

Township Attorney note---this tentative text is prepared in "legislative format": new verbiage proposed to be added is shown in bold type; any existing verbiage proposed to be deleted is shown lined-through.

CHARTER TOWNSHIP OF RUTLAND

BARRY COUNTY, MICHIGAN

TENTATIVE TEXT OF PROPOSED ZONING ORDINANCE TEXT AMENDMENTS FOR PLANNING COMMISSION PUBLIC HEARING AT OCTOBER 2, 2024 MEETING

ITEM 1

AMENDMENTS OF §220-2-2 (Definitions)

§220-2-2 of the Rutland Charter Township Code pertaining to the definitions of certain terms used in the Zoning Ordinance is proposed to be amended to revise the existing definitions for the terms "Building/Structure Setback" and "Yard, Required Side-Rear-Front" to include in each term a cross-reference to the other term, thus causing those definitions to read as follows:

- "BUILDING/STRUCTURE SETBACK — The minimum horizontal distance required to exist between a building or structure or any portion thereof (including eaves, steps, and porches) and the front, side or rear lot line, or some other place, such as a waterway, as required by this Chapter. **This term is generally synonymous with the term "Yard, Required Side-Rear-Front". Therefore, provisions in Chapter 220 referring to a minimum "setback" requirement or pertaining to a minimum required "yard" are generally referring to the same thing.**
- "YARD, REQUIRED SIDE-REAR-FRONT — An open space adjacent to a lot line, on the same land with a building or structure or group of buildings/structures, lying in the area between the building/structure or group of buildings/structures and the nearest lot line, and which is unoccupied and unobstructed from the ground upward for the minimum distance and depth/width prescribed in this Chapter, except as otherwise provided in this Chapter. **This term is generally synonymous with the term "setback". Therefore, provisions in Chapter 220 referring to a minimum "yard" requirement or pertaining to a minimum required "setback" are generally referring to the same thing.**

ITEM 2

AMENDMENTS OF §220-15-1 Schedule of Regulations

§220-15-1 of the Rutland Charter Township Code (Schedule of Regulations) is proposed to be amended to change the existing "Minimum Yard Requirements" columns caption for the purpose of clarifying that minimum "yard" requirements and minimum "setback" requirements are generally referring to the same thing, and to add a proposed new footnote 8 to the "Minimum Lot Width" column for the purpose of

reiterating an applicable lot width requirement is measured at both the “front lot line” and the “building line”, thus causing those parts of the Schedule to read as follows (existing column captions proposed to be amended are shown here in unbold type so as to be able to show the proposed change in bold type; all column captions as may be amended will be restored to bold type at the end of the amendment process):

ARTICLE XV Schedule of Regulations

§ 220-15-1. Schedule of Regulations

Schedule of Regulations									
District	Minimum Lot Area (square feet or acres)	Minimum Lot Width (feet) (8)	Maximum Lot Coverage	Minimum Yard/Setback Requirements (feet) (6)			Maximum Height (5)		Minimum Dwelling Unit Size (square feet)
				Front (1)	Side (1)	Rear (1)	Stories	Feet	
AG/OS	1 acre	220	5%	50	25	50	2 ½	35	960
CR	2.3 acres	200	10%	50	15	25	2 ½	35	960
MDR	15,000 square feet	100	30%	30	10 (2)	25 (4)	2 ½	35	960
HDR	15,000 square feet for one family	100	30%	30	10	25 (4)	2 ½	35	800
	20,000 square feet for two family	125	30%	30	10	25 (4)	2 ½	35	800
	Multiple family	See Table R-4, § 220-15-2							
MHCR	10 acres	See Article VIII						2 ½	
LC	10,000 square feet	80	50%	40	20	20	2 ½	35	
ACLI	40,000 square feet	200	35%	Abutting non-residentially zoned property: 50 Abutting residentially zoned property: 50	Abutting non-residentially zoned property: 20 Abutting residentially zoned property: 30 (3)	Abutting non-residentially zoned property: 20 Abutting residentially zoned property: 30 (3)			
LI	200,000 square feet	300	35%	100	50	50	2 ½	35	
MUD	See Article IX								
PRC	1 acre	125	20%	40 (7)	15	25	2 ½	35	960
I/PU	1 acre	125	20%	40	15	25	2 ½	35	N/A

- (1) The setback from the Thornapple River shall be a minimum of 100 feet. The setback may be a combination of horizontal distance and vertical elevation. (Example: thirty-foot setback plus a seventy-foot elevation would beat the one-hundred-foot required setback.)

Notwithstanding the generally applicable minimum front yard requirements as specified in this Schedule or elsewhere in this Chapter, all buildings and structures constructed, erected, or enlarged on a lot adjoining a state highway shall have a minimum setback of 75 feet from the highway right-of-way line.

