

**Township of Dalton**  
**MUSKEGON COUNTY, MICHIGAN**



**ZONING ORDINANCE**

ORIGINALLY ADOPTED 2007  
INCLUDING ALL AMENDMENTS AS OF JUNE 13, 2022

1616 E. RILEY THOMPSON ROAD  
MUSKEGON, MI 49445



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# CHAPTER 1

## TITLE AND PURPOSE

- 1.1 Short Title.** This Ordinance shall be known as the Dalton Township Zoning Ordinance.
- 1.2 Purpose.** The purpose of this Ordinance is to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and for public and semi-public or other specific uses; to regulate and limit the height and bulk of buildings and other structures; to regulate and determine the size of yards and open spaces; to provide for the orderly development of the Township; to encourage the uses of lands and resources of the Township in accordance with its character and adaptability; to provide for safety in traffic, adequacy of parking and reduce hazards to life and property; defining certain terms used herein; provide for enforcement; establish a zoning board of appeals; and impose penalties for the violation of this Ordinance.
- 1.3 Interpretation.** In their interpretation and application, any enforcement officer or agency, any court and any Zoning Board of Appeals members shall hold the provisions of this Ordinance to be minimum acceptable standards and requirements adopted for the promotion of the health, safety, security, and general welfare of Dalton Township.
- 1.4 Scope.** This Ordinance shall affect and regulate the uses and occupancy of all land and every structure in the Township. Where this Ordinance imposes greater restrictions than those imposed or required by provisions of other laws, ordinances, private restrictions, covenants, deeds or other agreements, the provisions of this Ordinance shall control.
- 1.5 Zoning Affects All Structures and Land and the Use Thereof.** No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, reconstructed, extended, or altered except in conformity with the regulations and provisions of this Ordinance.
- 1.6 Separability.** If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.



## CHAPTER 2 DEFINITIONS

**2.1 Definitions.** For the purpose of this chapter, certain terms are herein defined. Any word not defined herein shall have the meaning in common or standard use that is reasonable for the context in which the term is used herein.

### 2.2 A – E

1. **Accessory Building.** A subordinate building detached from the principal building but located on the same parcel of land as the principal building, and which is devoted to an accessory use. A subordinate part of a principal building, such as an attached garage, is not an accessory building.
2. **Accessory Use.** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
3. **Adult Day Care Home.** A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for periods of less than 24 hours per day, five or more days per week and for two or more consecutive weeks, as licensed and regulated under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.
4. **Adult Foster Care Family Home.** A private residence with the approved capacity to receive six or fewer adults to be provided with foster care for periods of 24 hours per day, five or more days per week and for two or more consecutive weeks, as licensed and regulated under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.
5. **Adult Foster Care Group Home.** An adult foster care facility licensed under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979, MCL 400.701 et seq., as amended, in which the adult foster care group home licensee is a member of the household and an occupant of the residence. The home shall be a private residence providing adults with foster care for 24 hours a day, five or more days per week and for two or more consecutive weeks. A foster care group home with the approved capacity to receive at least seven but not more than 12 adults is a “small” group home. Group homes with the approved capacity to receive at least 13 but not more than 20 adults is a “large” group home.
6. **Agricultural Service Establishment.** Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural

services, veterinary and other animal services, and farm labor and management services.

7. **Animal Clinic.** A place where animals are given medical care, limited grooming, and the boarding of animals is limited to short-term care incidental to clinical use.
8. **Attached Garage.** A portion of a dwelling that is used primarily for the storage of passenger vehicles owned by the occupant of the dwelling.
9. **Basement.** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.
10. **Bed and Breakfast Establishment.** A private residence that offers overnight accommodation to lodgers in the principal residence of the owner or operator of the establishment, and which generally serves breakfast as a part of the overnight accommodation.
11. **Billboard.** An outdoor sign, display, painting, drawing, message, placard, poster, or other device used to advertise services or products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.
12. **Boarding/Lodging House.** A dwelling having one kitchen and primarily used for the purpose of providing meals and/or lodging for transient guests staying for an indeterminate duration for compensation of any kind.
13. **Building.** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.
14. **Building, Principal.** A building in which the main use of the lot or parcel of land is conducted.

15. **Building Height.**

The vertical distance from the average finished grade of the footprint of the building to the top of the highest roof beams on a flat roof, the deck level on a mansard roof, and the highest point of gable, hip and gambrel roofs. Mechanical equipment, chimneys, air conditioners, church spires and steeples, water towers, and similar appurtenances shall not be included in this measurement. (See Figure 2.1.)



16. **Child Care Center.** A facility, other than a private residence, receiving one or more pre-school or school age children for periods of less than 24 hours per day, for not less than two consecutive weeks (regardless of the numbers of hours of care per day), where the parents or guardians are not immediately available to the child, including facilities described as day care centers, day nurseries, nursery schools, parent cooperative pre-schools, play groups and drop-in centers (as licensed and registered under the Child Care Organizations Act, Act 116 of the Public Acts of 1973, as amended). Child care centers shall not include Sunday schools, vacation bible schools or religious instructional classes.
17. **Child Care Home, Family.** A private home in which fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
18. **Child Care Home, Group.** A private home in which seven but not more than 12 minor children are received for care and supervision for periods less than 24 hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption, including a home that gives care to an unrelated minor child for more than four weeks during a calendar year.
19. **Church.** A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.
20. **Co-Location.** The use of a wireless telecommunication tower or other tall structure permitted to be used for wireless telecommunication purposes, by more than one wireless telecommunication provider.
21. **Condominium Project.** A plan or project consisting of not less than two condominium units established and approved in conformance with the provisions of the Condominium Act, Public Act 59 of 1978, as amended.
22. **Condominium Subdivision.** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, as amended.
23. **Condominium Subdivision Plan.** The drawings and information attached to the master deed including, but not limited to, a survey plan, floodplain plan, site plan, utility plan, floor plans, description of the size, location, area, and horizontal boundaries of each unit, number assigned to each unit, vertical boundaries and volume of each unit, building sections, and description of the nature, location, and size of common elements.
24. **Condominium Unit.** That portion of a condominium project which is designed and intended for separate ownership and use, as described in the master deed,

regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. In condominium projects where a condominium unit(s) will consist of a building envelope, the term "Condominium Unit" shall be equivalent to the term "lot," for purposes of determining compliance with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, and the like.

25. **Construction Equipment, Sales or Supplier.** Buildings and outdoor storage areas associated with the operation of a business storing and marketing materials and equipment to the general public and to construction companies, including the outdoor storage of equipment, vehicles, trailers, materials and machinery.
26. **Cul-De-Sac.** The vehicle turn-around area that constitutes the terminus of a street. A cul-de-sac lot is a lot that has frontage on such a turn-around area.
27. **Driveway.** A paved or gravel drive connecting a house, garage, or other building to a street.
28. **Duplex.** A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from the ground to the roof.
29. **Dwelling.** A building, including a mobile home or manufactured home, designed and used as the permanent residence for a family, including one-family, two-family and multiple-family dwellings, but not including hotels, motels, tourist cabins or trailers.
30. **Dwelling, Multiple Family.** A building containing more than two dwelling units, each of which is designed and used by one family and provides independent living, cooking, and kitchen accommodations.
31. **Dwelling, Single Family Detached.** A detached building designed for the occupancy of only one family.
32. **Dwelling, Two Family.** A building containing two attached dwelling units.
33. **Dwelling Unit.** A dwelling designed to be occupied by not more than one family, having permanent provisions for living, sleeping, eating, cooking and sanitation.
34. **Essential Service.** The erection, construction, alteration or maintenance of public utilities by a municipal corporation, public utility, or cable television company including gas, electrical, steam, communication, safety, water supply systems, or disposal systems, including equipment and accessories in connection therewith necessary for furnishing utility services for public health or safety or general welfare; but not including sanitary landfills, wireless telecommunication antennas, and wind generators on towers.

## 2.3 F – L

1. **Family.**
  - a. One or more persons related by blood, marriage, or adoption occupying a single dwelling unit and living as a single, non-profit housekeeping unit.
  - b. A collective number of individuals occupying a single dwelling unit under one head whose relationship is of a permanent non-transitory and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order nor include a group of individuals whose association is temporary and/or resort or seasonal in nature nor include state licensed residential facilities as defined by the Zoning Enabling Act of 2006, as amended.
2. **Farm.** A parcel or parcels of land devoted to a farm operation, including the commercial production of farm products, the raising of farm animals, the construction and use of farm buildings and the conducting of productive agriculture as a business and profit-making enterprise. A farm includes, but is not limited to, field crops, truck farming, orchards, nurseries and related dwellings, and the use of farm vehicles and equipment.
3. **Farm Animals.** Livestock, including but not limited to, beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other commonly raised farm animals.
4. **Farm Building.** Any building or accessory structure other than a non-farm dwelling unit or non-farm accessory building which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or milk house.
5. **Farm Market, Seasonal.** A public or private open air venue where local farm products, primarily including fruits, vegetables, and other locally produced goods or crafts, are sold during the growing seasons. Seasonal farm markets may include a covered structure without walls to protect against weather conditions.
6. **Farm Operation.** A condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.
7. **Farm Products.** Plants grown and harvested and farm animals bred and raised on farms, including forage and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products; livestock, fruits, vegetables, flowers, seeds,

grasses, trees, fish, apiaries, and other similar product; or any other farm product which incorporates the use of food, feed, fiber, fur or flora.

8. **Fence.** A structure or barrier, constructed of wood, metal or other durable parts, rails, boards, wire mesh, etc., and used to mark a boundary or to define and enclose a specific area for the purpose of protection, privacy or confinement.
9. **Floor Area.** The area of all floors computed by measuring the dimensions of the outside walls of a building, excluding porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, attic floor area with less than five feet vertical distance from the floor to finished ceiling and basements.
10. **Foster Family Home.** A private residence in which one, but not more than four, minor children are given care and supervision for 24 hours a day, for four or more days a week, in a private residence, as licensed and regulated under the Child Care Organizations Act, Act 116 of 1973, as amended.
11. **Golf Course.** A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse.
12. **Grade.** That surface of the earth or finished material located adjacent to the structure.
13. **Greenhouse.** A building or structure constructed chiefly of glass or plastic, in which tender produce or exotic plants are grown or sheltered.
14. **Home Based Business.** An occupation or business of limited scope and impact that is located on a parcel of land being used for residential purposes, and is operated by one or more residents of the dwelling on the property and which, by reason of its nature or characteristics, does not qualify as a home occupation.
15. **Home Occupation.** An occupation which is carried on in a dwelling or a lawful accessory building on the same parcel of land as the dwelling, by the residents of the dwelling and not more than one other person. Such occupation shall be clearly a customary, incidental and secondary use of the dwelling and the parcel of land on which the dwelling is located.
16. **Hotel.** A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.
17. **Kennel.** A commercial or noncommercial establishment in which domesticated animals are housed, groomed, bred, boarded, trained, or sold.
18. **Keeping of Horses.** The care, boarding, riding and related uses of horses and ponies.

19. **Laundry and Dry Cleaning Establishments.** A commercial establishment providing cleaning, dry cleaning and laundry services on-site for businesses and residents.

20. **Lot.** A portion of land exclusive of any streets, separated from other parcels by a legal description as shown in a duly executed and recordable land contract or deed or by a subdivision of record or a recorded survey map, either of which is duly recorded with the Muskegon County Register of Deeds.

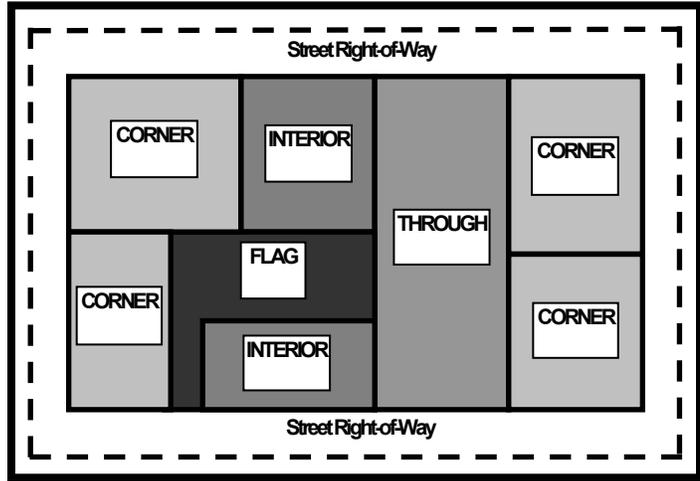


Figure 2.2

21. **Lot Area.** The total area within the boundaries of the lot, excluding any road rights-of-way.

22. **Lot, Corner.** A lot abutting upon two or more roads at their intersection or upon two parts of the same road forming an interior angle of less than 135 degrees. (See Figure 2.2.)

23. **Lot Coverage.** The part or percent of a lot occupied by buildings and accessory buildings, parking areas, driveways, patios, decks, and other impervious surfaces.

24. **Lot Depth.** The average distance measured from the front lot line to the rear lot line. In cases where the front and rear lot lines are not parallel or there is a change in bearing along a front or rear lot line, the lot depth shall be measured by drawing several evenly spaced perpendicular lines at ten foot intervals from the front to rear of the lot and averaging the length of these lines. (See Figure 2.3.)

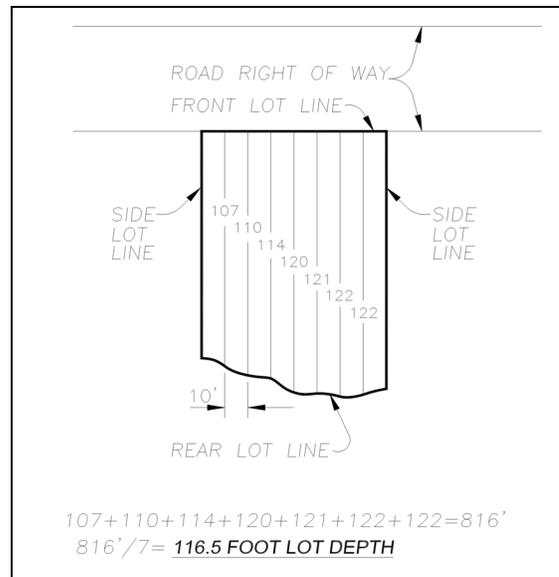


Figure 2.3

25. **Lot Lines.** (See Figure 2.4.)

- a. **Lot Line, Front.** The boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts. In the case of a new corner lot fronting on two or more streets, the front lot line shall be the shortest boundary line of the lot adjacent to a street right-of-way. For a corner lot in existence at the time of the adoption of this Ordinance, the front line shall be that which corresponds to the property's street address. In the case of any building or structure which fronts on a lake, the front yard shall be the area which lies between the front line of any building and/or structure, or any projection thereof, and the high water mark.

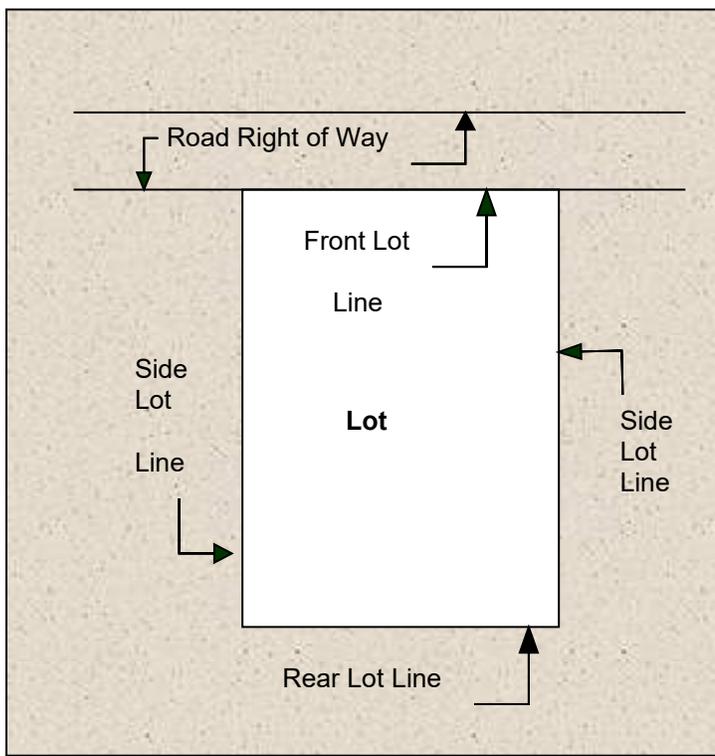


Figure 2.4

- b. **Lot Line, Rear.** The boundary line which is opposite and most distant from the front lot line.
- c. **Lot Line, Side.** Any lot boundary which is neither a front lot line nor a rear lot line.
- d. **Lot Width.** The straight line horizontal distance between the side lot lines of a lot, as measured at the front lot line, and which width is not diminished throughout the first 250 feet of the lot. In the case of a corner lot, lot width is the shortest straight line horizontal distance between the side lot lines that extend back from the designated front lot line, such width to be measured at the designated front lot line and which width shall not be diminished throughout the first 250 feet of distance back from the designated front lot line.

