

VILLAGE OF ELK RAPIDS – PLANNING COMMISSION

AGENDA

PLANNING COMMISSION REGULAR MEETING TUESDAY, AUGUST 22, 2017 AT 7:00 P.M.
HELD AT THE GOVERNMENTAL CENTER, 315 BRIDGE ST. ELK RAPIDS, MICHIGAN

1. PLEDGE OF ALLEGIANCE

2. ROLL CALL:

3. MINUTES:

- a. Approval of Minutes Regular Planning Commission meeting July 25, 2017.

4. CONFLICT OF INTEREST:

Any Commission member who believes that he or she has a conflict of interest regarding any item on this agenda, shall so state that conflict at this time. Does any member believe they have a conflict of interest regarding any item on this agenda?

5. CITIZEN COMMENTS:

Any Citizen who wishes to address the Planning Commission on a matter not listed on this agenda may speak at this time. The Planning Commission Chair should recognize the citizen before speaking. A five minute limitation applies unless extended by the Chair. Citizens wishing to speak on matters listed on the agenda will be permitted, under the same limitations, to speak when the matter is brought before the Commission. Does any citizen wish to address the Planning Commission on a matter not listed on this Agenda?

6. PUBLIC HEARINGS:

- a. None.

7. OLD BUSINESS:

- a. Continued discussion – Accessory Dwelling Unit Draft Ordinance
- b. Septic System Point of Sale discussion.

8. NEW BUSINESS:

- a. None.

9. CORRESPONDENCE:

- a. Parks and Recreation Commission Dam Beach Management Plan – Comment and recommendation to Council to be adopted By Reference in the Village Master Plan.

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10. REPORTS:

- a. Planning and Zoning Administrator, Steven Ravezzani – July, 2017 Monthly Report.
- b. Council Representative – B. Mullaly
- c. ZBA Representative – L. Dake
- d. Green ER – Royce Ragland

11. CALENDER REVIEW:

- a. Next Planning Commission Meeting – September 26, 2017.

12. AGENDA ITEMS FOR NEXT MEETING

- a. To be determined.

13. ADJOURNMENT

PUBLIC NOTICE ANNOUNCEMENT VILLAGE OF ELK RAPIDS

NOTICE OF COMPLIANCE WITH THE ADA AT PUBLIC MEETINGS

The Village of Elk Rapids shall provide reasonable auxiliary aids and services, such as signers for the hearing impaired and individuals with disabilities at meetings/hearings upon five (5) days' notice to the Village. Individuals with disabilities requiring auxiliary aids or services should contact the Village of Elk Rapids by writing or calling the following:

William Cooper, ADA Coordinator 315 Bridge Street, P.O. Box 398, Elk Rapids, MI 49629 (231)-264-9274.

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LIMITED ENGLISH PROFICIENCY NOTICE

With seven days advance notice, accommodations can be made for persons with disabilities and/or limited English speaking ability, and persons needing auxiliary aids of services of interpreters, signers, readers or large print.

Con siete días de anticipación, el alojamiento se pueden hacer las personas con discapacidad y / o capacidad limitada de habla Inglés, y las personas que necesitan ayudas auxiliares de servicios de intérpretes, los firmantes, lectores o en letra grande.

Với bảy ngày thông báo trước, phòng có thể được thực hiện cho người khuyết tật và / hoặc hạn chế khả năng nói tiếng Anh, và những người cần hỗ trợ các dịch vụ phụ trợ của thông dịch viên, những người ký tên, người đọc hoặc in lớn.

Nrog xya hnuv ua ntej daim ntawv ceeb toom, kev kho kom haum yuav ua rau cov neeg muaj kev tsis taus thiab / los yog tsis tau lus Askiv hais lus muaj peev xwm, thiab cov neeg hu ua deductible lwm yam kev pab ntawm cov kev pab cuam ntawm cov neeg txhais lus, signers, txawj nyeem ntawv los yog sau loj loj.

與7天前通知，住宿可以為殘疾人和/或有限的英語口語能力，並需要口譯，簽名，讀者或大型印刷服務的輔助器材的人的人進行。

عم دوجو راعشا قبسم نم ةعبس ماي، نكمي ريفوت ني م جرتم، ني صتخم ةغل ب قر اشال، ني ئراق، وا فورح ةري بكم ججالا يوذل تاجايت حال ا ةصاخلا، ءال ؤهو ني ذل ال نوملكتي ةغللا ةيزيل ججالا ةقال طب.

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APPROVAL OF MINUTES

VILLAGE OF ELK RAPIDS – PLANNING COMMISSION

DRAFT

**TUESDAY, 7:00 P.M. – JULY 25, 2017
PLANNING COMMISSION MEETING
GOVERNMENT CENTER – 315 BRIDGE ST.**

The Meeting was called to order at 7:00 P.M by CHAIR, WALLY HIBBARD. PLEDGE OF ALLEGIANCE RECITED. Meeting taped.

ROLL CALL: MEMBERS PRESENT: Chair, Wally Hibbard; Vice-Chair, Royce Ragland; Council Representative, Barb Mullaly; Jim Okonoski; Lauren Dake; Richard Smith; Also present, Secretary Elaine Glowicki; Steve, Ravezzani, Zoning Administrator

ABSENT: Member, Becky Lancaster Excused.