- (2) Existing platted lakefront lots may reduce the side lot line requirement to five feet, provided that the Zoning Administrator, Fire Chief, and/or Building Inspector review the application for any potential safety concerns. If hazards are determined, then the side yard setback shall remain 10 feet.
- (3) When a property in the ACLI District abuts a residentially zoned property, the rear and side yard setbacks shall be 30 feet and shall include a 10-foot buffer zone, as depicted in Figure A, below).
- (4) Detached accessory buildings in the MDR and HDR Districts shall be located at least 15 feet from the rear lot line, and in all other districts shall meet the rear yard requirements in Article XV (Schedule of Regulations).
- (5) The maximum building height limitations in this schedule and in § 220-15-2, Table R-4, are intended to generally apply, unless superseded by another provision of this chapter providing a different maximum height limitation for a specific use or in a particular context. See, for example, § 220-17-11.A, specifying other building height limitations that may be applicable to buildings in the specified circumstances. The maximum height limitation in this Schedule also does not apply to Airport structures required or allowed by federal law or regulations to exceed the specified limitation.
- (6) The minimum yard requirements in this Schedule and elsewhere in Chapter 220 shall be applied with reference to lot lines and the right-of-way of a street or lawful private road/shared driveway; provided in all Residential Districts the otherwise applicable minimum required yard (setback) from a shared driveway or existing private road with a right-of-way/easement width of less than 66 feet located within a lot may be reduced to not less than ½ the otherwise applicable requirement, if the Zoning Administrator determines the reduced setback requested by the applicant or as otherwise set by the Zoning Administrator will not be detrimental to the owner/occupants of the subject property and the persons using the shared driveway/existing private road.
- (7) The generally applicable minimum front yard (lake-side) setback requirement for detached accessory buildings/accessory structures on lake lots in the PRC Park/Recreation/Camps District may be reduced to not less than 5'. The exercise of this setback reduction authority shall be made by the Planning Commission pursuant to the standards for special land use approval (§ 220-20-3) and/or the standards for final site plan approval (§ 220-21-5.B) in any circumstances where the proposed accessory building/structure is subject to special land use and/or site plan approval(s). In any other circumstances, where neither special land use nor Planning Commission site plan approval is required, this setback reduction authority shall be exercised by the Zoning Administrator in accordance with the review and approval criteria for the administrative site plan review process as specified in § 220-21-7.B-D.

- “(8) Lot width is required to be measured at both the “front lot line” and the “building line” (see definition of “Lot Width” in § 220-2-2). The definitions of front lot line (lot line, front) and building line in § 220-2-2 are repeated here for convenience:

LOT LINE, FRONT — Where a lot abuts only one public street, or lawful private road/shared driveway, the front lot line shall be the line separating the lot from the right-of-way of the street or lawful private road/shared driveway; except where a lot has frontage on a lake, river, or other navigable waterway, the front lot line shall be the boundary line abutting the water.

BUILDING LINE — The line adjacent to a principal building and parallel to the front lot line, formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjacent ground.”

ITEM 3

AMENDMENTS OF §220-2-2 (Definitions)

§220-2-2 of the Rutland Charter Township Code pertaining to the definitions of certain terms used in the Zoning Ordinance is proposed to be amended to revise the existing definitions for the terms “Utility-Scale Solar Energy Electricity Generating Facility” and “Essential Services” to read as follows:

“UTILITY-SCALE SOLAR ENERGY ELECTRICITY GENERATING FACILITY — A facility comprised of multiple ground-mounted photovoltaic energy collector panels and associated structures/equipment designed and intended to generate electrical energy exclusively for a public utility power grid (and for the facility itself) **with a designed full-load sustained generating output of less than 50 megawatts. Note: The zoning authority of the Township with respect to a solar energy electricity generating facility with a designed full-load sustained generating output (nameplate capacity) of 50 megawatts or more was preempted by 2023 Public Act 233.”**

“ESSENTIAL SERVICES — The erection, construction, alteration or maintenance of public utilities by municipal departments or by utilities regulated by the Michigan Public Service Commission and holding a franchise from the Township, of underground or overhead gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply, or disposal systems (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electric substations, gas regulators, stations, and other similar equipment). **This term is not intended to include any electricity generating facility.”**

Township Attorney comment: 2023 Public Act 233 has the effect of preempting zoning authority over a solar energy electricity generating facility with a nameplate capacity of 50 megawatts or more. The Township retains zoning authority with respect to such a land use with a nameplate capacity of less than 50 megawatts. The proposed amendment of the existing definition of the term Utility-Scale Solar Energy Electricity Generating Facility is intended to align that definition with the new state law. The proposed amendment of the existing definition of Essential Services is intended to clarify that term is not intended to include any electricity generating facility.