In the case of a lot abutting a cul-de-sac, the minimum required lot width shall be measured at the rear of the required front yard and such width shall not be diminished throughout the depth of the lot for the next 250 feet. A cu- de-sac lot shall have a required front yard of at least 40 feet.

## 2.4 M - Q

1. **Manufacturing.** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products.
2. **Manufactured Housing.** A structure, transportable in one or more sections which is built on a chassis and designed to be used with or without a permanent foundation, to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems in the structure but does not include recreational vehicles or travel trailers or motor homes.
3. **Marijuana.** Also known as marihuana, also known as cannabis; shall have the meaning given to it in section 7601 of the Michigan Public Health Code, as referred to in section 3(d) of the MMMA (Michigan Medical Marijuana Act). Any other term pertaining to marijuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or in the MMMA General Rules.
4. **Master Deed.** The condominium document used to record the condominium project to which are attached, as exhibits and incorporated by reference, the approved bylaws for the condominium project and the condominium subdivision plan for the project. The master deed shall include all the information required by the Condominium Act, Public Act 59 of 1978, as amended, or its successor statute.
5. **Medical Marijuana Dispensary.** Except as set forth below, any business, facility, structure, association, collective, cooperative, location or operation, whether fixed or mobile, whether profit or nonprofit, where medical marijuana is made available; provided, sold, used, grown, cultivated, processed, stored, dispensed, given, delivered or distributed by or to a registered primary caregiver, a registered qualifying patient or any member of the public, except as stated below in this subsection.

A medical marijuana dispensary shall also include any business, facility, association, collective, cooperative or operation, whether fixed or mobile, whether profit or nonprofit, where medical marijuana is smoked, consumed or used by three or more persons simultaneously.

A medical marijuana dispensary shall not include the providing of medical marijuana by a primary caregiver to not more than five qualifying patients in strict accordance with the MMMA, as amended, and the requirements of this Ordinance so long as not more than the lawful amount of medical marijuana is delivered to the qualifying patient and it is done in full compliance with this Ordinance as well as all other applicable Township ordinances and applicable Michigan laws, rules and regulations.

A medical marijuana dispensary shall also not include smoking, consuming or use of medical marijuana by a qualifying patient in strict accordance with the MMMA, as amended, and the requirements of this Ordinance and other applicable Township ordinances and applicable Michigan laws, rules and regulations.

A medical marijuana dispensary shall also not include uses occurring in compliance with this Ordinance and all laws and rules of the State of Michigan at the following locations: a state-licensed health care facility, a state licensed residential care facility for the elderly or infirmed, or a residential hospice care facility.

6. **Photovoltaic Device** means a system of components that generates electric energy from incident sunlight by means of photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.
7. **Providing of Medical Marijuana.** The acquisition, possession, cultivation, manufacture, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the MMMA. The providing of medical marijuana shall not be considered a commercial, personal service or retail use, farm or farm operation, agricultural use, processing or industrial use, or use similar to these uses or as any use except a home occupation conducted in accordance with the provisions of this Ordinance.
8. **Michigan Medical Marijuana Act.** Initiated Law 1 of 2008, as amended from time to time. Also referenced in this Ordinance as the “MMMA.”
9. **Mini Warehousing (also known as Self-Storage Units).** A commercial venture that rents individual cubes of space for storage purposes. Individuals typically have joint access to the lot but possess individual access and keys to their respective units.
10. **MMMA General Rules.** The General Rules of the Michigan Department of Community Health, issued in connection with the MMMA, as amended from time to time.
11. **Motel.** An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.
12. **Motor Vehicle Repair.** A garage, building or area used for the repair, repainting or refurbishing of motor vehicles, boats, trailers, farm equipment or similar mobile equipment.
13. **Motor Vehicle Sales.** The display, sale or rental of new or used motor vehicles, boats, trailers, farm equipment, or other similar mobile equipment in operable condition, but not including motor vehicle repair.
14. **Natural Features.** Natural features shall include, but not be limited to; soils, wetlands, woodlots, floodways, landmark trees, overgrown fence rows, water bodies, topography, vegetative cover, geologic formations and other natural land features.

15. **Nonconforming Use.** A land use which was lawful within a structure or on land at the time of adoption of this Ordinance, or any applicable amendment, and which does not currently conform to the regulations of the district in which it is located, or other applicable current provisions of this Ordinance.
16. **Nonconforming Lot.** Any lot or parcel of land lawfully existing at the effective date of this Ordinance, or any relevant amendment thereto, and which does not comply with the current minimum lot area or dimensional requirements of the zone district, or other applicable current zone district or other applicable current provisions of this Ordinance.
17. **Nonconforming Structure.** Any building, structure, or portion thereof, lawfully existing at the effective date of this Ordinance, or any relevant amendment thereto, which does not comply with the current minimum requirements of the zone district, for such structure or other applicable current zone district or other applicable current provisions of this Ordinance.
18. **Open Space.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use and enjoyment or for the use and enjoyment of owners, occupants, and their guests.
19. **Paraphernalia.** Drug paraphernalia as defined in Section 7451, or successor provision, of the Michigan Public Health Code that is or may be used in association with medical marijuana.
20. **Park, Public.** A track of land designated and used by the public for active and passive recreation.
21. **Parking Area.** A space used for parking motor vehicles, including parking lots, garages, and private driveways, but excluding public right-of-way areas.
22. **Parking Area – Public.** A parking area available to the public, with or without compensation, or used to accommodate clients, customers, or employees.
23. **Parking Lot.** An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.
24. **Parking Space.** A space for the parking of a motor vehicle within a public or private parking area.
25. **Personal Service Establishment.** An establishment primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.
26. **Primary Care Giver.** A person who has agreed to assist with a qualifying patient's medical use of marijuana, possessing the qualifications and registration as provided by the MMMA and the MMMA General Rules.

27. **Principal Use.** The primary or predominant use of any lot or parcel.
28. **Processing.** A series of operations, usually in a continuous and regular action or succession of actions, taking place or carried out in a definite manner.
29. **Professional Offices.** The office of a member of a recognized profession maintained for the conduct of that profession.
30. **Provisioning Center Agent.** A principal officer, board member, employee, operator or any other person acting as an agent of a provisioning center.
31. **Public Areas.** Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate.
32. **Publicly Owned Building.** Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools, and theaters; business buildings, such as offices; and factories and industrial buildings.
33. **Qualifying Patient.** “Qualifying patient” means a person who has been diagnosed by a physician as having a debilitating medical condition, as defined in the MMMA, and who has been issued a registry identification card by the Michigan Department of Community Health that identifies such person as a registered qualifying patient.

## 2.5 R - T

1. **Recreation Vehicle or Unit.**
  - a. A vehicular type structure designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle which is self-powered. Recreational units of this type shall include, but shall not be limited to, the following: travel trailers, camping trailers, tent trailers, motor homes and truck campers.
  - b. Recreational units shall include, but shall not be limited to, the following: boats, jet skies, boat trailers, snowmobiles, snowmobile trailers, all-terrain vehicles, dune buggies, and similar equipment. If a boat, snowmobile(s), jet ski(s), or dune buggy(s) is on a trailer for transport purposes, this shall be considered as a single recreational unit.
2. **Restaurant.** An establishment where food and drink are prepared and served. *[Amended by Ord. No. 2022-02, Eff. 3/27/2022]*

3. **Restaurant, Drive Through.** A restaurant as defined herein offering prepared food and drinks through one or more drive-up windows for consumption on or off premises.
4. **Right-of-Way.** A public or private strip of land acquired or established by reservation, dedication, easement or other legal means, and to be used for the passage of persons, motor vehicles and non-motorized vehicles, and the installation and use of utility lines and similar uses.
5. **Roadside Stand.** A temporary or seasonal booth or stand for the display and sale of agricultural and related products typically grown or produced on site; such structure shall not have space for customers within the stand or booth itself.
6. **Safety Compliance Facility.** A business, facility or other entity or activity that tests marijuana produced for medical use for contaminants or potency.
7. **Safety Compliance Facility Agent.** A principal officer, board member, employee, operator or agent of a safety compliance facility.
8. **Screening or Buffering.** A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms or densely planted vegetation.
9. **Seedling.** A marijuana plant that has no flowers, is less than 12 inches in height and is less than 12 inches in diameter.
10. **Service Station or Gasoline Service Station.** A place where operating fuels or lubrication oils for motor vehicles are offered for sale at retail to the public, including the sale of accessories installed by the proprietor thereof and minor adjustment services, but not including major automotive repairs, motor overhauling, major body damage repairs, or bulk fuel distributing.
11. **Setback.** The minimum horizontal distance between a lot line and the nearest front, side or rear building line. (See Figure 2.5.)

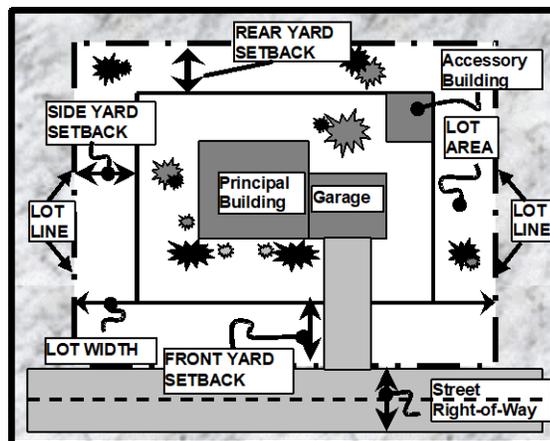


Figure 2.5

12. **Sexually Oriented Business.** A sexually oriented business includes, but is not limited to, an adult bookstore or adult video store; an adult nightclub or cabaret, bar or restaurant; an adult motel; an adult motion picture theater; and other establishments catering to adult patrons and which may involve the actual or depiction of specified anatomical areas and/or specified sexual activities, as those terms are commonly understood, or by means of video, motion pictures, photographic reproductions or other visual media, or in which a person or persons may appear in a state of nudity or in live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas.
13. **Site Plan and Site Development Plan.** A print from an ink or pencil drawing on paper or Mylar, drawn to scale, which shows the intended and/or existing location and dimensions of improvements or structures upon a parcel of property including buildings, driveways, parking areas, parking spaces, landscaping, landscaped areas, sidewalks, signs, drainage facilities or similar physical improvements.
14. **Solar Array** means any number of Photovoltaic Devices connected together to provide a single output of electric energy or other energy.
15. **Solar Cell** means any device that directly converts solar radiation into thermal, chemical or electrical energy through the process of photovoltaics and usually is mounted on solar panels.
16. **Solar energy collector** means a photovoltaic cell, panel or panels, and/or other devices or equipment, or any combination thereof, which relies on solar radiation as an energy source for the generation of thermal, chemical or electrical energy.
17. **Solar Energy System (SES)** means the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.
18. **Solar Farms** means a utility-scale facility that converts sunlight into electricity, where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, for the sale, delivery or consumption of the generated energy with a capacity greater than one megawatt (MW).
19. **Solar Panel** means a structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.
20. **Solar storage battery** means a device that stores energy from solar radiation and makes it available in the form of thermal, chemical or electrical energy.

21. **Special Events Venue.** A venue for weddings, fundraisers, parties and other special events held at least partially within the confines of an enclosed or covered structure. *[Eff. 7/24/2019]*
22. **Street or Road.** An easement, right-of-way or other interest in land established or used for the purpose of providing access to abutting land.
  - a. A street or road may be a public street or road or a private street or road.
  - b. A public street or public road is an easement, right-of-way or other interest in land which has been conveyed or dedicated to, and accepted by, the Township, county or other governmental body for the purpose of providing access to abutting land.
  - c. A private street or private road is a non-public street or road that provides the means of access to more than two lots or parcels of land.
23. **Structure.** Anything constructed or erected which requires permanent location on the ground or attachment to something having such location. The term building shall mean the same; and structures shall include, but not be limited to, parking areas, swimming pools and signs.
24. **Subdivision.** The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development or lease.
25. **Swimming Pool.** A constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than 300 gallons of water nor decorative pools with less than two feet of water depth.
26. **Transportation Terminal.** A building or area in which freight brought by truck is assembled or stored for routing or reshipment, or in which semi-trailers, including tractor or trailer units and other trucks, are parked or stored.

## 2.6 U – Z

1. **Use.** Any purpose for which a structure or a parcel may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a structure or on land.
2. **Use, Temporary.** A use or activity which is permitted only for a limited time and subject to specified regulations in this Ordinance.
3. **Vehicle Repair Shop.** A garage, building or area used for the repair, repainting or refurbishing of motor vehicles, boats, trailers, farm equipment or similar mobile equipment, but not including minor part replacement and motor tuning services customary for a service station.

4. **Vehicle Sales Area.** An area or building used for the display, sale or rental of new or used motor vehicles, boats, trailers, farm equipment, or other similar mobile equipment in operable condition where no repair work is done.
5. **Warehousing.** The storage of goods, materials and commodities, and including associated driveways, vehicle circulation areas and off-street parking areas. A warehouse may include the storage of goods, materials and commodities on a wholesale basis, prior to their distribution for retail sale, and it may also include a self-storage warehouse, with respect to which customers deliver their own goods and materials for storage in a building, and remove such goods and materials at the termination of such storage.
6. **Wireless Telecommunication Antenna.** The device through which wireless telecommunication signals, as authorized by the Federal Communications Commission, are transmitted or received. Not included are AM/FM radio antennas, television antennas, satellite dishes, and licensed amateur radio facilities.
7. **Wireless Telecommunications Equipment.** Including wireless telecommunication antennae, wireless telecommunication equipment shelters, wireless telecommunication facilities, wireless telecommunication towers and wireless telecommunication facilities and wireless telecommunication antennas mounted on alternative tower structures subject to Section 4.42.
8. **Wireless Telecommunication Equipment Shelter.** The structure in which the electronic receiving and transmitting equipment for a wireless telecommunication is housed.
9. **Wireless Telecommunication Facility.** A facility consisting of all structures and equipment involved in transmitting and/or receiving telecommunication signals from mobile communication sources and transmitting those signals to a central switching computer which connects the mobile communication sources and transmitting those signals to a central switching computer which connects the mobile unit to the land-based telephone system. These facilities include but are not limited to private and commercial mobile radio service facilities, personal communication towers (PCS), and cellular telephone towers. Not included in this definition are AM/FM radio towers, television towers, satellite dishes, and federally licensed amateur radio facilities.
10. **Wireless Telecommunication Tower.** A structure intended to support equipment used to transmit and/or receive telecommunication signals including but not limited to monopoles, freestanding lattice structures and guyed lattice structures.
11. **Yard.** The open space on the same lot with a principal building that is unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.
  - a. **Front Yard.** An open unoccupied space unless occupied by a use specifically permitted, extending across the full width of the lot and lying between any street or access easement right-of-way line and the nearest

foundation or eave overhang, whichever is closer, of the principal building. If a lot has frontage on a lake or other body of water, the front yard shall be that space extending from the high water mark of the lake or other body of water to the nearest foundation or eave overhang, whichever is closer, of the principal building. (See Figure 2.6.)

- b. **Side Yard.** An open unoccupied space unless occupied by a use specifically permitted, on the same lot with the principal building, between the nearest principal building foundation or eave overhang, whichever is closer, and the side lot line, extending from the front line of the principal building to the rear line of the building. (See Figure 2.6.)
- c. **Rear Yard.** A space unoccupied except by a permitted accessory building or use specifically permitted, extending across the full width of the lot between the rear foundation of the principal building or eave overhang, whichever is closer, and the rear lot line. (See Figure 2.6.)