MOTION by SMITH second by RAGLAND to approve the Planning Commission Minutes dated June 27, 2017 as corrected. **Correction in red font.**

(Individual discussion was held by the planning members who agreed, although there was a minimal response to the survey, they felt their responsibility was to go forward and hold a Public Hearing to gather more information from the residents. No date for a Public Hearing was acted on. **was to go forward having Steve Ravezzani prepare an Accessory Dwelling Unit Draft Ordinance for discussion at the next meeting.) Roll Call Vote: Smith, Hibbard, Ragland, Dake, Okonoski. Absent, Lancaster.**

CONFLICT OF INTEREST: NONE

CITIZEN COMMENT:

An idea was brought forth at the Beautification Commission Meeting regarding a collaboration with the Commissions, DPW and DDA to discuss ideas regarding the riverbank area between Kid's Pond and the Island Bridge.

PUBLIC HEARINGS: NONE

Synopsis of Chairman Hibbard's letter to Elk Rapids Beautification Commission regarding "Releaf Michigan", a program to provide communities such as Elk Rapids, free trees to aid in expanding the Village's inadequate tree canopy. Hibbard referred to a recent Landscape Ordinance adopted by the Village Council and pointed out the Ordinance suggests that trees and shrubs native to this area of Michigan be given consideration over non-native species. Unfortunately the

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Beautification Commission accepted a few trees that did not meet the requirements of the adopted ordinance and were definitely not native to our State. There are 31 trees yet to plant and hopefully the selection of those trees will include only species native to northern Michigan.

At this time, an informational Training Session on OMA, FOIA and Parliamentary Procedure was presented to the Planning Members by Caroline Kennedy, Village Clerk/Assistant Manager.

OLD BUSINESS:

CONTINUED DISCUSSION – ADU (Accessory Dwelling Unit)

Zoning Administrator Ravezzani presented a Draft Ordinance for Accessory Dwelling Units. A lengthy discussion centered on Sections (B) Requirements and (D) Registration of Accessory Dwelling Units. Ravezzani asked the members to individually return their draft ordinance marked with their comments. Ravezzani stated he would include any changes and present another draft at the August Planning Commission meeting.

NEW BUSINESS –

(a) Septic System Point of Sale - discussion

Members agreed to place this issue on their Agenda - August 22nd for discussion.

(b) Parks and Recreation Commission Dam Beach Management Plan – Comment and recommendation to Council to be adopted by Reference in the Village Master Plan.

MOTION by RAGLAND second by OKONOSKI to recommend to the Village Council the adoption of the Dam Beach and Fishing Park Management Plan prepared by Elk Rapids Parks and Recreation Commission (2017) incorporating the Plan by reference into the Village of Elk Rapids, Elk Rapids Township Collaborative Master Plan. **Roll Call Vote: Mullaly, Hibbard, Ragland, Okonoski, Dake, Smith. All members voting YES. Absent Lancaster. MOTION CARRIED.**

CORRESPONDENCE: NONE

REPORTS:

Planning & Zoning Administrator, Steve Ravezzani presented monthly report for June 30, 2017

- Ravezzani addressed the sign on the corner of River and Pine Streets. There is no application at this time. The developer indicated the sign will be taken down after Labor Day.

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- Planning Commission members received an invitation from Amos Orchards to gain knowledge regarding the manufacturing of cherries.
- Mullaly reported a Resolution ‘Village Green Infrastructure Policy’ has been adopted by Council.

ZBA Representative, Lauren Dake

- ZBA did not meet in June due to no requests for Appeals being received.

GREEN ER - Planning Member, Royce Ragland

- Excellent attendance to hear Author, Cynthia Barnette give a talk on her book titled ‘Rain Water’.

NEXT PLANNING MEETING: AUGUST 22nd, 2017-

ADJOURNMENT: 8:55 p.m.

Elaine Glowicki, Recording Secretary

OLD BUSINESS

**DRAFT ACCESSORY DWELLING UNIT
PROPOSED ORDINANCE**

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RICH SMITH COMMENTS AND ZA RESPONSE

ACCESSORY DWELLING UNIT DRAFT ORDINANCE

Add to Definitions §202.

Accessory Dwelling Unit (ADU). A second residential dwelling unit that may be contained within an existing single-family home, detached garage, or carriage house, and that meets all of the requirements of Section 431., of this Code. **What is a carriage house - needs to be in the definitions 202 [Done!](#)**

Adopt new §431. Accessory Dwelling Units.

A. Intent.

1. It is the intent of this Section to permit Accessory Dwelling Units in all single-family residential zoning districts to enable a new housing alternative that respects the look and scale of single-family neighborhoods while supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs; smaller households and increasing housing costs; providing accessible housing for seniors and persons with disabilities; and supporting affordable housing goals.

