks as defined by the Michigan Fireworks Safety Act, P.A. 256 of 2011, as amended, including but not limited to consumer, novelty, low impact and display fireworks.
- i. Restaurants.
- j. Campgrounds.

8. Hours of operation shall be from dusk to dawn, with quiet hours enforced from 10 pm to 7 am. ~~limited to 6 am to 9 pm.~~

9. Documentation that an agriculture-related enterprise ~~at tourism use~~ is operating within these limits must be made available to the Township ~~upon request.~~

10. **Twenty-four (24) hour contact information for the on-site farm manager or other on-site person responsible for the operation of an agriculture-related enterprise.**

11. **Agriculture-related enterprises shall be clearly subordinate to on-site agricultural production. The following factors shall be considered by the Planning Commission in making this determination:**

- a. The geographic area of the parcel devoted to the agriculture-related enterprise in comparison to that parcel area remaining or expanded in agricultural production.
- b. The relative number of employees devoted to the agriculture-related enterprise in comparison to the number needed for agricultural productions.

**[delete "s"]**

Section 3.21.2 ~~Agriculture and agriculture-related enterprises and tourism uses,~~ **Agriculture-related enterprises and tourism uses,** within the limits set above, permitted by right for working farms in the ~~Agricultural any zoning~~ District.

A. **Permitted Agriculture-related enterprise ~~tourism~~ uses** include the following, as well as other substantially similar uses or activities that occur as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products:

1. Roadside stands
2. On-farm market
3. Direct to customer sale and distribution
4. Value-added (other than alcohol products) processing of products grown on the farm
5. Baking for sale at the on-farm market or local farmers markets
6. ~~Corn & hay mazes~~
6. Sleigh & hay rides
7. Horse rides
  
8. U-pick farms, and similar uses.
9. **Pumpkin patches, and similar uses**



4. All construction, development, or use of a parcel(s) of land shall be in complete accordance with the approved special land use, any conditions of approval, and the approved site plan.
5. A special land use approval may be terminated by subsequent rezoning of the affected parcel, unless subject to the continuance of any vested legal nonconforming use rights.
6. The reapplication, reconsideration, and rehearing for a proposed special land use that has been denied by the Planning Commission shall not be resubmitted until one (1) year from the date of such denial, except on the grounds of newly discovered evidence or proof of materially changed conditions, as determined by the Planning Commission, sufficient to justify reconsideration by the Planning Commission at an **earlier** **[later]** date. Each reapplication shall be treated as a new application.
7. All conditions included with the approval of a proposed special land use shall be recorded in the official approved minutes of the Planning Commission, and they shall remain in effect unless subsequently amended by the mutual approval of the Planning Commissions and any landowners. The Planning Commission's approved minutes shall include a record of any such subsequent agreements.

E. Performance Guarantee: Shall be required as per Section 13.1.J. of this Ordinance.

F. Additional Requirements.

Conditions and requirements included as a condition of approval shall be continuing obligations on all owners, managers, and users of the proposed special land use and shall be binding upon their heirs, assigns and upon any persons taking subsequent title to the affected property while such special land use approval remains in effect.

#### Section 14.4 Amendments and Additional Information

A. Amendments. Amendments to a special land use approval shall be permitted only under the following circumstances:

1. The holder of a special land use approval shall notify the Zoning Administrator, in writing, of any desired change.
2. Minor Amendment. Minor changes may be approved by the Zoning Administrator and the Planning Commission Chair upon determining that the proposed amendment(s) will not alter the uses and basic character of the

# ARTICLE XVII WATERFRONT OVERLAY DISTRICT

## 17.1 Purpose

This Article is enacted to protect water quality within Centerville Township, prevent soil erosion and sedimentation into waters, and to promote the scenic character and protect property values of waterfront parcels. This overlay district encompasses all parcels any portion of which exists within one-hundred feet of the shoreline of Lake Leelanau and the banks of all natural and built watercourses such as channels, drains, rivers, creeks and streams within Centerville Township.