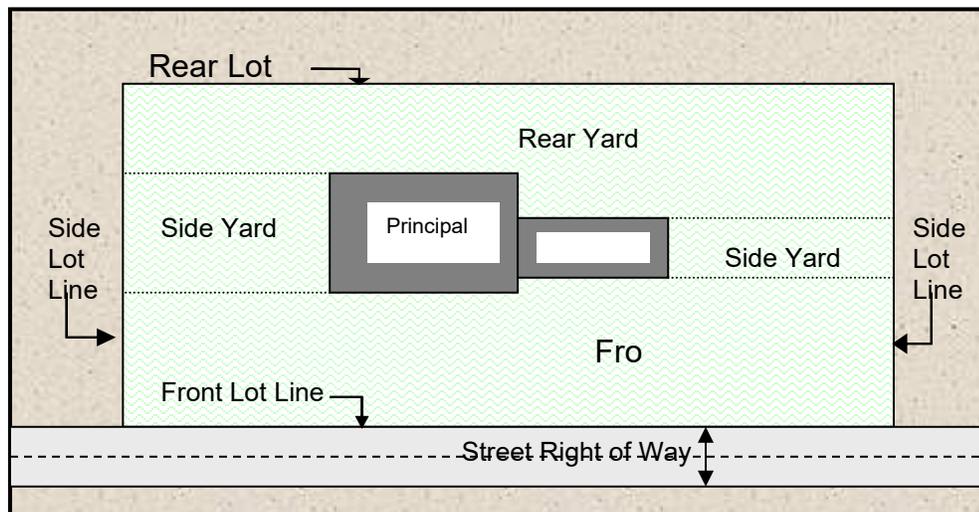


Figure 2.6

- 12. **Zoning Administrator.** The appointed Township official designated to administer the zoning ordinance, to issue zoning permits and otherwise to carry out responsibilities pertaining to the administration and application of the zoning ordinance.

*[Chapter 2 Eff. 7/26/2015]*



## CHAPTER 3 ZONE DISTRICTS AND DIMENSIONAL STANDARDS

**3.1 Zoning Districts.** For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts:

AG/RC – Agricultural/Resource Conservation District

R-1 – Low Density Residential District

R-2 – Medium Density Residential District

RM - Manufactured Home District

C-1 - Neighborhood Commercial District

C-2 - Regional Commercial District

D-1 - Industrial District

PUD – Planned Unit Development District

LR – Lake Residential District *[Added by Ord. No. 2019-06, Eff. 9/28/19]*

AMO – Access Management Overlay District *[Added by Ord. No. 2019-07, Eff. 9/22/2019]*

MPO, Marijuana Production Overlay District *[Added by Ord. No. 2019-07, Eff. 9/22/2019]*

**3.2 Zoning Map.** The Zoning Map delineating the above districts is hereby declared to be a part of this Ordinance. Except where references by dimensions are shown on said map, the district boundary lines follow lot lines, section lines, fractional section lines, or the center lines of streets or alleys as they existed at the time of the adoption of this Ordinance, or any relevant amendment therein.

**3.3 Lot Divided by District Line.** Where a district boundary line on the Zoning Map divides a lot, each use shall comply with the requirements of the district in which it is located, provided however, that no such lot shall contain more than one principal use.

**3.4 District Boundaries Interpreted.** When uncertainty exists with respect to the boundary lines of the various districts as shown on the Zoning Map, the Zoning Board of Appeals shall determine the boundaries according to the following rules:

A. Boundaries indicated as approximately following the centerline of roads, highways, or alleys shall be construed to follow such centerlines.

- B. Boundaries indicated as approximately following recorded lot lines or the line bounding a parcel shall be construed as following such lot or parcel lines.
- C. Boundaries indicated as approximately following a municipal boundary line shall be construed as following such municipal boundary line.
- D. Boundaries indicated as approximately following the centerline of a stream, river, or other drainage way shall be construed to follow such centerline. In the event of a change in shoreline, the boundary shall be construed as following the shoreline existing at the time the interpretation is made.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- F. here physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections A through E above, the Zoning Board of Appeals shall interpret the district boundaries.
- G. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns or heavy lines that, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any road right-of-way.

**3.5 Zoning Vacated Areas.** Whenever any road, alley, or other public right-of-way within the Township is vacated, such road, alley, or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

*[Chapter 3 Eff. 3/30/2014]*

# Zoning Map



## CHAPTER 4 GENERAL PROVISIONS

### 4.1 Scope of this Chapter; the Effect of Zoning.

- A. These general provisions shall apply to all zoning districts unless otherwise stated in this Ordinance. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety and general welfare in the Township.
- B. Zoning affects every structure, land use and parcel of land. No building, structure or land shall be used or occupied, and no building or part thereof, or structure or part thereof, shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in compliance with the provisions in this Ordinance for the zone in which such building, structure or land is located and except in compliance with other applicable provisions of this Ordinance. Any building, structure or land use not provided for in this Ordinance is prohibited.

*[Section 4.1 Eff. 2/8/2015]*

### 4.2 Accessory Buildings.

- A. Accessory buildings are permitted in all zone districts in accordance with the provisions of this section and the accessory building provisions of the applicable zone district.
- B. No accessory building shall be built or used on a parcel of land on which there is no principal building.
- C. No accessory building shall be located in front of, or moved in front of, a principal building located on the same parcel of land, unless the accessory building is (1) designed for and used in a farm operation; (2) located at least 200 feet back from the front street right-of-way line; or (3) as provided in subsection E. below for accessory buildings less than 120 square feet in area on a water front lot.
- D. No principal building shall be constructed, altered or moved into the area behind an existing accessory building located on the same parcel of land.
- E. No accessory building shall be located in the front yard of a parcel of land, or in either of the front yards of a corner parcel of land except that a lakefront lot may have one accessory building located in the front yard (the “lake side”) of such lot if the accessory building is not larger than 120 square feet, not taller than 10 feet, is located at least 20 feet from the lake or stream bank or ordinary high water mark, and six feet from side lot lines.

- F. No mobile home, trailer, motor vehicle, tank or similar object or equipment shall be used as an accessory building or accessory structure, except for agricultural storage or other permitted agricultural use on a bona fide farm, and except for temporary tool sheds or similar temporary storage structures used during the construction of a principal building or other principal structure on the same parcel of land.
- G. A lawful accessory building that has a gross floor area of 200 feet or less shall not be included in the maximum number of accessory buildings permitted to be located on a parcel of land.
- H. The maximum gross floor area of an accessory building, and the maximum number of accessory buildings permitted on a parcel of land shall be as follows:
1. **AG/RC, R-1, R-2, and LR Districts.** *[Amended by Ord. No. 2019-06, Eff. 2/25/2018; amended by Ord. No. 2020-10, Eff. 9/30/20; amended by Ord. No. 2021-06, Eff. 6/27/21; amended by Ord. No. 2021-06, Eff. 6/27/2021; amended by Ord. No. 2021-16, Eff. 1/23/2022]*
    - a. **Parcel of five acres or less** – There shall be no more than four accessory buildings with a total floor area of up to 2,400 square feet.
    - b. **Parcel of more than five acres** – There shall be no more than four accessory buildings with a total floor area of up to 4,000 square feet.
    - c. Any application for an accessory building larger than 4,000 square feet must first apply for a special use permit as described in Chapter 16 of this Ordinance.
  2. **R-1, R-2 and LR Districts.** *[Amended by Ord. No. 2019-06, Eff. 2/25/2018; amended by Ord. No. 2021-06, Eff. 6/27/21]*
    - a. **Parcel of one acre or less** – There shall be no more than four accessory buildings with a total floor area of up to 1,200 square feet.
    - b. **Parcel of more than one acre, up to five acres** – There shall be no more than four accessory buildings with a total floor area of up to 2,400 square feet.
    - c. **Parcel of more than five acres** – There shall be no more than four accessory buildings with a total floor area of up to 3,000 square feet.
  3. **C-1, C-2 and D-1 Districts.** No maximum floor area limitation.
  4. **Planned Unit Development Districts and Special Land Uses.** The maximum floor area of an accessory building shall be as determined in the approval of the planned unit development or the special land use.

- I. Steel shipping containers/personal storage units/moving pods are prohibited in all residential districts; AG/RC, R-1, R-2, MHC except as regulated in section 4.32F of this Ordinance.
  - 1. For the purpose of this section, steel shipping containers shall mean a prefabricated metal structure consisting primarily of a steel exterior which is manufactured to transport goods. Personal storage unit shall mean any prefabricated structure designed for the temporary storage of property.
  
- J. Shipping containers are allowed in a commercial or industrial zoned district; provided that the use is in conformance with current permitted zoning uses. Placement of a shipping container in a commercial or industrial zoning district shall be regulated as follows:
  - 1. Shall be screened with sight-obscuring fencing or landscaping approved by the Planning Commission per Chapter 17 of this Ordinance.
  - 2. Shall meet the setback requirements for the underlying zone.
  - 3. Shall not be used for advertising purposes and shall be kept clean of all signage.
  - 4. Shall be on the same property as the principal use and included in the calculation of overall lot coverage.
  - 5. Materials stored within the containers are subject to review of the Fire Chief.
  - 6. Containers larger than 200 sf shall require a building permit prior to placement.
  - 7. Containers shall not occupy required parking, loading or landscaping areas.
  - 8. Containers shall not be allowed if the primary use of the property is a nonconforming residential use unless a temporary special use permit is obtained per section 4.32F.

***[Section 4.2 Eff. 7/26/2015; Sec. 4.2.C and E amd. 5/8/2017, Eff. 5/21/2017]; [Ord. 2018-12: Section 4.2.I & J added 10/08/2018, Eff. 10/21/2018]***

**4.3 Animals.** Livestock, fowl and other animals which are not customary household pets shall be kept only in conformance with the requirements of this section. For the purpose of this section, pygmy goats, potbellied pigs and similar animals shall be considered household pets if they are commonly and expressly bred for that purpose. Those keeping animals should familiarize themselves with all applicable health regulations.

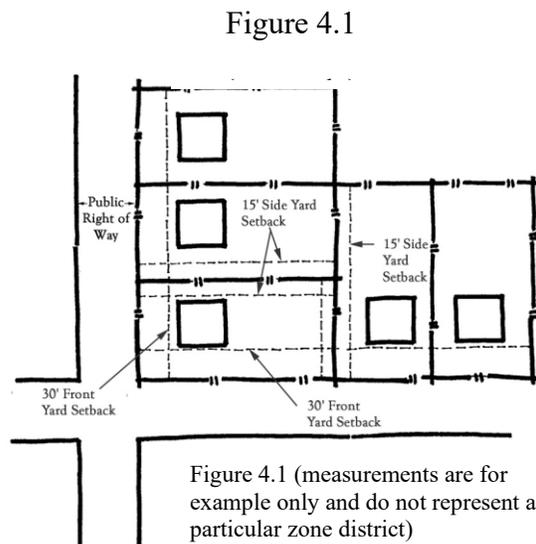
- A. **Poultry and Rabbits.** The keeping of poultry and rabbits shall be permitted as an accessory use in all zoning districts. Bird species which typically exceed 50 pounds when fully grown shall not qualify as poultry for the purposes of this section.
1. There shall be no maximum number of rabbits or poultry animals kept, but the keeping of such animals shall be conducted in such a way as to not become a nuisance to adjacent properties.
  2. Covered enclosures shall be subject to the requirements of Section 4.2 of this zoning ordinance. No enclosure shall be less than 25 ft. from any dwelling on an adjacent lot.
- B. **Livestock.** The keeping of livestock shall be permitted as an accessory use in all zoning districts as follows:
1. The maximum number of livestock animals permitted to be kept of a single lot shall not exceed one animal unit for each acre of lot area.
  2. For the purpose of this subsection, one animal unit shall be equal to either:
    - a. Four small livestock animals in any combination. This shall include goats, sheep, pigs, alpaca or other animals which do not typically exceed 300 pounds of body weight.
    - b. One large livestock animal. This shall include cattle, horses, donkeys, or any other animal which is not considered a small livestock animal above.
  3. Covered enclosures shall be subject to the requirements of Section 4.2 of this zoning ordinance. No enclosure shall be less than 100 feet from any dwelling on an adjacent lot.
- C. **Confinement.** Animals or poultry, other than customary household pets, shall at all times be confined on the parcel of land where they are kept, and shall not be permitted to escape to other lands.
1. Fencing including fence posts may be constructed of wood, chain link, wire, masonry, or other suitable materials. Electrified fencing is permitted. Barbed wire fencing is not permitted. No fence shall exceed 6 feet in height.
  2. Substantial and acceptable locking or latching devices shall be provided and installed on all gates and doors to animal areas for the prevention of animal escape and unauthorized entry.
  3. No animals or fowl, whether or not customary household pets, shall be confined or housed in unsanitary conditions.

- D. **Site Drainage.** All areas adjacent to where animals are kept and maintained shall be graded to drain away from such facilities so as to prevent ponding and insect harborage. Such drainage systems shall be designed so that the removal of surface waters will not adversely affect the subject property, adjacent or nearby properties or public storm water drainage systems.
- E. **Residential Parcel.** A single-family dwelling must be established and occupied on any parcel or contiguous parcels under common ownership in order to be used for the keeping of animals under this section.
- F. Exotic, endangered or unusual animals such as wolves, bobcats, coyotes, cougars, large snakes, or other animals not commonly kept on residential premises shall not be kept or raised in any zone district.

*[Section 4.3 amended in its entirety by Ord. No. 2022-04, Eff. 6/26/2022]*

- 4.4 **Private Gardens.** Private gardens shall be permitted as an accessory use in all zoning districts. *[Added by Ord. No. 2022-04, Eff. 6/26/2022]*
- 4.5 **Area or Space Required.** No lot, yard, court, parking area or other space shall be so divided, altered or reduced to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced.
- 4.6 **Attached Single Family Dwellings.** Attached single family dwellings may not be erected and sold as individual units unless they are part of an approved condominium.
- 4.7 **Basement Dwellings.** The use of a basement or any part thereof as a dwelling unit is prohibited in all districts. A part of a basement used as approved sleeping quarters only shall have a permanent means of egress directly to the outside.

- 4.8 **Conversion of Dwellings.** If the conversion of any existing detached dwelling so as to accommodate an increased number of dwelling units is permitted, it shall be limited to not more than three total dwelling units in the dwelling, irrespective of the number permitted in new buildings.



- 4.9 **Corner Lots.** If a lot is bounded by two streets, the front yard requirements shall be met for each street, and the remaining two sides shall be regarded as side yards. (See example in Figure 4.1.)

**4.10 Reserved.**

**4.11 Driveways.** A driveway shall serve not more than two parcels of land, nor more than two principal buildings.

*[Section 4.11 Eff. 2/8/2015]*

**4.12 Dwelling Situated Outside of a Manufactured Housing Community, Minimum Requirements.** All housing, including manufactured housing, located outside of a manufactured housing community shall comply with the following requirements:

- A. All dwellings shall conform to the minimum floor area requirements for the districts in which they are located.
- B. All dwellings shall provide a minimum height between the floor and ceiling of seven feet six inches.
- C. The minimum width of any single family dwelling unit shall be at least 20 feet for at least 67 percent of its length, measured between the exterior parts of the walls having the greatest length.
- D. All dwellings shall be connected to a sanitary sewage disposal system and a means of water supply approved by the Muskegon County Health Department.
- E. Additions of rooms or other areas shall be constructed with similar quality workmanship as the original structure. Permanent attachment to the principal structure shall include construction of a foundation. No addition to a mobile home shall involve the placing of a bearing load on the mobile home.
- F. All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than eight inches between any door and the surrounding grade.
- G. If a dwelling has a double-pitched roof, it shall have a minimum of not less than four feet of rise for each 12 feet of run. All roofs shall be constructed of standard roofing materials, including, but not limited to, asphalt, fiberglass, shake shingles, or metal.
- H. A permanent foundation shall be required for all dwellings.

**4.13 Storm Water Drainage.** Storm water detention or retention and drainage systems shall be designed so that the removal of surface waters will not adversely affect the subject property, adjacent or nearby properties or public storm water drainage systems. *[Added by Ord. No. 2022-04, Eff. 6/26/2022]*

**4.14 Essential Services.** Essential services which are located underground or involve the customary placing of utility poles in public rights-of-way or public easements may be placed in any zone. Essential services which require the erection or construction of other

above ground appurtenances, structures or buildings may be permitted as a special land use by the Planning Commission provided it finds that there will be no adverse effect upon surrounding adjacent property.