B. Requirements.

1. A land use permit for an Accessory Dwelling Unit (ADU) may be issued provided the following conditions are met and continue to be met during the life of the Accessory Dwelling Unit:

a. The existing site and use are substantially in compliance with this Zoning Code.

b. Only one (1) ADU per parcel is allowed with a maximum of two (2) dwelling units per parcel, subject to lot coverage requirements. **Can you have a detached garage and a separate ADU? [Subject to Zoning Code maximum lot coverage requirement of 30% for all structures](#)**

c. The owner of record ~~meeting the requirements for principal residence tax exemption~~ shall occupy either the ADU or the primary dwelling unit on the property, except for temporary absences not to exceed a combined total of 6 months in a calendar year. **Can the owner of record rent the primary dwelling and also rent the ADU, thereby not residing in Elk Rapids at all? I do not think so, however we did discuss allowing the owner to provide the name & contact information of a person to be contacted in the owners absence. [Your interpretation is correct, the owner of record must reside on the property. See language requiring contact information in latest draft ordinance.](#)**

d. The ADU shall be designed so that the appearance of the building remains that of a single-family residence or detached accessory building such as a garage or carriage house. No alteration to the exterior of the residential dwelling, accessory structure or yard that alters the single-family residential

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character of the premises is permissible. ~~An accessory building is not defined, however an accessory structure defined.~~ Done!

e. If the ADU's primary entrance is not the same as that of the principal dwelling unit, it shall be made less visible from the street view than the main entrance of the principal dwelling unit. Access to an upper story ADU must be internal to the building structure. ~~I assume that this is indicating there shall be no external stairs for the purpose of entering the ADU.~~ You are correct.

f. The minimum lot area for an ADU is 5,500 square feet and the maximum size of an ADU with that lot area is 650 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less. If the lot area is 7,260 square feet or greater, the maximum size of an ADU is 800 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less.

~~g. The ADU shall not be occupied by more than the number of occupants permitted by sub-section j, below, except that only 2 unrelated persons plus their off spring living as a single housekeeping unit may occupy the ADU. should be sub-section i. Personally, I think sub-section i should be eliminated and the only limitation should be 2 persons plus their off spring.~~ I agree this would be easier. Done!

h. Front Yard Prohibited. The ADU may not be located within the front yard. ~~front yard not in definitions. And what is the front yard of a home directly on the water. Perhaps we need to say the ACU cannot be located on the property immediately adjacent to a public street.~~ Is defined under "Yard-defintions of". There is even a nice sketch to look at.

~~i. The total number of persons residing in the primary dwelling unit and the ADU combined shall not exceed four persons plus their offspring, except when a functional family is allowed by sub-section g, above. This is implying that if the primary dwelling unit is being occupied by a couple and by a 2nd couple, such as their grandparents, then they cannot have an ADU due to the limit of four persons.~~ Done!

j. ~~One Two~~ off-street parking spaces shall be provided for the ADU. Tandem or stacked parking in a driveway may count toward the off-street parking requirement if not located in the front yard setback. ~~If we basically allow 2 persons to live there, two spaces should be adequate, If their kids also have cars, they probably need to rent something larger.~~ Agree – Done.

k. All utilities for detached units shall be installed underground. All ADU's shall have separate utility meters from the primary residence ~~unless a single meter is authorized by the Superintendent, Department of Public Works.~~ ~~I think a single meter is asking for trouble.~~ Just thought there may be a valid reason meeting this requirement would not be practical that is best left to the expert.

l. Leasing or rental of the ADU for less than one hundred eighty (180) days shall be prohibited.

m. Prior to occupancy, a deed restriction that runs with the land, shall be filed with the Antrim County Register of Deeds containing a reference to the deed under which the property was acquired by the owner. Such deed restriction shall state:

- i. The ADU shall not be sold separately from the primary unit;
- ii. The requirements as stated in this Section; and,
- iii. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

C. Existing ADU's.

1. Legal, non-conforming ADU's, (those established prior to adoption of this Ordinance), shall be given three (3) weeks after publication of the adoption of this ordinance to apply for a Conditional Land Use Permit and register their ADU with the Village. During this time period, they will not be considered part of the maximum number of new ADU registrations established in Section D.1., below, and the non-

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conforming ADU will maintain its non-conforming status subject to all the non-conforming regulations in Sec. 706., (Non-Conforming Situations) of this Zoning Code. **I question three weeks. If the person is in Florida for the winter and the ordinance is approved, how will they reasonable be expected to learn about it. But what if an existing non-conforming ADU does not register - then what? I am open to any suggestion that you think would be appropriate. For those that decide not to register, there is not much we can do because as noted they were “LEGAL”, and we cannot take that status away through regulation. I believe we can however require inspection by Antrim County to ensure all occupancy permit requirements are being met.**

2. If a land use permit is issued for a non-conforming ADU, that meets the above requirements, then the ADU shall no longer be considered non-conforming and shall be subject to all the regulations of this Chapter.

D. Registration of Accessory Dwelling Units.

1. There shall be a maximum limit of five (5) newly registered Accessory Dwelling Units per calendar year or as may be amended by Resolution of the Village Council.

2. Registration and application for a land use permit for ADU's will be submitted to the Planning and Zoning Administrator on a first come, first served basis.

3. Complete applications will be reviewed by the Planning and Zoning Administrator for Zoning Code compliance.

4. Upon confirmation of Zoning Code compliance, the Planning and Zoning Administrator, shall issue a land use permit and notify the Village Clerk, Assessor, and emergency response personnel of the registration.

5. Once the five (5) new registrations and land use permits referenced herein are issued, additional applications will be kept on file by the Village Clerk in the order they were received for processing the next calendar year.

6. The ADU approval shall be valid for a period of one (1) year from the date of issue and shall expire if a final occupancy permit issued by Antrim County, Construction Codes Department, is not obtained, unless an extension of not more than 365 days is approved by the Planning and Zoning Administrator.