## 17.2 Waterfront Areas Regulated

- a. The requirements of this Article are supplemental to those imposed on waterfront lands by any underlying zoning provisions of this ordinance or other ordinances of Centerville Township [or other laws and regulations]. These regulations supersede all conflicting regulations of the underlying zoning district(s) to the extent of such conflict, and no more.
- b. Every lot and parcel of land physically abutting along an inland lake or stream, lying between the ordinary high water mark and a line one-hundred (100) feet horizontal from and perpendicular to the ordinary high water mark or an inland lake or stream bank as shown on the official Centerville Township Zoning Map, is subject to this overlay district. This line shall be known as the waterfront overlay line. In addition, the provisions of Section 6.4b [should be 17.4b] below concerning natural vegetation strips, apply to all waterfronts within Centerville Township, even if not depicted on the Centerville Township Zoning Map.
- c. 100-year Flood Plain. No principal structure shall be constructed within the 100 year floodway. Any permitted structures [delete "s" to conform to verb tenses used in the rest of the provision] within the 100-year flood plain shall be constructed in a manner that allows for the free flow through of water, complies with all state and/or federal regulations, and compensates for flood plain losses, if any.
- d. Lots of record after the effective date of this Article shall conform to waterfront setbacks established in this Section. [This should be deleted - there are no setbacks established in this section- or, alternatively, moved to section 17.3 that covers setbacks. And even with a change to refer to section 17.3 or the entire Article 17, the reference to "lot of record after" creates an ambiguity- is it intended to apply to all lots or just those that are created after adoption? Or, if a lot is "of record" before the overlay district is effective but is undeveloped or developed further post-adoption, is it subject to this provision? I believe the intent is that all post adoption construction or development in the overlay district will be subject to the setback rules and thus the provision should read something like "All construction or development after the effective date of this Article shall conform to the waterfront setbacks established in this Article].

## 17.3 Development Standards

**a. Waterfront/Front Yard Setback**

1. No principal structure, accessory building or parking area, shall be erected closer than seventy-five (75) feet from the ordinary high water mark of a water body or stream bank, except on nonconforming lots of record.
2. Waterfront setbacks on lots of record on or before the effective date of **the [this] Article within the Centerville Township Zoning Ordinance [delete this clause to conform to other provisions that reference just adoption of the Article]** reduced by averaging the setback from the ordinary high water mark to principal structures on the two closest developed lots on either side of the subject parcel property lines. The minimum front yard setback shall be no less than fifty (50) feet.
3. Compost piles, manures/fertilizers, livestock, small animal pens and other nutrient sources; solid waste, garbage, trash, discarded appliances, motor vehicles (not including ~~motorized~~ boats), and other unsightly or potentially polluting materials shall not be placed within the waterfront setback.
4. The waterfront portion of shoreline parcels within Centerville Township shall be considered the front yard **pursuant to the Centerville Township Zoning Ordinance [replace with "for purposes of this Ordinance"]**
5. Roadways **and driveways**, except as may be required to provide access to a boat ramp, are prohibited within the waterfront setback area.

**b. Natural Vegetative Strip**

1. To minimize erosion, stabilize waterfronts, protect water quality, keep nutrients from entering waters, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen artificial structures, protect property values, and also to preserve the scenic values of waterfront areas, a natural vegetation strip shall be maintained on each parcel or lot between the ordinary high water mark and a buffer line, each point of which is fifty (50) feet horizontal from and perpendicular to the ordinary high water mark of a waterbody or stream banks.
2. Existing vegetation shading water surfaces shall be preserved to the maximum extent possible.
3. Existing natural ground cover and native vegetation shall be preserved to the fullest extent feasible, and where removed shall be replaced with native vegetation that is equally effective in retarding runoff, preventing erosion, preserving property values, and protecting community scenic values. Natural vegetation buffer shall be fenced with silt fence and construction barrier fencing prior to grading or other on-site construction activities. This protective fencing shall be maintained until the completion of construction.
4. **All exterior lights shall be shielded, downward directed, and below tree level as measured from post-construction grade. Dock and accessory building/structure lighting of any type is prohibited [delete this provision - it is duplicative of the lighting provision in subpart d below].**