**4.15 Reserved.**

**4.16 Maximum Lot Depth to Width Ratio.**

- A. In all zoning districts, no building or structure shall be constructed on a lot or parcel the length or depth of which exceeds four times the width of such lot or parcel, as measured at the front building setback line; provided, however, that this provision shall apply only to parcels that are 10 acres or less in area; and, provided further, that this subsection shall not apply to a lot or parcel of land as described in subsection B.
- B. Subsection A of this section shall not apply to a lot or parcel of land which is platted or otherwise of record in the office of the Register of Deeds at the effective date of this section.

*[Section 4.16 Eff. 2/8/2015]*

**4.17 Height Exceptions.**

- A. Parapets not over four feet in height, chimneys, silos and farm barns, roof-mounted television and radio antennas, cupolas, spires or other ornamental projections, or water towers may exceed the height requirements of all districts.
- B. In the D-1 District, chimneys, cooling and fire towers, elevator buildings, roof storage tanks and other necessary industrial appurtenances are permitted above the maximum height limitation if their distance from any property line is at least as great as their height.

*[Section 4.17 Eff. 2/8/2015]*

**4.18 Home Occupations.** Home occupations which are carried on in the home and not more than one lawful accessory building on the same parcel of land, by resident members of the family plus not more than one other person, being clearly incidental and secondary to the principal residential use, are permitted in the AG/RC, R-1, R-2 and RM districts. A home occupation shall comply with all of the following requirements; provided, however, that the providing of medical marijuana as a home occupation shall comply with Section 4.18A and those provisions of this Section 4.18 that are required to be complied with under the terms of Section 4.18A.

A home occupation shall comply with all of the following requirements:

- A. A home occupation shall be conducted entirely within a dwelling and not more than one lawful accessory building on the same parcel of land as the dwelling.

- B. A home occupation shall not change the essential character of the dwelling or the accessory building, nor shall it be evident in any way from the adjoining street or from any adjacent or nearby premises, except for a sign complying with subsection H of this Section 4.18.
- C. A home occupation shall be carried on only by the residents of the dwelling plus not more than one other person.
- D. A home occupation shall include only mechanical and electrical equipment which is similar in power and type for usual household purposes and hobbies. All applicable construction code provisions shall be complied with.
- E. There shall be no outdoor storage of materials, equipment, or other objects involved in the home occupation.
- F. A home occupation shall not result in any adverse effects on other lands by reason of heat, glare, noise, smoke, vibration, noxious fumes, odors or other disturbances.
- G. Not more than 50 percent of the area of one story of a dwelling shall be devoted to a home occupation; provided, however, that not more than 1,000 square feet in total, whether in a dwelling, a lawful accessory building, or both, shall be devoted to a home occupation.
- H. There may be a wall sign or a free standing sign for the purpose of identifying the permitted home occupation, but the sign shall not be larger than four square feet and shall otherwise comply with applicable Township sign requirements; a permit for the sign shall be required.

*[Section 4.18 amended 11/13/2012, Eff. 12/2/2012.]*

*[Section 4.18A, Providing of Medical Marijuana, added 11/13/2012, Eff. 12/2/2012; deleted 11/9/2020, Eff. 11/25/2020]*

- 4.19 Ponds.** The excavation and construction of any pond over 200 square feet in surface area or greater than three feet deep must receive a permit from the Zoning Administrator prior to any pond construction. Ponds shall comply with the following requirements:
- A. All man made ponds constructed shall on three sides of same have no greater than a 1:3 side slope (Vertical to Horizontal). The fourth slope shall be a slope of no greater than 4:1 for safety and escape purposes.
  - B. All excavated pond soil, sand, gravel or clay, shall be placed no closer than twelve feet from the edge of the pond boundaries and shall be leveled at a height no greater than three feet above the surrounding grade of land.

C. Setback from lot lines:

Front: 50 feet

Sides: 20 feet

Rear: 20 feet

**4.20 Lot Area Computation/Flag Lots.** All minimum lot area requirements for parcels shall be met by computing the lot area, exclusive of existing public or private street rights-of-ways, **except: The Zoning Administrator may approve as a Zoning Land Use Application, a flag lot if the following requirements are met.**

1. Flag lots shall serve no more than one lot.
2. All access easements shall be a minimum of 20 feet in width with a clear, passable width of 16 feet and clear, passable vertical clearance of 14 feet. Clear and passable shall mean the area is free of roots, brush, shrubs, trees and branches, or any other debris.
3. All access easements shall have a slope not to exceed 10 percent.
4. All unpaved access easements must have an aggregate base course of compacted gravel, crushed concrete, slag or similar material, which is at least six inches in depth and 16 feet in width for the entire length of the driveway.
5. On all access easements which exceed 100 feet in length, if the driveway has any turns, the proposed driveway shall be reviewed by the Township Fire Chief to insure that the Township's equipment can readily traverse the driveway at least to a point within 100 feet of the structure served by the driveway. The Fire Chief shall have the discretion to deny approval of any proposed driveway which cannot be readily traversed by the equipment of the Township due to severity of turns or inadequate radius of the turns in the proposed driveway. The review of the Township Fire Chief shall be based on the current standards or requirements of the Muskegon County Road Commission for public roads.
6. Computing lot requirements:
  - a. When computing any required lot area under the provisions of this article, any land which is devoted to an access easement shall not be considered in the computation of the minimum required area.
  - b. Setbacks shall be computed from the nearest edge of the access easement right-of-way.

- c. Lot width shall be computed along the frontage on the driveway or, if the driveway terminates at the lot, then at the shortest of the lot lines, and this line shall be considered the front lot line.
- 7. The addresses of the lots serviced by an access easement shall be permanently displayed on colored reflective signs posted adjacent to the driveway served. The numbers shall be reflective white, no less than 2” in height, and plainly visible from either direction of approach to the driveway. The sign may be mounted on a post or mailbox.
- 8. Structures located 1,000 or more feet from the front property line shall comply with the previous requirements listed above and in addition, shall place a symbol on the address plate to notify emergency responders of the driveway length. They shall also place a 1,000-foot marker at that length of the driveway to notify fire personnel for fire-fighting purposes.
- 9. No two access drives may share a common boundary.

**[Section 4.20 amended 11/9/2020, Eff. 11/25/2020]**

**4.21 Reserved.**

**4.22 Lot Width.**

- A. Except as provided below, minimum lot widths in all districts shall be measured along the front lot lines, and such minimum lot width shall not be diminished throughout a lot for the front 250 feet of the depth of such lot.
- B. The minimum lot width for lots fronting on a cul-de-sac or street shall be measured at the rear of the required front yard and shall not be diminished throughout the depth of the lot for the next 250 feet. Such lots shall have a front lot line of at least 40 feet and in no case shall the lot width within the required front yard be less than 40 feet.

**4.23 Lot Division.** No lot, outlot, or other parcel of land located in a recorded plat shall be further partitioned or divided or a building permit issued for a partitioned or divided lot unless such partition or division is first approved by the Township Zoning Board of Appeals in accordance with the following restrictions:

- A. No platted lot shall be further partitioned, divided, or split to create one or more additional residential building sites. This prohibition shall not be applicable to lots used for commercial, office, or industrial purposes.
- B. Where two or more platted lots are deemed combined pursuant to Section 18.2.A.2 of this zoning ordinance, because one or more of the lots are nonconforming, no platted lot shall be detached or separated from the other platted lot or lots, nor shall any of the platted lots be divided, partitioned, or split or property lines be reconfigured unless such division, split, partition or reconfiguration of lot lines is

approved by the Township Zoning Board of Appeals. Additionally, no property line or boundary of a platted lot shall be altered or reconfigured without the prior approval of the Zoning Board of Appeals hereunder. No partition, division, split or reconfiguration of platted property lines shall occur or be approved by the Zoning Board of Appeals except as follows:

1. Prior to a decision being made, a hearing shall be held by the Zoning Board of Appeals. Prior written notice of the hearing shall be given to the owners of all property located within 300 feet of the property at issue at least 15 days prior to the hearing, in the same fashion and in the same manner as would occur for a variance hearing pursuant to Chapter 19 of the Township Zoning Ordinance.
2. The decision of whether to approve or deny the request shall be made within the discretion of the Zoning Board of Appeals.
3. In determining whether to grant the request for a partition, division, split, or reconfiguration of the platted lot lines, the Zoning Board of Appeals shall consider the following standards:
  - a. Whether the resulting lots will have a materially adverse effect on adjacent uses or properties.
  - b. Whether the resulting lots will change the essential character of the surrounding area or neighborhood.
  - c. Whether the resulting lots will place demands on public services, roads, and facilities in excess of their capabilities.
  - d. Whether the resulting lots will establish a precedent which could adversely affect the long term goals of the Township Zoning Ordinance and Master Plan.
4. If the Zoning Board of Appeals grants the request, reasonable conditions may be attached to the approval.
  - a. No partition, division, split, or reconfiguration of platted lot lines shall be allowed that would result in the creation of a lot that does not satisfy the minimum requirements of the Township Zoning Ordinance, as amended.
  - b. Decisions with respect to this section are subject to Section 19.10 of this Ordinance.

***[Ord. 193: Section 4.23 amended 11/13/2007, Eff. 11/26/2007]***

#### 4.24 Private Roads.

**Purpose.** The Township has hereby determined that as large tracts of land are divided, sold, transferred, and developed, private roads are being created to provide access to the newly divided properties which are not subject to regulation under Michigan Land Division Act of 1967 and other state regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure:

That private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.

That said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

That private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and the natural environment of the Township.

A. **Definitions.** For purposes of this section, the following terms are defined as follows:

1. An “existing private road” is a private road or a private road system, which is used to provide access to more than two existing lots, or existing dwelling units, as of October 21, 2018. An existing private road or road system must physically exist as of October 21, 2018.
2. A “new or proposed private road” is any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to more than two lots or parcels.
3. An “existing lot” is a lot which, as of the effective date of this Ordinance, meets at least one of the following conditions:
  - a. The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Muskegon County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Muskegon County Register of Deeds, and includes all lands under contiguous common ownership not separated by a public or private right-of-way; or
  - b. The lot consists of a “condominium unit” (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a “site condominium” development for which a condominium master deed has been recorded with the Muskegon County Register of Deeds in accordance with the requirements of

the Michigan Condominium Act (PA 59 of 1978, as amended, MCL 559.101 *et seq.*) and other applicable laws and ordinances.

4. An “existing dwelling unit” is a single family home for which a zoning compliance/building permit has been issued by the Township as of the effective date of this Ordinance.
5. Access easement means an easement that provides a legal means of vehicular ingress and egress from a public road right-of-way.
6. Driveway means an improved or unimproved path or trail that serves or is intended to serve as the primary means of vehicular ingress and egress from a public road right-of-way to one or two lots.
7. Private, when used with the terms “driveway” or “road”, means any privately owned, improved and maintained roadway, path or trail created by an access easement, which provides means of ingress and egress from a public right-of-way.
8. Right of Way means a street, road, alley or other easement permanently established for passage of persons or vehicles.

**B. Application for Private Road Special Land Use.**

1. Private roads shall include all roads, streets; road easements and right-of-way for ingress and egress, which are non-public and serve more than two dwellings. Private roads shall be subject to special land use approval, under Chapter 16. In considering an application for a private road special land use, the Planning Commission shall consider the following factors:

***[Section 4.24.B amended 4/12/2010, Eff. 5/9/2010]***

- a. The impact of the proposed private roads and resulting developments on nearby properties.
- b. The impact of the proposed private road and resulting development on the long range planning goals of the Township.
- c. The potential for conflicts between the proposed land uses and existing land uses, i.e. residential development in an agricultural area.
- d. The health, safety and general welfare of the surrounding community.
- e. The impact on public roads created by the potential for traffic congestion or potential intersection interference or other similar or related problems.

- f. The potential of soil erosion, damage to lakes, streams, wetland, and the natural environment of the Township.

**C. Expansion of Use.**

- 1. Existing private roads or roadway systems as defined herein will be permitted to serve additional dwellings, lots, or parcels provided any additional lots, parcels or building sites have the requisite minimum frontage required by this Ordinance on the existing private road (without allowance for shared drives) and the same shall not constitute an expansion of the existing private road; in all other cases any extension of the existing private road to serve lots, parcels or building sites not having frontage on the existing private road shall constitute an expansion and it shall be required that the entire road be upgraded to meet the standards contained in Section 4.24.E, plus all provisions of this private road ordinance, subject to the following provisions:

- a. The Planning Commission shall approve the additional dwellings, lots or parcels, if they meet all requirements of this Ordinance. The Planning Commission shall also review the documents required by this Ordinance for compliance with the provisions of Section 4.24.E. If the owner or owners of an existing private road determine that these requirements are impractical or that they are physically impossible to accomplish, the Planning Commission may approve a variance or modification, but such variance or modification, if approved, shall be only the minimum necessary to relieve the impracticality or physical impossibility in the circumstances. In considering any such variance or modification, the Planning Commission shall determine that all of the following facts and conditions exist:

- (1) That such variance or modification would not be of substantial detriment to adjacent or other property and would not materially impair the intended purposes of this Ordinance or the public interest. The possibility of an increased financial return shall not of itself be sufficient grounds for such variance or modification.
- (2) The condition or situation of the parcel of land, as to which a variance or modification is considered, is not of so general or recurrent a nature as to make reasonably practicable the adoption of a general regulation to relieve or improve such condition or situation.
- (3) The literal enforcement or application of the private road provisions stated in this section would impose practical difficulty or cause unnecessary hardship, by reason of the exceptional dimensions or shape of the parcel of land,

unusual topographic conditions, other extraordinary situation or condition of the land, building or structure or the nature or extent of the use of lands adjoining or in close proximity to the lands in question.

***[Section 4.24.C.3.a.1 amended 4/12/2010, Eff. 5/9/2010]***

2. Additional building sites created shall comply with the lot size and lot width requirements of the applicable zoning district.

If extensions to the existing roadway system are made to serve any additional lots, the entire private road or roadway system shall comply or be made to comply with said construction standards in Section 4.24.E.

If a new private road is proposed from an existing private road creating an intersection of the two roads, the new private road shall have a name different and distinct from the existing road and shall be designed and constructed to meet the standards outlined in Section 4.24.E, based on all lots served by the new road and the existing road. If the existing private road does not meet the standards of Section 4.24.E, the existing road shall be upgraded to comply with the road standards or the new road or extension shall not be approved.

- a. An expansion of use shall comply with the procedure and application requirements of Section 4.24.G of this Ordinance.
- b. Requirements pertaining to names for public roads, and house numbers shall pertain to all private roads and be in accordance with Muskegon County rules.
- c. The developer or applicant proposing to extend a private road shall present a plan for funding all necessary private road improvements and upgrades contained in Section 4.24.E.

**D. General Provisions and Construction Requirements for Private Driveways.**

1. Private driveways shall be allowed as a permitted land use by the Township Zoning Administrator after issuance of a Land Compliance Permit. Private driveways serving a single lot which are less than 100 feet in length are not subject to this section.
2. Private driveways shall serve no more than two lots.
3. All private driveway access easements shall be a minimum of 20' in width with a clear, passable width of 16' and clear, passable vertical clearance of 14'. Clear and passable shall mean the area is free of roots, brush, shrubs, trees and branches, or any other debris.

4. All private driveways shall have a slope not to exceed 10%.
5. All unpaved private driveways must have an aggregate base course of compacted gravel, crushed concrete, slag or similar material, which is at least six inches in depth and sixteen feet in width for the entire length of the driveway.
6. On all private driveways which exceed one hundred feet in length, if the driveway has any turns, the proposed driveway shall be reviewed by the Township Fire Chief to insure that the Township's equipment can readily traverse the driveway at least to a point within one hundred feet of the structure served by the driveway. The Fire Chief shall have the discretion to deny approval of any proposed driveway which cannot be readily traversed by the equipment of the Township due to severity of turns or inadequate radius of the turns in the proposed driveway. The review of the Township Fire Chief shall be based on the current standards or requirements of the Muskegon County Road Commission for public roads.
7. Computing lot requirements:
  - a. When computing any required lot area under the provisions of this article, any land which is devoted to a private driveway access easement shall not be considered in the computation of the minimum required area.
  - b. Setbacks shall be computed from the nearest edge of the private driveway right of way.
  - c. Lot width shall be computed along the frontage on the driveway or, if the driveway terminates at the lot, then at the shortest of the lot lines, and this line shall be considered the front lot line.
8. The addresses of the lots serviced by a private driveway shall be permanently displayed on colored reflective signs posted adjacent to the driveway served. The numbers shall be reflective white, no less than 2" in height, and plainly visible from either direction of approach to the driveway. The sign may be mounted on a post or mailbox.
9. Structures located 1,000 or more feet from the front property line shall comply with the previous requirements listed above and in addition, shall place a symbol on the address plate to notify emergency responders of the driveway length. They shall also place a 1,000 foot marker at that length of the driveway to notify fire personnel for fire-fighting purposes.