Questions

Is there a cost for registering? I presume a yearly cost. Fee will be recommended by staff to the Council on an annual basis for their adoption.

And what about those ADUs that do not register - what is the incentive to register. See above comments.

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ACCESSORY DWELLING UNIT DRAFT ORDINANCE 08-01-2017

Add to Definitions §202.

Accessory Dwelling Unit (ADU). A second residential dwelling unit that may be contained within an existing single-family home, detached garage, or carriage house, and that meets all of the requirements of Section 431., of this Code.

Carriage House. A small building, usually part of an estate or adjacent to a main house, used for housing coaches, carriages, and other vehicles.

Adopt new §431. Accessory Dwelling Units.

A. Intent.

1. It is the intent of this Section to permit Accessory Dwelling Units in all single-family residential zoning districts to enable a new housing alternative that respects the look and scale of single-family neighborhoods while supporting more efficient use of existing housing stock and infrastructure; providing housing that responds to changing family needs; smaller households and increasing housing costs; providing accessible housing for seniors and persons with disabilities; and supporting affordable housing goals.

B. Requirements.

1. A land use permit for an Accessory Dwelling Unit (ADU) may be issued provided the following conditions are met and continue to be met during the life of the Accessory Dwelling Unit:
 - a. The existing site and use are substantially in compliance with this Zoning Code.
 - b. Only one (1) ADU per parcel is allowed with a maximum of two (2) dwelling units per parcel, subject to lot coverage requirements.
 - c. The owner of record ~~meeting the requirements for principal residence tax exemption~~ shall occupy either the ADU or the primary dwelling unit on the property, except for

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temporary absences not to exceed a combined total of 6 months in a calendar year. The owner of record shall provide to the Village the name, address and telephone number of the responsible person or other entity for overseeing the property during their absence.

- d. The ADU shall be designed so that the appearance of the building remains that of a single-family residence or detached accessory **building structure** such as a garage or carriage house. No alteration to the exterior of the residential dwelling, accessory structure or yard that alters the single-family residential character of the premises is permissible.
- e. If the ADU's primary entrance is not the same as that of the principal dwelling unit, it shall be made less visible from the street view than the main entrance of the principal dwelling unit. Access to an upper story ADU must be internal to the building structure.
- f. The minimum lot area for an ADU is 5,500 square feet and the maximum size of an ADU with that lot area is 650 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less. If the lot area is 7,260 square feet or greater, the maximum size of an ADU is 800 square feet in gross floor area or the size of the gross floor area of the ground floor of the primary dwelling, whichever is less.
- g. The ADU shall not be occupied by more than ~~the number of occupants permitted by sub-section j, below, except that only 2 unrelated~~ persons plus their offspring living as a single housekeeping unit. may occupy the ADU.
- h. Front Yard Prohibited. The ADU may not be located within the front yard.
- ~~i. The total number of persons residing in the primary dwelling unit and the ADU combined shall not exceed four persons plus their offspring, except when a functional family is allowed by sub-section h., above.~~
- i. **One Two** off-street parking spaces shall be provided for the ADU. Tandem or stacked parking in a driveway may count toward the off-street parking requirement if not located in the front yard setback.
- j. All utilities for detached ~~units~~ **ADU's** shall be installed underground. All ADU's shall have separate utility meters from the primary residence unless a single meter is authorized by the Superintendent, Department of Public Works.
- k. Leasing or rental of the ADU for less than one hundred eighty (180) days shall be prohibited.
- l. Prior to occupancy, a deed restriction that runs with the land, shall be filed with the Antrim County Register of Deeds containing a reference to the deed under which the property was acquired by the owner. Such deed restriction shall state:
 - i. The ADU shall not be sold separately from the primary unit;

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- ii. The requirements as stated in this Section; and,
- iii. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

C. Existing ADU's.

1. Legal, non-conforming ADU's, (those established prior to adoption of this Ordinance), shall be given three (3) weeks after publication of the adoption of this ordinance to apply for a Conditional Land Use Permit and register their ADU with the Village. During this time period, they will not be considered part of the maximum number of new ADU registrations established in Section D.1., below, and the non-conforming ADU will maintain its non-conforming status subject to all the non-conforming regulations in Sec. 706., (Non-Conforming Situations) of this Zoning Code.
2. If a land use permit is issued for a non-conforming ADU, that meets the above requirements, then the ADU shall no longer be considered non-conforming and shall be subject to all the regulations of this Chapter.

D. Registration of Accessory Dwelling Units.

1. There shall be a maximum limit of five (5) newly registered Accessory Dwelling Units per calendar year or as may be amended by Resolution of the Village Council.
2. Registration and application for a land use permit for ADU's will be submitted to the Planning and Zoning Administrator on a first come, first served basis.
3. Complete applications will be reviewed by the Planning and Zoning Administrator for Zoning Code compliance.
4. Upon confirmation of Zoning Code compliance, the Planning and Zoning Administrator, shall issue a land use permit and notify the Village Clerk, Assessor, and emergency response personnel of the registration.
5. Once the five (5) new registrations and land use permits referenced herein are issued, additional applications will be kept on file by the Village Clerk in the order they were received for processing the next calendar year.