5. Within the natural vegetation strip, **a sum total of no more than thirty (30%)** percent of existing trees and shrubs may be selectively pruned or removed to enhance a filtered or corridor view of the water from the principal structure and for reasonable private riparian access to the water. A corridor view shall be established through selective cutting only after the principal structure has been sufficiently constructed to locate windows, decks or other structure features intended to enjoy and utilize a water view. Said pruning and removal activities shall ensure that a live root system stays intact to provide for waterfront bank stabilization and erosion control. Tree-topping and clear cutting within the natural vegetation buffer is prohibited.
6. A maximum of one (1) shoreline access pathway, including pathway portions constructed as stairways and boardwalks, shall be allowed per parcel or lot within the waterfront setback and through the natural vegetation strip to the water's edge. The improved surface of such pathways shall consist of porous pavement, wood chips, mulch or other natural materials. Said pathways are to be no more than a total of four (4) feet in width. Pathway(s) shall meander down to the ordinary high water mark in a manner which protects the soil and vegetation from erosion, while also screening the principal structure, parking areas and vehicles from direct view from the water. Any waterfront pathway (stairway, boardwalk, etc.) shall comply with Michigan's Part 303: Wetland Protection Act, Part 301: Inland Lakes and Streams Act of NREPA, P.A. 451 of 1994, as amended, and other relevant federal, state or local regulations.
7. Dead, diseased, unsafe or fallen trees and non-native exotic or noxious plants and shrubs, including poison ivy, poison sumac, purple loosestrife, etc. **not included within the 30% filtered or corridor view limitation** *[this phrase suggests that these noxious and invasive plants can only be removed if they are not in the filtered view area and this exception/limitation is not needed]* may be removed at the homeowner's discretion provided that no stumps are removed. +- Landowners are ~~encouraged~~ **required** to consult with the Centerville Township Zoning Administrator and/or the Leelanau County Forester before removing dead, diseased, unsafe or fallen trees from within the natural vegetation buffer. Planting of perennial native species (ground cover, shrubs and trees) in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist (i.e. 18% slope or greater). **Refer to Appendix \_\_ for a list of acceptable native plants.**

### c. Building Height

All principal structures and accessory buildings should, as far as practicable, be designed so as not to obstruct existing scenic viewsheds. Single-family dwellings within the waterfront overlay district shall be limited to two (2) stories or **thirtytwo (32)** ~~30~~ feet in height, whichever is less.

Accessory structures and other buildings shall not exceed one (1) story or twenty (20) feet in height, whichever is less. A building's height is defined in Article II Definitions, p. 13 of the Centerville Township Zoning Ordinance, as amended.

#### d. Waterfront Accessory Structures

Docks, boat ramps, pump houses, walkways/pathways, and/or elevated walkways accessory to permitted uses which provide property owners with reasonable access to the water are to be permitted by the Michigan Department of Environment Great Lakes and Energy (EGLE) pursuant to Parts 301 and/or 303 of Michigan's NREPA, P.A. 451 of 1994, as amended. Dock and accessory building/structures must comply with underlying zoning side setbacks.

**Boat houses are prohibited.** Dock and accessory building/structure lighting is prohibited [in the vegetative strip]. [Otherwise allowed] Lighting of any other structures within the Waterfront Overlay [though, if provided,][delete] shall be of low intensity, shielded, below tree line and downward-directed so as to prevent glare and appearance from a public way or waterbody, the illumination of the night sky, or adjoining properties.

#### e. Waterfront Lot Width

Waterfront lots must provide a minimum straight-line width of one (100) hundred feet between side lot lines, as measured at the side lot lines' points of intersection with the Ordinary High Water mark (OHWM) of a water body or the bank of a watercourse.

#### f. Impervious Surface

The maximum percentage of lot coverage a lot within the waterfront overlay district with impervious surfaces [such as roofs, structures, asphalt, concrete, etc.][delete this clause - it is included in the definition of impervious surfaces] shall be twenty-five (25) percent.

#### g. Innovative Stormwater

Stormwater flow from lots within the waterfront overlay district shall be directed to the non-lakeward side of any principle [wrong spelling - should be "principal"] structure, **shall not discharge to surface waters or wetlands**, be treated/disposed of on-site, not leave the subject parcel above pre-development rates, and shall utilize innovate stormwater treatment methods such as rain gardens, groundwater infiltration structures and/or constructed wetlands. [this provision is awkward and difficult to read with the "shall not" limitation buried in a portion of "shall" requirements. A suggested revision to correct this: "Stormwater flow from lots within the waterfront overlay district shall not discharge to surface waters or wetlands and shall be directed to the non-lakeward side of any principal structure, be treated/disposed of on-site, not leave the subject parcel above pre-development rates, and shall utilize innovate stormwater treatment methods such as rain gardens, groundwater infiltration structures and/or constructed wetlands.].