**E. General Provisions and Construction Requirements for Private Roads.**

1. Private roads shall be permitted as a special use to serve as access in all zoning districts, unless approved as part of a PUD.
2. All private roads shall intersect and connect with a public road and shall not be constructed, extended, or relocated unless a construction permit has been applied for and obtained from the Muskegon County Road Commission, a special use permit has been granted, and the regulations of this Ordinance are complied with.
3. A lot shall have frontage on the private road access easement and shall meet the requirements of the respective zoning district.
4. All private roads shall be centered upon a 66-foot wide access easement or right-of-way which shall include all utilities with a slope not to exceed 10%, or 20% if the Planning Commission determines the increased grade would not obstruct public safety.
5. The area within the easement in which the private road is to be located shall have a minimum cleared width of 28 feet which shall be maintained at all times. All branches extending over the traveled surface of the road shall be trimmed and maintained to a height of 14 feet above the ground.
6. The traveled surface of the private road shall be at least 22 feet wide, except that if the private road is to include valley gutters or curbing, the valley gutters or curbing shall be constructed at the outside edges of the private road, resulting in the private road having a minimum required traveled surface of 26 feet.
7. The traveled surface of a private road serving a residential use or residential development of three to 9 lots shall be as follows:
  - a. A minimum sub-base of 12 inches of MDOT Class II sand and a minimum base of six inches of MDOT 22A compacted gravel.
  - b. The traveled surface shall be at least 22 feet wide.
  - c. The surface of the private road may be gravel; if paved, the private road surface shall comply with the paving requirement for a private road serving more than nine lots.
  - d. Provisions shall be made for adequate drainage of the road surface and adjacent lands.

8. The traveled surface of a private road serving a residential use or residential development of more than 9 lots shall be as follows:
  - a. A minimum sub-base of 12 inches of MDOT Class II sand and a minimum base of six inches of MDOT 22A compacted gravel.
  - b. The traveled surface of the private road shall be at least 22 feet wide.
  - c. The traveled surface shall be paved with at least three inches of bituminous aggregate, consisting of one and one-half inches each of bituminous aggregate meeting MDOT specification 3C for the leveling course and MDOT specification 4C for the surface course.
  - d. Provisions shall be made for adequate drainage of the road surface and adjacent lands.
9. A private road, serving a commercial or industrial use or a development which includes commercial or industrial uses:
  - a. The traveled surface of the private road shall have a minimum sub-base of 12 inches of MDOT Class II sand and a minimum base of eight inches of MDOT 22A compacted gravel.
  - b. The traveled surface shall be at least 22 feet wide.
  - c. The traveled surface shall be paved with a minimum of three and one-half inches of bituminous aggregate, consisting of one and one-half inches of bituminous aggregate meeting MDOT specification 3C for the leveling course, and two inches of bituminous aggregate meeting MDOT specification 4C for the surface course.
  - d. The private road shall be provided with concrete curbs and gutters, or with such other type of outside edging of the private road as may be approved by the Planning Commission in site plan review and approval or in other zoning approval. If the private road is provided with concrete curbs and gutters, the measurement of the minimum required traveled private road surface shall not include the concrete curbs and gutters.
10. The private road surface shall have a minimum slope of two percent from the center line of the private road to the outside edge of the road shoulder.
11. The intersection of a private road with a public street or another private road shall be located such that clear vision, safe turning and travel in all directions is assured, as determined by the county road commission and/or the zoning administrator or, if applicable, the Michigan Department of Transportation.

12. The method and construction technique to be used in crossing any natural stream, drainage course, or similar feature shall satisfy the requirements of the Zoning Administrator, Township engineer, Township fire department, and any other agency having jurisdiction, as applicable. To the extent possible, the crossing shall be located at the narrowest point and where the impact will be the least disruptive to the natural surroundings.
13. Any private road which terminates at a dead-end shall meet the minimum standards contained within the International Fire Code and applicable appendices, the most recently adopted by the Township, or as approved by the Planning Commission.
14. The minimum distance between intersections measured from the centerlines of a private road system shall be 200 feet unless otherwise authorized by the Planning Commission if a 200' distance is impractical, and if a lesser distance is consistent with traffic safety.
15. Private roads shall be constructed with a stormwater run-off management system as deemed necessary by the Township to ensure adequate surface water drainage and run-off.
16. Lot area and setback requirements:
  - a. When computing any minimum lot area under the provisions of this article, any land which is devoted to a private road shall not be considered in the computation of lot area.
  - b. Setbacks shall be computed from the nearest edge of the private road right of way.
17. Private roads shall be given a name approved by Muskegon Central Dispatch, and street signs shall be installed in accordance with the standards of the Muskegon County Road Commission.
18. The addresses of the lots serviced by the private road shall be permanently displayed on colored reflective signs posted adjacent to the driveway served. The numbers shall be reflective white, no less than 2" in height, and plainly visible from either direction of approach to the driveway. The sign may be mounted on a post or mailbox.
19. Structures located 1,000 or more feet from the public right-of-way line shall comply with the previous requirements listed above and in addition, shall place a symbol approved by the Fire Chief, on the address plate to notify emergency responders of the driveway length. The address plate must be placed in a manner to easily identify the home location for emergency purposes. They shall also place a 1,000 foot marker at that length of the driveway to notify fire personnel for fire-fighting purposes. Property

owners of existing, legal, nonconforming address signs will be requested to comply with the regulations of this Ordinance within 60 days of adoption.

20. If developments of more than 29 residential lots have access by a single private road, the private road shall have at least two separate accesses from a public right of way. The accesses shall be at least 300 feet from each other, measured from the nearest right of way.
21. Inspections shall be performed at each phase of construction by the Township's Professional Engineer.
22. At his or her discretion the professional engineer may require additional inspections in writing at any time during construction.
23. A professional engineer shall provide a letter to the Township that the private road has been built and constructed to Township standards.
24. Specific applicable standards of the International Fire Code and applicable appendices, as most recently adopted by the Township, which impose higher standards shall control contrary provisions of this Section.

**F. Maintenance Agreements.**

1. The applicant(s) and/or owners(s) of the private road shall provide to the Township a recorded private road maintenance agreement, access easement agreement, and deed restrictions which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall contain the following provisions.
  - a. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
  - b. A workable method of apportioning the costs of maintenance and improvements.
  - c. A notice that if repairs and maintenance are not made, the Township Board may establish a special assessment district without petition or hearing of the district residents to gain funding to improve the private road, bring the road up to the design standards specified in Section 4.24.E and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of 5 percent of the total cost of the improvements.
  - d. A notice that none of the Township's public funds are to be used to build, repair, or maintain the private road.

- e. Easements to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.
- f. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress, egress, and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
- g. The Township will recommend that a road association that consists of all property owners that utilize the private road easement be formed to encourage private road maintenance.

**G. Procedure for Review of Private Roads.**

- 1. **Permit Application and Fee.** An application to establish, extend, or relocate a private road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:
  - a. The name(s) of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed.
  - b. Permanent parcel number or legal description of the property over which the private road is to be constructed.
  - c. A site location map, which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
  - d. A scaled drawing showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect, in compliance with this Ordinance.
  - e. A scaled drawing illustrating the proposed lot divisions.
  - f. A private road maintenance agreement, access easement agreement and deed restrictions as described in Section 4.24.E, herein, shall also accompany the application.
  - g. A driveway permit from the Muskegon County Road Commission or Michigan Department of Transportation.

- h. A letter of compliance from central dispatch of Muskegon County indicating there is no known duplication of the proposed private road name.
- i. An approved soil erosion permit from Muskegon County.

2. **Review of Permit Application.**

- a. At the option of the applicant, the applicant may request a meeting with Township staff and/or the Planning Commission to discuss the feasibility of the private road.
- b. The permit application, drawings and other required information shall be forwarded to the Planning Commission upon review by the Zoning Administrator and Township Engineer to determine compliance with the standards for private roads.
- c. The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer or Planner as deemed necessary. A quorum of the Planning Commission shall be present to review and decide upon the permit application.
- d. If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall then direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval; one copy shall be kept by the applicant and one by the Township. This construction permit is not a private road permit and does not authorize the construction of any dwelling units on the private road. The construction permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin. Said private road must be completed within one year of beginning construction.
- e. If the Planning Commission denies the application, the meeting minutes shall be provided to the applicant promptly after they are approved.
- f. **Final Compliance Requirements.** Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
  - (1) A letter from a registered professional engineer that the road has been constructed in compliance with the approved private road plans.

- (2) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Muskegon County Register of Deeds office.
  - (3) A driveway permit for the private road from the Muskegon County Road Commission.
  - (4) Certification by Township Engineer and any other permitting agency that the private road was built to required standards.
  - (5) Fire department review and approval.
- g. **Private Road Permit Issuance.** Upon approval of all items required for final compliance, the Zoning Administrator shall issue a private road permit.
  - h. **Fees.** All fees and costs related to the review and inspection of any private road shall be paid by the developer of the private road and the Township shall not be responsible for covering any of these expenditures.
  - i. **Permits for Buildings on Private Roads.** A building permit/zoning compliance shall not be issued for any principal dwelling which derives its primary access from a new private road unless a private road permit has been issued by the Township and the road has either been completed in accordance with the approved permit or the applicant for the building permit or owner(s) of the private road right-of-way have provided the Township with cash or irrevocable letter of credit in an amount determined by the Township, to insure construction of the private road in accordance with the approved private road construction permit within one year from the issuance of the building permit.

The letter of credit shall contain a provision that the Township shall have the right to access the letter of credit or bond if such letter is not renewed 30 days before the expiration date of the letter.

H. **Reserved.**

*[Section 4.24.G repealed 4/12/2010, Eff. 5/9/2010]*

I. **Township Liability.**

- 1. The owner of the private road agrees as a condition of applying for and receiving a private road permit for a private road to indemnify and save and hold the Township, and its Township Board, officers and employees, harmless from all claims for the personal injury and/or property damage

arising out of the failure to properly construct, maintain, repair and replace the private road and all expenses incurred in defending such claims. The substance of this subsection shall appear on the application for the private road and be signed by the application property owners.

**J. Prior Nonconforming Private Roads.**

1. All private roads, which were lawful on the effective date of this Ordinance, shall continue to be lawful. It is the intent of this Ordinance that the use of such prior nonconforming private roads shall not be enlarged, expanded or extended as set forth in Section 4.24.A.1.

*[Ord. 2018-09: Section 4.24 amended 10/08/2018, Eff. 10/21/2018]*

**4.25 Exterior Lighting.**

A. **Intent and Purpose.** To maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”, and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this zoning ordinance.

**B. General Provisions.**

1. **Exempted Areas and Types.** The following types of outdoor lighting shall not be covered by this section:
  - a. Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal light such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.
  - b. Sign lighting, which is regulated by Chapter 15 hereof.
2. Lighting associated with detached single-family housing shall be designed to not leave the property and not create a nuisance to adjacent properties.
3. **Regulated Lighting.** Lighting shall be reviewed as part of the site plan review process in Chapter 17. The following types of lighting shall be regulated by this Ordinance:
  - a. Parking lot lighting and site lighting for commercial, industrial and institutional developments.
  - b. Multiple family developments parking lot lighting and site lighting.

- c. Publicly and privately owned roadway lighting.
- d. Commercial and industrial building facade lighting.
- e. Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
- f. All forms of neon lighting.

4. **Standards.** Lighting shall be designed and constructed in such as manner to:

- a. Insure that direct or directly reflected light is confined to the development site.
- b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
- c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
- d. Lighting fixtures shall have 100 percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 20 feet above the average grade of the site. All luminaries shall be recessed within the fixture to conceal the luminary or bulb.
- e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
- f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and searchlights are not permitted.
- g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

**4.26 Refuse and Junk.** The outdoor storage, collection or placing of discarded material, inoperable equipment, inoperable vehicles, or other refuse, junk or trash shall be prohibited in all zoning districts. All unlicensed vehicles shall be kept within an enclosed structure.

**4.27 Satellite Dish Antenna.**

- A. The purpose of this section is to regulate the use of such dish antennas in excess of three feet in diameter or with a surface area in excess of nine square feet. Dish antennas of less than three feet in diameter or surface area less than nine square feet shall not be subject to the requirements of this section.
- B. Satellite dish antennas in excess of three feet in diameter or with a surface area in excess of nine square feet shall be subject to the following requirements:
  - 1. Dish antennas exceeding ten feet in height shall be prohibited in all zoning districts, except the D-1. In the D-1, the height limitations of the district shall apply.
  - 2. Such dish antennas shall not be placed on structures or buildings which are used as dwellings or areas designated as residential districts.
  - 3. Dish antennas shall not be located in front yards or within eight feet of property lines in all districts.
- C. Satellite dish antennas in excess of three feet in diameter or with a surface area in excess of nine square feet shall be permitted in all zoning districts upon approval by the Zoning Administrator provided the following provisions are satisfied:
  - 1. The dish antenna shall be permanently anchored to a foundation.
  - 2. No portion of the dish antenna shall display any advertising, message, or other graphic representation other than the manufacturer's name.
  - 3. A dish antenna may be mounted on the roof of a principal or accessory building in the C-1, C-2 and D-1 Districts, provided it shall not exceed a height of six feet above the roof.

**4.28 Setback From Streets.** No building shall be closer to a street or a right-of-way than the minimum front yard requirement of its district.

**4.29 Reserved.**

**4.30 Reserved.**

**4.31 Swimming Pools.** Prior to the issuance of a zoning permit for the construction of an outdoor swimming pool in any zoning district, the following provisions must be satisfied:

- A. An application for permit, accompanied by a complete and detailed set of plans and specifications of the swimming pool, fencing, and related equipment, meeting as a minimum the following standards:

1. The swimming pool shall not be closer than ten feet to any side or rear lot line and no part of any pool shall be constructed between the principal structure and front lot line, except in the case of a property with a front yard on a lake or other body of water as defined in Chapter 2.6.11.a of this Ordinance, the swimming pool shall be set back 50 feet from the high water mark. Discharge of pool water into any lake is prohibited.
2. All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein, with respect to required fences, pool covers, barriers, pool walls, ladders and other matters.

*[Section 4.31.A.1 and 2 amended by Ord. No. 2020-04 on 3/9/2020]*

3. The drain line for the pool shall be connected to a storm sewer if one is available. Where a storm sewer is not available, the pool drain may be drained in a manner approved by the Township's Building Inspector. No pools shall drain into public or private sanitary sewer or septic systems. All drain connections shall be approved by the Township's Building Inspector before final approval is given.
  4. If a private septic system is present on the subject property, the site plan shall illustrate the location of the septic system, including septic tank and drain field.
- B. The applicant shall document that the installation of a swimming pool will meet the provisions of the regulations and standards for swimming pools contained in the current Township Building Code.

**4.32 Temporary Special Use Permits.** The Zoning Administrator may issue temporary special use permits for the following uses after determining that such uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary special use permit may be issued by Zoning Administrator at the end of such time limit for good cause shown. A third temporary special use permit may only be authorized by the Planning Commission as a special use.

- A. **Mobile Homes.** An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to 90 days while a dwelling or structure is being constructed on the same premises. A temporary special permit must be issued prior to any such use.
- B. **Signs and Supplies.** The storage of building supplies and machinery, temporary storage buildings, the assembly of materials and customary trade, contractor, architect and identification signs in connection with a construction project may be authorized by the Zoning Administrator for a period of up to 12 months.