The ADU approval shall be valid for a period of one (1) year from the date of issue and shall expire if a final occupancy permit issued by Antrim County, Construction Codes Department, is not obtained, unless an extension of not more than 365 days is approved by the Planning and Zoning Administrator.

OLD BUSINESS

SEPTIC SYSTEM POINT OF SALE DISCUSSION.

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DRAFT

CHAPTER X – ENVIRONMENT

ARTICLE I – SEPTIC INSPECTION AND PROPERTY TRANSFER ORDINANCE

An Ordinance pursuant to Act 246 of the Public Acts of 1945, as amended (being MCL 41.181) to require the evaluation of sewage treatment and disposal systems (STDS) and the testing of private water supply systems upon the transfer of property served by the STDS; to repeal any Ordinance or portion thereof in conflict herewith; and to provide for the administration of this Ordinance.

- Sec. X-1. Title
- Sec. X-2. Purpose
- Sec. X-3. Definitions
- Sec. X-4. Advising Owners of Ordinance
- Sec. X-5. STDS Evaluation Required and Exemptions
- Sec. X-6. Evaluation Application and Fee
- Sec. X-7. STDS Evaluation and Report
- Sec. X-8. Evaluations
- Sec. X-9. Private Water Supply System Evaluation
- Sec. X-10. Failed STDS or Failed Private Water Supply System
- Sec. X-11. Enforcement and Private Cause of Action
- Sec. X-12. Severability
- Sec. X-13. Repeal
- Sec. X-14. Effective Date

Sec. X-1. Title.

- A. This Ordinance shall be known as the Village of Elk Rapids Septic Inspection and Property Transfer Ordinance. This Ordinance may also be called the TOT (Time of Transfer) Ordinance.

Sec. X-2. Purpose.

- A. The Village is empowered to adopt Ordinances regulating the health, safety, and welfare of persons and property, and to provide penalties for violations of such Ordinances.

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- B. The purpose of this Ordinance is to protect public health and to prevent or minimize the degradation of groundwater and surface water quality by malfunctioning sewage treatment and disposal systems (STDS) and to assure safe water supplies by the evaluation of the STDS and private water supply systems at the time of transfer of the property served by the STDS.
- C. This Ordinance contains minimum standards that are in addition to the rules and regulations enacted by the Michigan Department of Community Health (MDCH), the Health Department of Northwest Michigan (HDNW), Michigan Department of Natural Resources and Environment (MDNRE), and any Michigan or federal law or regulation regarding the subject matter of this Ordinance. The intent of this Ordinance is to impose standards that supplement HDNW regulations and which are more restrictive than current federal or State law or HDNW regulations. In addition, the Township has executed an Intergovernmental Agreement with HDNW pursuant to which the HDNW will conduct the evaluations that are required by this Ordinance. The Intergovernmental Agreement shall be reviewed on an annual basis by both parties to determine if changes should be considered.
- D. This Ordinance requires an evaluation of a sewage treatment and disposal system (STDS) and private water supply system at the time the property is transferred to determine the operational status of the STDS and private water supply system. The Township has an intergovernmental agreement with the HDNW in which the HDNW has agreed to conduct all evaluations required by this Ordinance. Only evaluations conducted by the HDNW or its contractors comply with this Ordinance. If an evaluation discovers a defective STDS or private water supply system, the HDNW may take such action, pursuant to its own rules and regulations, to protect the environment and/or public health.

Sec. X-3. Definitions.

Absorption System (Field): The collective term for trench or bed excavations used to uniformly distribute septic tank effluent to subsurface soil by means of a network of distribution piping in washed aggregate with covering soil and vegetation. A trench contains one pipe. A bed contains two or more pipes.

Approved/Approval. A decision that denotes a condition, facility, thing, premise, action or use, is in satisfactory compliance with the intent, purpose, and applicable standards of Health Department Environmental Health regulations.

Authorized Agent. A person that is authorized in writing by (a) the owner, or (b) the transferee, to act as legal representative in all matters authorized on behalf of the owner or transferee.

Evaluator. A person who is authorized by the HDNW, to conduct evaluations of STDS and private water supply systems for the purpose of this Ordinance.

Effluent. The partially treated sanitary sewage outflow discharge of a septic tank or similar device.

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Environmental Health Regulations. The District Sanitary Code of the Health Department of Northwest Michigan (HDNW) for Antrim, Charlevoix and Otsego Counties, February 25, 2007, and the Michigan Well Construction and Pump Installation Code (TAct 368T of T1978T. TPart 127T, and Administrative Rules.)

Failed STDS. A sewage treatment and disposal system that violates Section 4.1 of the Environmental Health Regulations.

Failed Private Water Supply System. A private water supply system that does not comply with either of the following: the Safe Drinking Water Act (Act 399 of 1976; MCL 325.1001 et seq.) or the Michigan Groundwater Quality Control Rules or other State of Michigan rules that were applicable at the time of construction of the private water supply system.

Groundwater Quality Control Rules. The Michigan Well Construction and Pump Installation Code (TAct 368T of T1978T. TPart 127T and Administrative Rules.)

HDNW. The Health Department of Northwest Michigan, which is also known as the Northwest Michigan Community Health Agency.

Notification. A written document prepared by the Township that contains a summary of the requirements of this Ordinance.

