

## ARTICLE XVIII

### NON-CONTIGUOUS PLANNED UNIT DEVELOPMENT OVERLAY ZONING DISTRICT [NC-PUD]

#### **Section 18.1 Description and Purpose**

The basic purpose of this Non-Contiguous Planned Unit Development Overlay Zoning District [NC-PUD] is to foster preservation of farmland located in the “A” Agricultural Zoning District. An approved NC-PUD Overlay Zoning District permits transfer of residential development rights from these active farmlands to a development property within the Joint Planning Area as defined in this Ordinance. Provisions of this Article are deemed by the Township to be consistent with and authorized by Section 503(3) of the Michigan Zoning Enabling Act [MCL 125.3503(3)], being 110 PA 2006, as amended.

#### **Section 18.2 Definitions**

For purposes of this Overlay Zoning District, the following definitions will apply:

*Development Rights* – The rights of residential development that accrue to land based on the zoning district in effect. For example, in the “A” Agricultural zoning district each home site must have no less than 1.5 acres of land and no less than 200 feet of frontage on a public road. Actual development rights are based on a “yield plan”.

*Donor Land* – A tract of land included within a non-contiguous planned unit development from which all or part of development rights are removed and transferred to a receiving tract of land that is not contiguous with the Donor land. Part or all of the donor land will be placed in a conservation easement or other lawful form of open space preservation. The easement or restriction shall include provisions permitting an amendment to lift or remove the easement or restriction if expressly approved by the Thornapple Township Board upon recommendation by the Planning Commission.

*Non-Contiguous Planned Unit Development [NC-PUD]* – A form of planned unit development containing two or more tracts of land that are not adjoining or contiguous and which includes (1) donor land located within the “A” Agricultural zoning district and (2) receiving land located in the Joint Planning Area as defined in the Ordinance.

*Receiving Land* – A tract of land included within a non-contiguous planned unit development to which development rights are transferred from a donor tract of land. The development rights transferred to the receiving tract of land are in addition to the development rights that accrue to the receiving land within the underlying zoning district. Actual development rights shall not exceed twenty-five (25) percent of the development rights available in the underlying zoning district.

Actual development rights in the underlying zoning district are based on a yield plan.

*Transfer of Development Rights* – The procedure whereby development rights that accrue to a tract of land are removed in whole or in part from that parcel and are added to another, separate tract of land. This process as available under this Ordinance, requires an approved NC-PUD and the recording of documents with the Barry County Register of Deeds attesting to the development rights transfer.

*Yield Plan* – A sketch layout plan depicting the number of home sites available on a tract of land based on compliance with zoning district regulations in effect.

### **Section 18.3 Permitted Land Uses**

Uses of land and buildings within an NC-PUD shall conform to uses permitted by right and by special land use in the underlying zoning district in effect on the receiving tract of land in an NC-PUD.

### **Section 18.4 Donor Land**

Any tract of land in Thornapple Township that is zoned “A” Agricultural and is actively used for crop or animal production and that is not located within the Joint Planning Area is eligible to be donor land within a proposed NC-PUD form of land development. When development rights are transferred in whole or in part, the donor land shall be considered open space in the NC-PUD but may continue in use for active crop or animal production.

### **Section 18.5 Receiving Land**

Any tract of land 20 or more acres in area and located within the Joint Planning Area is eligible to be receiving land as part of a proposed NC-PUD form of land development, provided the tract is or will be served by a full complement of public sewer and water, public streets, storm drainage, private utilities, street lighting, sidewalks and other public infrastructure.

### **Section 18.6 Density Limitations**

When transfer of development rights is to occur within a NC-PUD, such transfer shall not cause an increase in residential density on the receiving tract of land greater than twenty-five (25) percent of the residential density allowed within the underlying zoning district in effect on the receiving tract of land.

To determine the allowable residential density on the receiving land, a yield plan shall be submitted by the applicant for the receiving land and for the donor land. The Planning Commission will determine if the plans meet standards for underlying zoning districts on both donor and receiving tracts proposed to be

included in the NC-PUD. If the yield plans accurately reflect the number of home sites or dwellings allowed by the underlying zoning districts in effect, the Planning Commission will then conclude the maximum number of home sites or dwelling units that will be allowed in the receiving tract within the NC-PUD.

**Section 18.7 NC-PUD Review Procedure**

The procedure for review of any proposed NC-PUD shall be the same as set forth in Sections 17.3 – 17.10 of this Ordinance.

**Section 18.8 Deed Restrictions Applicable to NC-PUD Open Space**

Prior to final NC-PUD Overlay Zoning and site plan approval, the applicant shall submit to the Planning Commission proposed deed restrictions applicable to the donor land. The proposed deed restrictions shall be in recordable form and shall:

- (a) Identify the legal description of the donor land.
- (b) Describe the land as the “open space” portion of the NC-PUD and state what residential development rights, if any, remain on the donor land and what portion of the donor land is designated open space for the NC-PUD.
- (c) Limit use of land to animal or crop production except that portion on which residential development may occur in the future.
- (d) State the deed restrictions applicable to the donor land that may not be amended without the express written approval of the Township Board of Trustees upon advice and recommendation from the Planning Commission.

**Section 18.9 Future Change of Status for Donor Land in an NC-PUD**

The open space element of the NC-PUD, being the donor land, may be changed in whole or in part at some future date if and only if the following conditions are in effect:

- (a) Another qualifying donor tract of land is available for transfer of development rights to the existing NC-PUD donor land.
- (b) Sufficient open space is available to serve the original receiving land in the NC-PUD.
- (c) Deed restrictions for both Donor Lands will be amended to reflect approved changes to the development rights.
- (d) Other conditions and documentation as deemed necessary by the Planning Commission.

**Sections 18.10 – 18.99 [Reserved]**