- C. **Seasonal Uses.** The Zoning Administrator may authorize a temporary special permit for one event lasting up to 30 days per year for seasonal or unusual non-recurrent temporary uses and signs, which are not classified as a special events venue as defined by this Ordinance.
- D. **Parking Areas.** Temporary special permits may be issued by the Zoning Administrator for the use of unimproved parking areas.
- E. **Use of Camping Trailer as Residence.** The Zoning Administrator may authorize the temporary use of not more than one trailer or vehicle designed for camping on any lot, site or parcel for up to 30 days. As a condition of approval, the occupants of the trailer or vehicle shall have access to and unlimited use of the sanitary facilities of a dwelling on or adjacent to the lot, site or parcel. The Ordinance Enforcement Officer shall have authority, at reasonable times, to enter the premises for the purpose of verifying compliance with this Ordinance and all other applicable laws and ordinances.
- F. **Use of Personal Storage Unit.** The zoning administrator may authorize the temporary use of one personal storage unit in any residential district for up to 30 days subject to the following:
  - 1. Personal storage units may be placed only upon a driveway or parking area and are prohibited from being placed in any public right of way.
  - 2. Personal storage units are prohibited from being placed in a manner that creates a traffic visibility obstruction.
  - 3. A temporary special use permit must be obtained prior to placement of the personal storage unit.
- G. **Conditions of Permits.** Reasonable conditions may be required with the approval of a temporary special permit by the Zoning Administrator. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- H. The conditions imposed with respect to the approval of a temporary special permit shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Administrator and the landowners, in writing. The Zoning Administrator shall maintain a record of conditions which are changed.
  - I. A fee for such temporary special permit shall be paid as determined by the Township Board.

***[Ord. 2018-12: Section 4.32 amended 10/08/2018, Eff. 10/21/2018]***

**4.33 Traffic Visibility.** On any corner lot, nothing shall be erected, placed or maintained within 20 feet of the intersection of right-of-way lines so as to interfere with traffic visibility across the corner of said lot. Nothing which is deemed a traffic hazard shall be permitted in any zone. *[Section 4.33 amended by Ord. No. 2020-08 on 8/10/2020]*

**4.34 Trailer, Truck or Recreational Vehicle Storage.**

- A. The storage or parking of trucks of more than one and one-half tons or trailers of any kind shall be entirely prohibited in the RM District. The storage or parking of trucks of more than one and one-half tons or truck trailers of any kind shall be prohibited in any front yard in any other district, except as accessory to a farm use or other authorized use.
- B. Unlicensed buses and/or trailers shall not be utilized for storage purposes.
- C. The outside storage of recreational vehicles and recreational units is permitted in the AG/RC, R-1 and R-2 Districts only as follows:
  1. In rear yard spaces.
  2. In one side yard provided it is located between the front yard and the rear yard and provided access from the front yard to the rear yard is not used for such outside storage.
  3. Such storage shall not be permitted in any front yard with the following exceptions:
    - a. That one recreational vehicle or unit may be stored in a driveway within a front yard for a period of not more than seven consecutive days.

- b. That such recreation vehicle may be stored in the front yard if it is at least 200 feet from any public right-of-way.
- D. Recreational vehicles and recreational units designed and designated for primary use upon a roadway or waterway shall be maintained in good repair, and operating condition.
- E. The open storage of disassembled or component parts for such recreational vehicles or units is prohibited at all times.
- F. Recreational vehicles shall not be used for lodging or housekeeping purposes, except as otherwise authorized by permit.
- G. Any recreational vehicle or unit stored out of doors shall be owned by the resident of the same property where such vehicle is stored, except that such resident is authorized to store on his or her residence property not more than one recreational vehicle or unit that is owned by a non-resident.
- H. No recreational vehicle or recreational unit shall be parked or stored on any roadway or road right-of-way. Except as provided by this Section 4.34, the outdoor parking of recreational vehicles or recreational units is otherwise prohibited, unless authorized by a temporary special use permit issued by the Zoning Administrator.
- I. Parking of recreational vehicles or recreational units in the Commercial or Industrial Districts is prohibited except pursuant to a temporary special use permit issued by the Zoning Administrator.

*[Section 4.34.C, G, H and I amended 03/14/2016, Eff. 3/27/2016]*

**4.35 Reserved.**

**4.36 Reserved.** *[Section 4.36 deleted by Ord. No. 2022-04, Eff. 3/26/2022]*

**4.37 Landscaping, Buffering, and Fences.**

- A. **General Regulations.** The landscape and natural features shall be preserved, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site.
- B. **Fences, Walls, and Decorative Fences.** Fences, walls, and decorative fences shall comply with the following regulations and requirements:
  - 1. **Location.**
    - a. Fences, walls and decorative fences shall not be located outside or beyond the property or lot lines of the lot upon which said improvement shall be placed.

- b. Fences and walls shall be placed no closer to the front lot line than the front yard setback line, unless four feet or less in height with 90 percent visibility (i.e.: chain link, split rail, wrought iron, etc.).

***[Section 4.37.B.1.b amended 12/08/2008]***

- c. Fences and walls shall be located no closer to the side lot line than the side yard setback line for residential corner lots that front or face onto the side street. Fences and walls may be located nearer the side yard line when said side yard is not on a street.

**2. Height.**

- a. Fences and walls shall not exceed six feet in height from established grade line in any district. However, the Planning Commission may approve a greater height in the C-1, C-2 or D-1 Districts if the increased height will better screen a use from the roadway or adjacent residential uses. ***[Section 4.37.B.2.a amended by Ord. No. 2020-08 on 8/10/2020]***

- b. Decorative fences shall not exceed four feet in height as measured from the grade to the top of the highest horizontal rail.

**c. Design and Type:**

- i. All fences shall be constructed with the finished side exposed toward the outside of the fenced area. The support posts shall be placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surrounding area, except in cases where the Zoning Administrator deems it impractical.
- ii. Fences in the front yard of the C-1, C-2, and D-1 Districts shall be at least 90 percent transparent. Fencing shall not create any traffic visibility obstructions.
- iii. Decorative fences shall be constructed, by way of illustration, in a style similar to split rail or wrought iron fences. Decorative fences must be designed so that they are neither solid fences nor opaque screens. Openings in decorative fences, including gates, when closed, shall exceed 50 percent of any one square foot of vertical fence surface area.

**4.38 Yards.** Every lot must provide front, rear and side yards as required within its zone district. All front yards must face upon a public or private street or road, unless the lot or parcel is located on a lake or stream, in which case the rear yard must face upon a public or private street or road.

**4.39 Street Access.** Any lot created after the effective date of this Ordinance shall front upon a public street or an approved private road right-of-way meeting the minimum width requirements of the zone district in which the lot is located.

**4.40 Mobile Food Vendors.** *[Added by Ord. No. 2022-02, Eff. 3/27/2022]*

- A. **Definition.** Mobile food vendor shall mean any vehicle, trailer, stand, cart or other device designed to be portable and not permanently attached to the ground from which food is served or offered for sale. Special Transitory Food Units, Mobile Food Establishments, Food Trucks, Temporary Food Establishments, and Mobile Restaurants, are all referred to herein as Mobile Food Vendors.
- B. Mobile food vendors may operate on private property in all commercial and industrial zoning districts, and on parcels in residential and agricultural zoning districts where the principal use is an approved non-residential land use in. Consent of the property owner must be given.
- C. A mobile food vendor may operate on the same parcel without a permit for up to 180 days within a calendar year.
- D. Mobile food vendors may operate without a permit as part of a private event that is hosted by a residential use, but is not open to the public.
- E. Mobile food vendors and any associated seating or tables shall not be located so as to interfere with the clear vision or safe flow traffic on the parcel or any adjacent parcel or right-of-way.
- F. Trash receptacles shall be provided for use by customers.
- G. Any plumbing connections shall be approved by the Muskegon County Public Health Department.
- H. No liquid waste or grease shall be disposed of or released into the ground or any sanitary sewer or septic system.
- I. Vehicles used by mobile food vendors shall be licensed and insured.
- J. Mobile food vendors shall display all licenses and permits required by other agencies with jurisdiction over the mobile food vendor.

**4.41 Attached Garages.** The gross floor area of an attached garage shall not exceed 100 percent of the total floor area of the single family dwelling to which it is attached. The attached garage, in any case, shall not be larger than 1,000 square feet. *[Section 4.41 Eff. 7/26/2015; amended by Ord. No. 2020-05 on 6/8/2020; amended by Ord. No. 2021-13, Eff. 11/22/2021]*

**4.42 Outdoor Storage.** Yards for storage of heavy machinery, supplies and materials generally used by road builders, earth movers, and construction contractors, or unused motor vehicles, trailers or boats, or parts thereof, which may or may not be wholly owned by the property owner, shall be located only in the zone districts in which such outdoor storage yards are permitted. Such storage yards shall be entirely enclosed and maintained with a solid fence not less than six feet high. Any such fence for the purpose of screening such outdoor storage shall comply with all of the following requirements:

- A. The fence shall be constructed of such materials and of such design as to reasonably prevent trespassers from entering the premises.
- B. The fence shall be constructed of materials which totally obstruct the view of the premises enclosed.
- C. The fence shall be maintained in an attractive manner; no sign shall be placed, drawn or painted on the fence.

**4.43 Principal Use Per Lot; Combinations of Uses.** A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building; except for groups of apartments, retail, industrial or agricultural buildings, or multi-tenant commercial buildings or complexes, each of which use or building is permitted within the zoning district, and which collectively meet all provisions of this Ordinance related to parking, landscaping, setback, access, and all other restrictions.

*[Section 4.43 amended 9/9/2013, Eff. 9/29/2013]*

**4.44 Wireless Communication Facilities.**

A. **Definitions.**

- 1. A wireless communication facility shall be defined as an antenna used for the transmission and/or reception of signals for radio, television, cellular telephone, microwave, enhanced mobile radio, personal communication, pagers and similar devices. A wireless communication facility shall not be deemed to be essential public services as that term is used in this zoning ordinance.
- 2. A wireless communication facility support structure shall be a lattice framework or monopole tower or any existing structure suitable for the support of wireless communication facilities, but excluding structures with a total height of less than 30 feet.
- 3. Attached wireless communications facilities shall be wireless communication facilities proposed to be attached to an existing structure.

B. **Types of Facilities and Approvals.** A new wireless communication facility and wireless communication facility support structure shall be permitted only as a special land use, upon approval by the Planning Commission, in accordance with the provisions of this section. *[Section 44 amended by Ord. No. 2020-10 on 9/14/2020]*

1. Attached wireless communication facilities shall be permitted upon approval by the Planning Commission in those cases where the existing structure is not, in the determination of the Planning Commission, proposed to be either materially altered or materially changed in appearance. A special land use shall not be required.
2. Co-location of a new attached wireless communication facility that is to be attached to an existing structure that has been previously approved for such co-location as part of an earlier approval by the Township, shall not require special land use or other Township approval.
3. Attached wireless communication facilities consisting of a utility pole located within a public right-of-way shall be approved by the Planning Commission where the existing utility pole is not proposed to be modified in a manner which, in the determination of the Planning Commission, would materially alter the structure, result in an impairment of sight lines or other safety interests or detract from the appearance of the site. A special land use or other Township approval shall not be required.

*[Section 4.44.B. amended 4/12/2010, Eff. 5/9/2010]*

C. **Application and Review Requirements.** All applications for wireless communication facilities and wireless communication facility support structures shall be reviewed in accordance with the district regulations of the zoning district in which they are located and the following standards and conditions, and if approved, shall be constructed and maintained in accordance with such standards and conditions. In the event of a conflict between the district regulations of the zoning district and the provisions of this section, the more stringent standard shall apply.

1. **Application Requirements.**

- a. All applications for the required permit to place, construct or modify any part or component of a wireless communication facility or wireless communication facility support structure or for special land use approval for said facilities shall include the following:
  - i. A scaled site plan prepared, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

- ii. The existing form of technology being used and any changes proposed to that technology.
- iii. As applicable, the planned or proposed and existing service area of the facility and the attached wireless communication facility, and wireless communication facility support structure height and type, and signal power upon which the service area has been planned.
- iv. The nature and extent of the applicant/provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
- v. The identity and address of all owners and other persons with a real property interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
- vi. A certification by a registered professional engineer licensed in the State of Michigan regarding the manner in which the proposed structure will fall, in the event of structural failure due to any cause. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining appropriate setbacks to be required for the structure and other facilities.
- vii. A description of the security to be posted at the time of receiving a building permit for the wireless telecommunication support structure to ensure removal of the structure when it has been abandoned or is no longer needed as provided in paragraph D.8 below. The security shall, at the election of the Township, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by a designated attorney and recordable at the office of the Muskegon County Register of Deeds, a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for payment of any costs and attorney's fees incurred by the Township in securing removal.
- viii. The site plan shall include a landscape plan in the event the wireless communication facility support structure is being placed at a location which is not otherwise part of another site plan with landscaping requirements. The purpose of landscaping is to provide screening for the wireless

communication facility support structure base, accessory buildings and enclosures. In all cases there shall be fencing of at least six feet in height, which is required for the protection of the tower fully enclosing the wireless communication facility support structure and any accessory structure provided with a locked gate.

- ix. Evidence of site plan approval from the Federal Aviation Administration, if required due to a site's proximity to any local airport, or evidence that such approval is not required.
- x. A maintenance plan, and any applicable maintenance agreement, shall be presented as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
- xi. The name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- xii. A disclosure of what is proposed, demonstrating the need for the proposed wireless communication facility support structure to be located as proposed based upon the presence of one or more of the following factors:
  - ◆ Proximity to an interstate highway or major thoroughfare.
  - ◆ Areas of population concentration.
  - ◆ Concentration of industrial and/or other business centers.
  - ◆ Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
  - ◆ Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate.
  - ◆ Other specifically identified reason(s) creating need for the facility.

- xiii. The reason or purpose for the placement, construction or modification with specific reference to the provider's coverage, capacity and/or quality needs, goals and objectives.
- xiv. A map showing existing and known proposed wireless communication facilities and wireless communication facility support structures within the Township. The map shall also show existing buildings and/or other structures of the same approximate height as the proposed wireless communication facility support structure within a one-half mile radius of the proposed site which could accommodate a feasible co-location of the applicant's proposed attached wireless communication facility. To the extent the information required is on file with the Township, the applicant shall be required only to update as needed.
- xv. For each location identified in the maps required under paragraph C.1.a.xiv of this section, the application shall include the following information, if known, with the applicant/provider expected to exercise reasonable due diligence in attempting to obtain information through lawful means prior to application:
  - ◆ The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
  - ◆ Whether property owner approvals exist or have been requested and obtained.
  - ◆ Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility, or if not, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing wireless communication services.

2. **Review Standards - All Applications.** All applications for wireless communication facilities and wireless communication facility support structures shall be meet the following standards.

- a. The wireless communication facility support structure shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the

natural environment, as well as the environment as altered by development.

- b. The maximum height of all new or modified attached wireless communication facilities and wireless communication facility support structures shall be 195 feet, or such greater height as may be approved by the Planning Commission. The accessory building contemplated to enclose such things as switching equipment shall be limited to the lesser of the maximum height for accessory structures within the respective district, or 12 feet. The floor area of any accessory building shall be limited to no more than 300 square feet. The Planning Commission may impose requirements relating to the color and nature of the exterior surface of the accessory building and the roof thereof, so as to cause the building to be reasonably compatible with other buildings in the vicinity.
- c. The setback of wireless communication facility support structures from any lot line shall be no less than the height of the structure, unless it can be demonstrated and certified by a registered professional engineer, that the wireless communication facility support structure has a lesser fall-zone distance.
- d. Where the wireless communication facility support structure abuts a parcel of land zoned for residential purposes, the Planning Commission may require a greater setback along the portion of the site which abuts said residential property than that provided in the schedule of regulations for the zoning district in which the wireless communication facility support structure is located, if, in the judgment of the Planning Commission, the use of the minimum required setback distance shall constitute a detriment to persons and property on the adjoining parcel.
- e. There shall be an unobstructed access to the wireless communication facility support structure for operation, maintenance, repair and inspection purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: The location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication facility support structure and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts; minimization of disturbance to the natural vegetation; and the type of equipment which will need to access the site.

- f. The tower shall be a monopole unless the applicant can demonstrate that such a design is not feasible, in which case, a free standing lattice tower is acceptable. Guyed tower shall not be acceptable.