Owner. A person who has legal or equitable title of a premises.

Person. An individual, firm, limited liability company, partnership, party, corporation, company, society, association, or other legal entity.

Premises. Any house, building, structure, facility or improvement that is served by a STDS.

Private Water Supply System. A system of privately-owned pipes and structures through which water is obtained, including but not limited to: the source of the water such as wells, or hauled water storage tanks, pumping and treatment equipment, storage tanks, pipes and appurtenances used or intended to furnish water for potable use. It does not include a municipally-owned water supply system.

Real Estate Service Provider. A person, who for a fee and in connection with the transfer of a premises, provides one or more of the following services: provides escrow services, provides title insurance, or acts as a real estate agent for an owner or a transferee or both.

Septic Tank. A watertight receptacle used to receive all sewage and designed to collect solids from such wastes for decomposition therein.

Sewage Treatment and Disposal System (STDS). The method of disposing of sewage by means of a sewer line connected to a septic tank or aerobic tank and one or more of the following: dry well, seepage pit, block trench, absorption field, trench or bed or any similar device or devices approved by the Health Officer.

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Transfer. A conveyance of the entire legal or equitable title to a premises to a person who at the time of the conveyance did not have an ownership interest in the premises. The conveyance may be by any legal means, including but not limited to, a deed, land contract, or inheritance (testate or intestate). In addition, a transfer includes a change in more than 50% of the ownership interest of a legal entity when that legal entity owns a premises.

Transferee. A person to whom a premises is transferred.

Transferor. A person who makes a transfer of a premises.

Village. The Village of Elk Rapids, Michigan

Sec. X-4. Advising Owners of Ordinance.

- A. When providing services in connection with a transfer of a premises, a real estate service provider shall provide the owner and transferee with a TOT Notification. TOT Notification documents may be obtained from a Township officer or employee, as designated by the Township Board, or from the HDNW.

Sec. X-5. STDS Evaluation Required and Exemptions.

- A. Except as provided in subsection B, an owner of any premises in the Township shall not transfer a premises until the following conditions are met:
 1. The existing STDS has been evaluated as required by this Ordinance and the HDNW has determined that the STDS complies with the HDNW's Environmental Health Regulations and, if applicable, the private water supply system complies with the requirements of Section 7 of the Ordinance; and;
 2. A written copy of the evaluation report has been provided to the transferee or an authorized agent of the transferee by the owner or an authorized agent of the owner.
- B. The transfer of a premises is exempt from the STDS and private water supply system evaluation requirements of this Ordinance under any of the following circumstances:
 1. Based on information provided by the owner or the records of the HDNW a determination is made by the HDNW that, pursuant to a permit issued by the HDNW under applicable Environmental Health Regulations, a new or replacement STDS was installed on the premises within ten years prior to the proposed date of transfer.
 2. Based on information provided by the owner or the records of the HDNW, a determination is made by the HDNW that the STDS, which serves the premises, has been evaluated and found by the HDNW to meet the requirements of this Ordinance within 5 years prior to the date of the proposed transfer.
 3. Based on information provided by the owner or the records of the HDNW, a determination is made by the HDNW that any structure on the premises, which is served by a STDS, will be demolished and not replaced.

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4. When a mortgage or other payment obligation for which the premises is pledged as security is refinanced.
5. A transfer from one spouse to the other spouse and which does not involve any other person obtaining or conveying a legal or equitable interest in the premises.
6. A change in ownership solely to include a spouse.
7. A transfer to establish, release or foreclose on a secured interest (such as a mortgage).
8. An involuntary transfer pursuant to foreclosure or court order.

Sec. X-6. Evaluation Application and Fee.

- A. Applications for an evaluation that is required by this Ordinance may be obtained from the office of the Village Clerk, or from the HDNW. The application must be returned to the HDNW and an evaluation fee, as set by the HDNW, shall be paid to the HDNW.

Sec. X-7. STDS Evaluation and Report.

- A. An STDS evaluation shall consist of visual and olfactory observations of the sewage system, use conditions, information gathering, evaluation at time of prior pumping, evaluation of the condition of the septic tank, absorption system, pumps, filters, and other important features of the sewage system. The evaluation shall provide a determination regarding whether the STDS is in compliance with the HDNW's Environmental Health Regulations. In making this determination, evaluators will adhere to the evaluation checklist established by the HDNW for evaluations to be conducted under this Ordinance and as specified in an attachment to the Intergovernmental Agreement between the HDNW and the Village of Elk Rapids.
- B. Except as provided in subsection C., below, prior to evaluation, the septic tank(s) must be pumped and serviced by a licensed Michigan hauler. The licensed hauler shall provide written documentation of service to the homeowner and to the evaluator. If a STDS has been pumped within 5 years prior to the evaluation and documentation concerning this prior pumping has been provided to the evaluator prior to the TOT evaluation, the STDS will not need to be pumped as a part of the STDS evaluation under this Ordinance.
- C. An STDS with design features that met the design standards at the time of construction will not be considered a failed system unless its performance is deemed failed.
- D. Evaluation Reports must be in written or electronic form and include, at a minimum:
 1. The address of the site;
 2. The parcel identification number;
 3. The name of the owner or the owner's authorized agent;
 4. The location of the STDS and private water supply system to be inspected;
 5. A description of the current operational status of the STDS, including documentation as to whether the STDS has failed;
 6. Other relevant or unusual observations related to the STDS and/or private water