***[Section 4.44.C.2.f. amended 6/11/2007; Section 4.44.C.2. amended 4/12/2010, Eff. 5/9/2010]***

- 3. **Review Standards - Special Approval Standards.** In addition, all applications for wireless communication facilities and wireless communication facility support structures submitted shall meet the following standards.

- a. The wireless communication facility support structure shall not, in the judgment of the Planning Commission, constitute a detriment to any persons, property or the general welfare.

- b. A proposal for a new wireless communication facility support structure submitted, shall not be approved unless and until it can be documented by the applicant that the communications equipment planned for the proposed wireless communication facility support structure cannot be feasibly co-located and accommodated on an existing or approved wireless communication facility support structure or other existing structure due to one or more of the following reasons:

- i. The planned equipment would exceed the structural capacity of the existing or approved wireless communication facility support structure or building, as documented by a qualified and licensed professional engineer, and the existing or approved wireless communication facility support structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment.

- ii. The planned equipment would cause interference materially impacting the usability of other existing or imminently planned equipment at the wireless communication facility support structure or other existing structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented by any other means.

- iii. Existing or approved wireless communication facility support structures and buildings within a one-half mile radius of the proposed site cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.

- iv. Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing wireless communication facility support structure or building.
- c. Co-location shall be deemed to be “feasible” for the purposes of this section where all of the following are met:
  - i. The applicant under consideration for co-location shall undertake to pay market rent or other market compensation for co-location.
  - ii. The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
  - iii. The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennae, and the like.
  - iv. The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the Planning Commission, taking into consideration the several standards contained within this subsection.

***[Section 4.44 C.3 amended 4/12/2010, Eff. 5/9/2010]***

**D. General Requirements.**

1. The division of property for the purposes of locating a wireless communication facility support structure is prohibited unless all zoning conditions are met.
2. Where a wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that an accessory building conforms to all district requirements for accessory buildings, including yard setbacks and building height.
3. The Planning Commission shall, with respect to the color of the wireless communication facility support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with

surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility, the wireless communication facility support structure and the property surrounding such facilities in a neat and orderly condition.

***[Section 4.44.D.4 amended 4/12/2010, Eff. 5/9/2010]***

4. Wireless communication facility support structures shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
5. If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township. Any proposed commercial wireless communication facility support structures shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's attached wireless communication facility and a minimum of two comparable attached wireless communication facilities for additional users. Wireless communication facility support structures must be designed to allow for future rearrangement of attached wireless communication facilities upon the wireless communication facility support structure and to accept attached wireless communication facilities mounted at varying heights.
6. If a party who owns and/or otherwise controls a wireless telecommunication support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such failure or refusal shall be deemed a violation of this zoning ordinance, subject to the penalties provided in this Ordinance.
7. When a wireless communications facility has not been used for 180 days or more, or six months after new technology is available which permits the operation of a wireless communication facility without the requirement of a wireless communication facility support structure, the entire wireless communications facility, that portion of the wireless communications facility or wireless communication facility support structure made obsolete by the new technology, shall be removed by the users and/or owners of the wireless communications facility. For the purposes of this section, the removal of antennae or other equipment from the facility, or the cessation

of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

- a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless communications facility.
  - b. If the required removal of the wireless communications facility, a wireless communication facility support structure, or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the Township may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the wireless communications facility.
8. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
  9. No part of the wireless communication facility or wireless communication facility support structure shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands. No wireless communication facility or wireless communication facility support structure shall be lighted, unless required by the Federal Aviation Administration or the Federal Communication Commission.
  10. If, in considering the application, the Planning Commission determines that it is appropriate to obtain the services of a communications consultant and/or structural engineer, all reasonable costs and expenses thereof shall be paid by the applicant. Failure to pay such costs and expenses, or to provide information reasonably requested by the Planning Commission, shall be grounds for the withholding of the issuance of any and all approvals under this Ordinance.

***[Section 4.44.D.11 amended 4/12/2010, Eff. 5/9/2010]***

**4.45 Open Space Preservation Development.** Residential open space preservation development, as defined herein shall conform to the provisions of Section 506 of the Zoning Enabling Act, or its successor provisions; and all applicable provisions of this

Ordinance. A division of land on the basis of condominium ownership shall comply with the requirements of Chapter 17 of this Ordinance for site condominium approvals.

- A. The terms of this Section 4.45 are intended to offer an optional open space preservation approach to residential development patterns within areas of the Township zoned for two or fewer dwelling units per acre, or if the land is served by a public sewer system, three or fewer units per acre. In no event shall an open space preservation development result in more residential units on a site than would be permitted within the zoning district under conventional development patterns.
- B. Prior to submitting an application for site plan approval to develop lands within the Township for residential purpose, an applicant considering this open space preservation development option shall submit a pre-application therefore to the Township Zoning Administrator. Such pre-application shall:
  - 1. State the intent to undertake an open space preservation development.
  - 2. Indicate the proposed method for the perpetual preservation of open space.
  - 3. Indicate the proposed number of parcels.
- C. Not less than 50 percent of the developable land area, will remain perpetually in an undeveloped state by means of a recorded legal instrument which may include, but not necessarily be limited to, a conservation easement, plat dedication, master deed, restrictive covenant or other legal means that runs with the land. Such legal instrument shall be subject to the review and approval of the Township Attorney.
- D. The maximum number of lots that may be approved shall be determined through the submission of a layout plan applying all zoning rules and regulations illustrating the maximum number of lots that may be developed. Unbuildable areas, including areas in a floodway, slopes greater than 15 percent, wetlands, and areas necessary for storm water management facilities, shall be taken into consideration and clearly delineated.
- E. To achieve the permitted density and preserve the required open space, the lot area may be reduced up to 50 percent of the required lot area for the district and lot width may be reduced up to 33 percent of the required lot width in the district.
- F. The Zoning Administrator shall review the pre-application and determine compliance with the requirements of this section. Upon the approval of the Zoning Administrator, the applicant shall submit a request for the applicable land division process - land split, subdivision or site condominium in accordance with applicable standards and rules of the Township. A building permit shall only be issued after all approvals have been granted and a copy of the recorded documents preserving the open space has been filed with the Township Clerk.

G. Open space area developments shall adhere to the following design standards:

1. The landscape and natural features shall be preserved, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site. Natural drainage areas shall be a priority for non-disturbance on the site.
2. The development shall be set back a minimum of 200 feet from a public road. No vegetation shall be removed from this setback, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities or drainage improvements. The Planning Commission may require additional plantings to augment natural vegetation in cases where the setback has limited vegetation for screening.
3. Structures and septic systems shall not be located within 100 feet of any stream bank or high water line.
4. An undisturbed natural vegetation buffer of 25 feet in width shall be maintained immediately adjacent and parallel to any wetland, lake or stream bank or high water line.
5. Where an open space development abuts a lake or stream, at least 50 percent of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
6. At least one-third of the common open space shall be usable open space. The open space and access to it shall be permanently marked and designed so individuals in the development are not forced to trespass to reach recreational or common open spaces.
7. Common open space in any one residential cluster shall be laid out, to the maximum extent feasible, to connect with other open space existing or proposed.
8. Open space areas may not include golf courses, marinas, parking areas, the area within a platted lot or condominium unit, street rights-of-way, or utility easements.
9. Open space areas shall have minimum dimensions of 50 feet on all sides.

#### **4.46 M-120 and Whitehall Access Management Overlay District Regulations.**

- A. **Purpose and Intent.** The purpose and intent of this section is to provide standards that will facilitate efficient traffic operations and improve public safety along M-120 and Whitehall Road in the Township. The standards contained herein are intended to protect the public investment in M-120 and Whitehall Road and minimize congestion and accident potential while still providing property owners

with reasonable, though not always direct, access. The standards of this section are further intended to:

- ◆ Minimize disruptive and potentially hazardous traffic conflicts thereby reducing the frequency of fatal, personal injury and property damage accidents.
- ◆ Separate traffic conflict areas by reducing the number of direct access points.
- ◆ Provide efficient spacing standards between access points and between access points and intersections.
- ◆ Establish uniform access standards to ensure fair and equal application.
- ◆ Follow the guidelines and principles of the M-120 Corridor Study prepared under the direction of the West Michigan Shoreline Regional Development Commission and the M-120 Study Group in March 2000.
- ◆ Protect the substantial public investment in the roadway system by preserving capacity and avoiding the need for unnecessary and costly reconstruction that disrupts business.
- ◆ Require wherever possible coordinated access among several adjacent landowners.
- ◆ Ensure reasonable access to properties, though the access may not always be direct access.

## B. **Definitions.**

**Access.** A way or means of approach to provide vehicular or pedestrian entry or exit to a property from an abutting property, access easement, or a public roadway.

**Arterial Street.** Roadways of regional importance intended to serve moderate volumes of traffic traveling relatively long distances.

**Corner Clearance.** Corner clearance refers to the distance between an intersection and the first point of ingress and egress to a corner property.

**Curb Cut.** A curb cut is a physical break, or end, in a curb to make way for a vehicular driveway or pedestrian walkway.

**Functional Classification.** A system of hierarchical categories describing roadway purpose and function, such as limited access highway, major arterial, minor arterial, etc.

**Internal Residential Road.** A street or road intended to provide access to abutting residential properties, which tends to accommodate lower traffic volumes and serves to provide mobility within that neighborhood.

**Service Drive.** A drive designed to provide shared access to specific access points along the arterial roadway to one or more developments within the corridor. A service road is generally parallel to the arterial road along either the front or rear of a site, but may be perpendicular or have another alignment. Service roads may be in front of, or along the rear of, buildings fronting M-120 or Whitehall Road.

**Side Street.** A street or road with lower functional classification than the intersecting street or road.

**Stub Connector.** A street or road that dead-ends at a development boundary, positioned in such a way that future adjacent developments can link a future street or road for connectivity of said developments.

C. **Applicability.** The regulations and standards of this chapter apply to all properties fronting M-120 and Whitehall Road in the Township. Except as otherwise noted within this Overlay chapter, all provisions of this Ordinance apply.

D. **Access for Commercial and Industrial Development.** The number of commercial and industrial driveways serving a property shall be the minimum number necessary to provide reasonable public access and access for emergency vehicles, while preserving traffic operations and safety along the public roadway. Access may be via an individual access point or shared access along a service drive.

1. **Access Points.** One access point along M-120 and Whitehall Road or along streets that intersect said roadways may be permitted for each property. The Township Planning Commission may require shared access or access via a service drive in lieu of direct access to said roadways. Additional access points may be permitted if the following applies:

a. One additional access point along M-120 or Whitehall Road may be allowed for land with a continuous frontage on said roads of over 455 feet, if the Planning Commission determines there are no other reasonable access opportunities, and if such an additional access point does not, in the judgment of the Planning Commission, compromise safety. An additional access point should be consolidated or coordinated with neighboring parcels if possible.

The Planning Commission determines if additional access is justified without compromising safety and traffic operations along M-120 or Whitehall Road based upon a traffic impact study submitted by the applicant, and prepared in accordance with Section 4.46.E, hereof. The traffic impact study shall be reviewed and accepted by the Muskegon County Road Commission and/or the Michigan Department of Transportation, as applicable, and the

Township Planning Commission. The Township may commission an independent review of the applicant's traffic study, with the cost of the review being borne by the applicant.

b. Alternative access shall be required wherever possible. One or more of the following may be required when deemed applicable by the Planning Commission:

i. **Shared Driveways.** In cases where access is restricted by the driveway spacing requirements, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another and/or access the public street.

ii. **Parking Lot Connections.** Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where possible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.

iii. **Rear Service Drives.** Rear service drives may be required for locations where connection to a side street is available. In addition to access along the rear service drive, a direct connection to the M-120 or Whitehall Road may be allowed, provided that the driveways meet the requirements herein.

2. **Corner Clearances.** Corner clearances should be sufficient to ensure adequate stacking space for vehicles at the intersection without blocking a driveway. The following shall be adhered to:

a. A corner lot should be wide enough to accommodate proper access spacing.

b. Direct access to a small corner parcel shall be limited by linking access to adjacent properties.

c. Access should be limited to side streets where practical.

d. Where any road intersects M-120 or Whitehall Road and the intersection is unsignalized, driveways along M-120 or Whitehall Road shall be a minimum 230 feet from said intersection.

e. For signalized intersections, driveways along M-120, Whitehall Road, or intersecting side streets shall be a minimum of 455 feet from applicable intersection.

E. **Traffic Study.** For residential, commercial, and industrial developments, the Planning Commission may require a traffic study. At a minimum, the traffic study shall contain the following:

1. Analysis of existing traffic conditions using current data.
2. Projected trip generation at the subject site or along the subject service drive based on the most recent edition of the Institute of Transportation Engineers' Trip Generation manual. The Township may approve use of other trip generation data if based on recent studies of at least three similar uses within similar locations in Michigan.
3. Illustrations of current and projected turning movements at access points. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual and shall be provided in an appendix.
4. Statements describing how the access will meet the intent of this section, will be consistent with the M-120 corridor plan, if applicable, and will not compromise public safety along the roadway.
5. Qualifications and documented experience of the author, describing experience in preparing traffic impact studies in Michigan shall be included in the Traffic Study. The preparer shall be either a registered traffic engineer (P.E) or transportation planner with at least five years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a background in traffic engineering.

F. **Site Development Standards.**

1. **Commercial and Industrial Uses.**

- a. **Front Yard Setbacks.** For all commercial developments fronting M-120 and Whitehall Road, the following shall apply:
  - i. No parking lots shall be allowed in the front yard setback.
  - ii. Landscaping shall be permitted in setbacks.
  - iii. Where necessary to accommodate an approved circulation plan, access driveways are permitted in setbacks.
  - iv. All structures shall be setback at least 100 feet from the center of the road right-of-way.
  - v. All other setback standards of the underlying zoning district shall apply.

- b. **Driveway Standards.** Site plans shall fully conform to the driveway and traffic standards of the Michigan Department of Transportation and the Muskegon County Road Commission, as provided in Section 17.6.C of this Ordinance.

2. **For Residential Uses.**

- a. **Front Yard Setbacks.** For all residential developments fronting M-120 and Whitehall Road, the following shall apply:
  - i. All single-family homes, duplexes, multi-family buildings, and associated structures, shall be setback at least 100 feet from the center of the road right-of-way.
  - ii. Where necessary to accommodate an approved shared or non-shared driveway, driveways are permitted in setbacks.

- G. **Existing Development.** In the case of expansion, alteration or redesign of an existing development, or unique situations on a vacant parcel, where it can be demonstrated that conditions prohibit adherence to the minimum access point standards, the driveway spacing requirements of Section 4.46.D may be modified.

The following criteria shall be considered by the Planning Commission in reviewing a reuse, redesign or expansion of an existing development:

1. Access modifications shall be the minimum amount necessary.
2. Access modifications will meet the intent of this section to the greatest extent possible.
3. In case of a reuse or expansion of an existing site, the Planning Commission may modify the standards of this section if the use will be no more intense than the previous use in terms of traffic generation, based on a comparison of trip generation rates outlined in the most recent edition of the ITE Trip Generation manual and noted in a report prepared by a professional meeting the qualifications noted in Section 4.46.E of this chapter.
4. Access modification resulting from unique environmental conditions (i.e., wetlands or severe topography) on the site. The proposed access location would preserve the environmental character of the site and equal or improve public safety, as determined by the Planning Commission.
5. A traffic impact study has been provided as outlined in Section 4.46.E that supports the requested access design and demonstrates compliance with the above modification standards.

H. **Review Procedure.** All information and data required within this section shall be submitted to the Township simultaneously with the proposed site plan for Planning Commission review. Review procedures and timeframes shall follow the site plan review procedures listed in Chapter 17 of this Ordinance.

**4.47 Security for Completion of Improvements.** When financial security is required for completion of any improvement provided for by this Ordinance, such security shall comply with the following standards:

A. **Performance or Surety Bond.**

1. The bond shall inure to the benefit of the Township, covering construction, operation and maintenance of the improvement.
2. The bond shall be in an amount equal to the total estimated cost for completing construction of the improvement, including contingencies, as estimated by the Planning Commission.
3. The Planning Commission shall specify the term during which the bond shall remain in force.
4. The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Township Board.