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- supply system;
7. Recommendations to extend the life of the STDS and/or to make improvements in compliance with environmental health regulations;
 8. A determination that the STDS and private water supply system is or is not in compliance with the HDNW's Environmental Health Regulations;
 9. The results of water quality testing that were performed.
- E. The evaluator shall provide complete documentation of each STDS evaluation to the owner, Township and HDNW within 5 business days of the evaluation.
- F. Any owner or authorized agent of a failed STDS shall request a permit from the HDNW for corrective action(s). This request shall be made within 10 business days of the receipt of the evaluation report or notification from the HDNW.
- G. Once the HDNW gives final approval to the corrected STDS, the system shall be considered in compliance with this Ordinance.

Sec. X-8. Evaluations.

- A. Evaluations required by this Ordinance may only be conducted by the HDNW or evaluators contracted by the HDNW.

Sec. X-9. Private Water Supply System Evaluation.

- A. If a STDS must be evaluated as required by this Ordinance and the premises being served by the STDS also has a private water supply system, then the private water supply system shall be evaluated in addition to the STDS. Water sample(s) will be obtained by the evaluator and analyzed at a State of Michigan certified drinking water laboratory to determine the presence or absence of coliform bacteria, nitrate concentrations, and to determine whether the water quality complies with Safe Drinking Water Act (399 PA1976; MCL 325.1001 et seq.).
- B. The evaluator shall also perform a visual evaluation of the private water supply system for compliance with Michigan Groundwater Quality Control Rules or other regulations in force at the time of construction. The evaluator will identify the existence and disposition of any abandoned wells and describe any abandoned wells in the evaluation report. The foregoing information shall be contained in the evaluation report.
- C. All determinations required by this Section shall be made by the HDNW after reviewing all relevant information.

Sec. X-10. Failed STDS or Failed Private Water Supply System.

- A. After reviewing the evaluation report or based on its own investigation, if the HDNW determines that the STDS or private water supply system fails to comply with the requirements of this Ordinance, then the transfer of the premises shall not take place until the failed STDS complies with the HDNW's Environmental Health Regulations and/or the failed private water supply system complies with the requirements of Section 7 this Ordinance.

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Sec. X-11. Enforcement & Private Cause of Action.

- A. Nothing in this Ordinance shall be deemed to prohibit the HDNW from enforcing its Environmental Health Regulations regarding a failed STDS or failed private water supply system in its discretion. The remedies provided by this Ordinance are in addition to remedies and penalties that are authorized by law for violations of those Environmental Health Regulations.
- B. The following provisions apply to a failure to have an STDS or private water supply system evaluated as required by this Ordinance:
 - 1. Penalties: Any seller/transferor who violates this Ordinance shall be subject to a municipal civil infraction punishable by a fine of not more than \$500. All owners, regardless of their interest in the property, may be responsible for the civil infraction. The Village Planning and Zoning Administrator and other officials designated by the Village Council are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. Each day the violation remains in effect shall be considered a separate offense.
 - 2. Civil Action: A violation of this Ordinance shall be a nuisance per se. The Village shall have the right to commence a civil action to enforce compliance with this Ordinance.
 - 3. Village requested Evaluation and Costs: If an owner does not have the owner's premises evaluated as required by this Ordinance, the Village Planning and Zoning Administrator may cause an evaluation to be completed. All costs incurred by the Village and HDNW related to (a) the investigation of failing to have the required evaluation, and (b) in completing the evaluation, may be charged to the owner of the premises. These costs shall include, but are not limited to, the wages and fringe benefit costs of all personnel involved in the matter, including the charges of professionals. If the owner refuses on demand to pay all such costs, the Village may commence a civil action on its behalf and on behalf of the HDNW to obtain a judgment for such sums and for its attorney fees and court costs.

Sec. X-12. Severability.

- A. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, work, section, or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, such declaration shall not affect any portion of the Ordinance other than said part or portion thereof.

Sec. X-13. Repeal.

- A. All Ordinances and parts of Ordinances that are in conflict with this Ordinance are hereby repealed.

Sec. X-14. Effective Date. This Ordinance shall become effective 180 days after approval.

CORRESPONDENCE

Village of Elk Rapids Communication Initiation Form

Date:

Communication To:

Month Day Year

Name of body submitting communication:

Date of meeting body approved communication:

Members present (last names):

Chair of submitting body:

Topic of communication:

General purpose of communication:

Resolution/Motion/Request:

Material attached supporting communication (list each document separately):

COMMUNICATION RESPONSE:

Name of body responding to communication:

Date of meeting body approved response:

Members present (last names):

Chairman of body:

Response:

Material attached supporting response (list each document attached):

**VILLAGE OF ELK RAPIDS COMMUNICATION FORMS ARE FOR COMMISSIONS,
COMMITTEES AND COUNCIL USE.**

Rationale for use:

- Minutes of commissions and committees are sent to Council for information only. Council acknowledges “receipt of minutes” when they are accepted in the course of Council agenda items. This acceptance does not indicate approval of commission action, and does not authorize action on requests, or answer questions.
- Requests, recommendations, and/or questions (from Commission to Council and from Council to Commission or Committees) often gets lost in the report to council by the commission liaison, resulting in confusion, misunderstanding, and inaction or delays by all parties.
- The use of the “Communication Form” will eliminate confusion and hearsay by clearly stating recommendations and/or requests for council approval and/or action.
- The form when completed will serve as a record that clarifies intent and action taken by all parties, and assures prompt action by all. The communication identification at the top of the page is critical as this letter and number system will follow the project/request as it progress through the system.
- Minutes of commissions/committees serve as documents for internal use.
- Council and Commission minutes are a public record.

VILLAGE OF ELK RAPIDS – PLANNING COMMISSION

REPORTS

**PLANNING AND ZONING ADMINISTRATOR
MONTHLY ACTIVITIES REPORT**

VILLAGE OF ELK RAPIDS – PLANNING COMMISSION

FOR THE MONTH ENDING: JULY 31, 2017

PERMIT INQUIRIES, CONSULTATIONS & REVIEWS

The Planning and Zoning Administrator processed a total of 299 zoning permit inquiries, consultations, and reviews during the month of July, 2017.

PERMITS REQUESTED:

1. ZCP #2017-040 – Request of Jay Merchant Builder for a ZCP to allow for the reframing/remodel of existing dwelling on existing footprint located at 605 Ash St. Permit Approved.
2. ZCP #2017-041 – Request of Paul Hullman for a ZCP to allow for the reframing/remodel of existing dwelling on existing footprint located at 812 Livingston St. Permit Approved.
3. ZCP #2017-042 – Request of J & W Construction, acting as agent for Dave & Leslie Sukup, for a ZCP to allow for the construction of a new 8'x 10' covered porch on their existing dwelling located at 515 Elm St. Permit Approved.
4. ZCP #2017-043 – Request of Jay Merchant Builders, acting as agent for Scott C. Fessler Trust, for a ZCP to allow for the construction of a new 264 sq.ft. covered porch, 416 sq.ft. addition on their existing dwelling, and a 320 sq.ft. addition to the existing garage located at 309 River St. Permit Approved.

PERMIT COMPLIANCE MONITORING VISITS

The Planning and Zoning Administrator conducted site visits to ensure Code compliance at the following properties:

1. Jay Merchant Builders – 605 Ash St. – Zoning Compliance Site Visit for ZCP #2017-040.
2. Paul Hullman – 812 Livingston St. – Zoning Compliance Site Visit for ZCP #2017-041.
3. Dave Sukup – 515 Elm St. – Zoning Compliance Site Visit for ZCP #2017-042.
4. Scott Fessler Trust – 309 River St. – Zoning Compliance Site Visit for ZCP #2017-043.

ZONING CLASSIFICATION CHANGE REQUESTS:

1. The Planning and Zoning Administrator provided notice to Mr. Peter Hesse that in accordance with the conditions of approval and Section 603.E., of the Village of Elk Rapids Zoning Code, if substantial, continued development of his property, parcel #05-43-028-017-00, and parcel #05-43-028-019-00, better known as 875 Green St., does not occur within one (1) calendar year of the date of approval, the property would revert back to its previous zoning classification. Since this condition of approval has not been met, the above property is now reverted back to its original I-1, Industrial Zoning Classification. Mr.

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Hesse may appeal to the Village Council for an extension of the existing of the rezoning as provided in Section 603.E., of the Village of Elk Rapids Zoning Code,

CODE AMENDMENT REVIEW:

1. None.

VIOLATION NOTICES:

1. None.

MEETINGS:

1. The Planning and Zoning Administrator attended the following meetings:
 - Village Council: July 17, 2017
 - Planning Commission: July 25, 2017
 - Staff: July 11, 2017, July 18, 2017, July 25, 2017

ZONING ADMINISTRATOR - OTHER ACITIVITIES:

1. Planning and Zoning Administrator delivered daily bank deposits for the Village.
2. Planning and Zoning Administrator continues the review of the Village of Elk Rapids Code of Ordinances, Chapter 6 – Public Safety, Offenses, and Municipal Civil Infractions, to recommend changes that would update current code in accordance with state statute and provide a more user friendly document.

PLANNING COMMISSION ACTIVITIES:

1. The Planning Commission held their regular meeting on July 25, 2017. Discussion continued on the review of Alternative Housing options for the Village.
2. Asst. Village Manager, Caroline Kennedy provided training on OMA, FOIA, and Parliamentary Procedure to Commission members.
3. The Planning Commission reviewed the draft of the Parks and Recreation Commission Dam Beach Management Plan. Comments and recommendations will be forwarded to Parks and Rec. with the recommendation that the Plan be adopted by reference into the Village Collaborative Master Plan.
4. Planning Commission discussed the issue of a septic system “Point of Sale” ordinance for the Village. It was decided to review the Milton Township ordinance and that of Antrim County to see if further discussion and recommendation to Council would be appropriate.

VILLAGE COUNCIL ACTIVITIES RELATED TO PLANNING AND ZONING:

VILLAGE OF ELK RAPIDS – PLANNING COMMISSION

1. None

ZONING BOARD OF APPEALS ACTIVITIES:

1. The Zoning Board of Appeals regular meeting on July 20, 2017 was cancelled because no requests for Appeals were received. The next regular meeting of the ZBA is August 17, 2017.

SEMINARS/EDUCATIONAL TRAINING:

None.