*[Section 4.47 Eff. 2/8/2015]*

B. **Cash Deposits, Certified Check, Negotiable Bond, or Irrevocable Bank Letter of Credit.**

1. A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, acceptable to the Township, shall be given to the Township Clerk, or deposited with a responsible escrow agent or trust company.
2. The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the improvement including contingencies, as estimated by the Township.
3. The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period specified by the Township.
4. In the case of cash deposits or certified checks, an agreement between the Township and the developer may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the improvement, in accordance with a previously entered into agreement.

**4.48 Standards for Discretionary Decisions.** In addition to any specific standards which may be applicable, the following standards and guidelines shall serve as the basis for decisions involving special land uses, planned unit developments and other discretionary decisions set forth in this Ordinance: The proposed uses shall (a) be compatible with adjacent uses of land; (b) be consistent with, and promote the intent and purpose of, this Ordinance; (c) be compatible with the natural environment; (d) be consistent with the capacities of public services and facilities affected by the proposed use; and (e) protect the public health, safety and welfare.

*[Section 4.48 Eff. 2/8/2015]*

**4.49 Maps, Drawings and Renderings.** Whenever under the terms of this Ordinance the Planning Commission and/or the Zoning Administrator may be considering or reviewing a proposed land use or activity, the Planning Commission or the Zoning Administrator may require the submission of maps, drawings, renderings and such other information as will assist the Planning Commission and/or the Zoning Administrator in the consideration and review of the proposed land use or activity.

*[Section 4.49 Eff. 2/8/2015]*

**4.50 Resubmission of Matters to Planning Commission.** For a period of one year following a decision by the Planning Commission, no reconsideration of the decision shall be undertaken, nor may an application for the same matter be submitted, unless the Planning Commission in its sole discretion determines that there has been a material change in the development plans submitted or a material change in the facts and circumstances applicable to the requested rezoning, special land use, planned unit development or other relief or approval sought by an applicant.

*[Section 4.50 Eff. 2/8/2015]*

**4.51 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odor.** Every use shall be so conducted and operated that it does not create a nuisance and so that it is not dangerous by reason of heat, glare, fumes, dust, noise, vibration or odor beyond the lot on which the use is located.

*[Section 4.51 Eff. 2/8/2015]*

**4.52 Muskegon County Business Park-North Overlay District.**

A. **Purpose and Intent.** This Overlay District includes lands within the Certified Muskegon County Business Park. It is the intent of the Township to allow for and encourage development of the Muskegon County Business Park North consistent with the Township's Master Plan. Because maximum permitted lot coverage for lots and parcels zoned Industrial within the District is 35%, such properties encounter significant obstacles to development and improvement. It is the intention of this Overlay District that the maximum permitted lot coverage for lots within the Muskegon County Business Park North be increased.

- B. **Lands in Overlay District.** Section 3.2 of the Zoning Ordinance of the Township of Dalton, the “Zoning Map,” is hereby amended to designate the lands commonly referred to as the Muskegon County Business Park North, located at the Northeast intersection of Whitehall Road and Agard Road, and legally described below, to be within the Muskegon County Business Park North Overlay District.

Part of 61-07-922-011-0001-00

DALTON TOWNSHIP EXEMPT SEC 31 T11N R16W S 408.3 FT OF NE 1/4 OF NE 1/4 EXC S 300 FT OF E 150 FT OF W 210 FT TH’OF ALSO INCL SE 1/4 OF NE 1/4 EXC THE W 390 FT TH’OF, ALSO INCL SEC 32 T11N R16W NW 1/4 OF NW 1/4 EXC E 100 FT OF W 1065.5 FT OF N 165 FT TH’OF ALSO EXC E 261.98 FT OF N 233 FT TH’OF ALSO EXC N 243 FT LYING WLY OF RR AND INCL SW 1/4 OF NW 1/4 OF SEC 32 EXC RR R/WAY SUBJECT TO ANY AND ALL ESMTS RESTRICTIONS OR RESERVATIONS OF RECORD OR APPARENT TH’OF.

- C. **Applicability.** The standards of this Overlay District apply to all lots and parcels of land within the Muskegon County Business Park-North Overlay District. The standards of the Overlay District shall apply to all uses, however, the applicable standards of the underlying zoning district(s) shall also apply. Where a conflict exists between the regulations of the Overlay District and the underlying zoning, the regulations of the Overlay District shall apply.
- D. **Maximum Lot Coverage.** For all lots and parcels within the Muskegon County Business Park-North Overlay District, maximum lot coverage is 75 percent.

*[Section 4.52 Eff. 8/28/2016]*

#### **4.53 Decks and Patios.**

- A. An open, unenclosed, and uncovered patio, paved terrace, deck or similar improvement constructed at ground level shall not be subject to the setback requirements.
- B. An open, unenclosed and uncovered porch, paved terrace, deck or similar improvement, the top of which is not more than eight inches above the ground level at which it is installed, may extend to within six feet of any lot line.
- C. A porch, terrace, deck, balcony or similar improvement, the top of which is more than eight inches above the ground level at which it is installed and which is attached to a principal building, shall be considered part of the principal building for setback requirements.
- D. A porch, terrace, deck or similar improvement, the top of which is more than eight inches above the ground level at which it is installed but which is not attached to a principal building, shall be subject to the setback and other requirements applicable to accessory buildings.

- E. On a waterfront lot, a porch, terrace, deck or similar improvement, the top of which is more than eight inches above the ground level at which it is installed, of up to 120 square feet in area is permitted in front of the principal building if located at least 20 feet from the lake, stream, bank or ordinary high water mark, and six feet from the side lot lines.

*[Section 4.53 Eff. 5/21/2017]*

**4.54 Solar Energy Systems.** This Ordinance is intended to provide for regulation of the construction, installation, and operation of Solar Energy Systems (SEs) in a manner that ensures the protection of the health, safety and welfare of the residents of Dalton Township while promoting the effective and efficient use of solar energy systems. Building mounted and ground mounted solar energy systems, as defined in this Ordinance, shall comply with the provisions of this section.

- A. **Definition.** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems and solar hot water systems.
- B. Building-mounted solar energy collectors shall be permitted in all zoning districts in accordance with the provisions of this section.
  - 1. A building permit is required before installation of any type of solar energy collector.
  - 2. Solar panels shall be permitted as a rooftop installation in any zoning district and shall be setback from the building edge at least a distance equal to its height.
  - 3. Solar energy collectors that are roof-mounted, wall-mounted or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Three copies of prints (one sheet with seal), minimum size 11" x 17", from an architect, drawn to scale shall be submitted to the Building Official prior to installation and shall be subject to the Building Official's approval before issuance of a building permit.
  - 4. Solar energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.
  - 5. The exterior surfaces of solar energy collectors that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be substantially non-reflective of light.
  - 6. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the Township Building Official prior to installation.

The Building Official shall inspect the completed installation to verify compliance with the manufacturer's directions.

7. Solar energy collectors, and the installation and use thereof, shall comply with the most recently adopted Michigan Building Code, National Electrical Code, and all other applicable local codes.

**C. Ground-mounted solar energy array and/or farm requirements.** A ground-mounted solar energy array and/or farm shall be a permitted only as a special land use, upon approval by the Planning Commission, and only in the RC, R-1, R-2, C-1, C-2, and D-1 zoning districts, in accordance with the provisions of this section. Zoning approval is required prior to application for a building permit.

1. Ground-mounted solar energy arrays and/or farms shall be located only as follows:
  - a. In the rear yard and the side yard. The setback distance required shall be the same as the required setback distance for accessory structures for the zoning district located in.
2. Ground-mounted solar energy arrays and/or farms shall not exceed sixteen (16) feet in height, measured from the ground at the base of such equipment.
3. Solar energy collectors shall be permanently and safely attached to the ground. Three copies of prints (one sheet with seal), minimum size 11" x 17", from an architect, drawn to scale shall be submitted to the Building Official prior to installation and shall be subject to the Building Official's approval before issuance of a building permit.
4. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the Township Building Official prior to installation. The Building Official shall inspect the completed installation to verify compliance with the manufacturer's directions.
5. Ground-mounted solar energy arrays and/or farms, and the installation and use thereof, shall comply with the most recently adopted Michigan Building Code, National Electrical Code, and all other applicable local codes.
6. A Natural Resources Assessment shall be submitted along with application to the township.

**D. Solar access requirements.**

Solar Access: The Township makes no assurance of solar access other than the provisions of this Article. It is the applicant's responsibility to obtain any necessary covenants or easements from abutting property owners to ensure access to solar energy.

**E. Decommissioning/Abandonment**

1. A SES shall be deemed abandoned if it is out of service for a continuous 12-month period.
2. A “Notice of Abandonment” will be issued to the owner advising them that the SES shall be removed at the owner’s expense within three months of the date of notice.
3. Removal shall require a demolition permit, and the demotion will consist of removal of panels, non-utility owned equipment, conduit, structures, and foundations.
4. Upon removal of a ground array SES, the site shall be cleaned and restored to blend with the existing surrounding vegetation at the time of abandonment.
5. Failure by the owner(s) to complete removal within the three months’ time period may result in the Township Board designating a contractor to complete decommissioning with all the expenses thereof charged to the violator and to become a lien against the premises.

*[Section 4.54 Eff. 6/24/2018]*

**4.55 Treatment of Marihuana Facilities.**

- A. Dalton Township provides for certain types of facilities or establishments licensed under the Medical Marihuana Facilities Licensing Act (“MMFLA”) and the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”) under the zoning ordinance by making specific reference to the type of facility or establishment allowed using the definitions in those statutes. If those facilities or establishments are permitted in the zoning ordinance, they are permitted only by specific reference to a “grower,” “processor,” “provisioning center,” “safety compliance facility,” or “secure transporter” as those terms are defined by the MMFLA and MRTMA, and the terms “marihuana micro-business” and “marihuana retailer” as defined by the MRTMA. The term “grower” shall include all classes of growers, unless a specific class is specified. These facilities or establishments shall not be considered to be similar to or to fall within any other category of use provided for in the zoning ordinance. By way of example and not limitation, none of these listed uses shall be considered to be a farm, greenhouse, home occupation, accessory use, personal service establishment, restaurant, retail store, drug store or pharmacy, manufacturing facility, office, or laboratory.
- B. Without limiting the generality of the foregoing, no marihuana facility or establishment described in the MMFLA or MRTMA is permitted in the R-1, R-2, or RM District.

- C. On-premises consumption as a designated consumption establishment or for a temporary marihuana event pursuant to the rules of the MRTMA are prohibited anywhere within the Township.
- D. The Zoning Board of Appeals shall not have jurisdiction to approve a use variance for a marihuana facility or establishment.

***[Section 4.55 added by Ord. No. 2021-01, Eff. 3/23/2021]***





## CHAPTER 5 AGRICULTURAL/RESOURCE CONSERVATION DISTRICT

- 5.1 Purpose.** The AG - RC Agricultural/Resource Conservation District is intended primarily for agricultural uses and the limited development and use of low-density single-family dwellings. The lands comprising this District are not well suited for the development of residential neighborhoods or other higher-density land uses, and may not have available public utilities.
- 5.2 Permitted Uses.** Land, buildings and structures in the AG - RC District may be used only for the following purposes:
- A. Farms, farm buildings and farming activities.
  - B. The raising and keeping of livestock and other farm animals.
  - C. Single-family detached dwellings.
  - D. Orchards, vineyards and apiaries.
  - E. Adult foster care family home, state licensed, providing foster care to not more than six adults in a private residence for periods of 24 hours per day, five or more days per week.
  - F. Family child care home, state licensed, providing care and supervision for not more than seven minor children for periods of less than 24 hours per day in a private residence.
  - G. Adult day care home, state licensed, providing foster care for not more than six adults for periods of less than 24 hours per day, five or more days per week, in a private residence.
  - H. Licensed marihuana grower limited to a Class A license issued under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, or a Class A grower licensed under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, or both such Acts, provided that the total number of plants is limited to not more than 100. Growers are permitted only on a parcel under common ownership of 10 contiguous acres or more, not separated by a public right-of-way. This provision shall not be construed to allow 100 plants per 10 acres, but such that only one operation of up to 100 plants is permitted for a parcel meeting or exceeding the above qualifications. The Zoning Board of Appeals does not have jurisdiction to vary these requirements on use of the property.

***[Subsection H. added by Ord. No. 2021-01, Eff. 3/23/2021]***

**5.3 Special Land Uses.** The following special land uses may be permitted when authorized under the terms of Chapter 16:

- A. Agricultural service establishments.
- B. Animal clinic.
- C. Bed and breakfast establishment.
- D. Boarding/lodging house.
- E. Cemeteries.
- F. Church.
- G. Commercial stump grinding.
- H. Group child care home, state licensed, in which at least seven but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, in a private residence.
- I. Foster family home, in which fewer than five minor children are given care and supervision for 24 hours a day, for four or more days a week, in a private residence.
- J. Greenhouses.
- K. Essential services building.
- L. Adult foster care large group home, state licensed, in which at least 13 but not more than 20 adults are providing with foster care for 24 hours a day, in a private residence.
- M. Adult foster care small group home, state licensed, in which at least seven but not more than 12 adults are provided foster care for 24 hours a day, in a private residence.
- N. Golf courses.
- O. Kennels.
- P. Sand and gravel pit.
- Q. Publicly owned libraries, museums and community centers.
- R. Publicly owned parks and recreation areas.
- S. Roadside stands.
- T. Seasonal farm markets.

- U. Recreation facilities.
- V. Home-based business.
- W. Solar Arrays and Solar Farms.
- X. Special Events Venue. *[Eff. 7/24/2019]*

**5.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings, as regulated by Section 4.2.
- B. Driveways, as regulated by Section 4.11.
- C. Essential services, as regulated by Section 4.14.
- D. Exterior lighting, as regulated by Section 4.25.
- E. Height exceptions, as regulated by Section 4.17.
- F. Home occupations, as regulated by Section 4.18.
- G. Landscaping, buffering and fences, as regulated by Section 4.37.
- H. Outdoor storage, as regulated by Section 4.42.
- I. Private roads, as regulated by Section 4.24.
- J. Satellite dish antennas, as regulated by Section 4.27.
- K. Signs, as regulated by Chapter 15.
- L. Temporary use permits, as regulated by Section 4.23.
- M. Trailer, truck or recreational vehicle storage, as regulated by Section 4.34.
- N. Keeping of horses, as regulated by Section 4.36.
- O. Attached garages, as regulated by Section 4.41.
- P. Open space preservation development, as regulated by Section 4.45.

**5.5 District Regulations.** Land, buildings and structures in the AG - RC District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.**
  - 1. Five acres; provided, however, that the minimum lot area may be reduced in accordance with subsection A.2 of this section.

2. The minimum lot area stated in subsection A.1 may be reduced by up to 50 percent if all of the following requirements are satisfied:
  - a. The land has been divided by either an approved platted subdivision or approved site condominium.
  - b. The proposed use is reasonably compatible to land use and development patterns in the area.
  - c. Any regulated wetlands may be affected only as permitted by state law.
  - d. Existing wooded areas would be reasonably preserved.
  - e. The development shall be served by an approved private road or other approved access in compliance with this Ordinance.
  - f. The development shall include a vegetative buffer of at least 25 feet wide along any existing public street right-of-way.
  - g. The development shall be consistent with the goals and intent of the Township Master Plan.
  - h. Any remnant parcels resulting from the approval of the platted subdivision or site condominium shall comply with the minimum provisions of the AG - RC District.

**B. Minimum Lot Width.** 250 feet at the front setback line; provided, however, that the minimum lot width may be reduced to not less than 165 feet, if all of the requirements stated in subsection A.2 of this section have been satisfied.

**C. Maximum Lot Coverage.** 10 percent.

**D. Maximum Building Height.**

1. **Principal Building.** 35 feet, except for bona fide farm buildings and structures.
2. **Accessory Building.** 24 feet, except bona fide farm accessory buildings.

**E. Minimum Required Principal Building Setbacks.**

1. **Front Yard.** 50 feet; provided, however, that the minimum front yard may be reduced by up to 50 percent if all of the requirements in subsection A.2 of this section have been satisfied. *[Section 5.5.E.1 Eff. 7/26/2015]*
2. **Side Yard.** 25 feet; provided, however that the minimum side yard may be reduced by up to 50 percent if all of the requirements in subsection A.2 of this section have been satisfied.

3. **Rear Yard.** 50 feet; provided, however, that the minimum rear yard may be reduced by up to 50 percent if all of the requirements in subsection A.2 of this section have been satisfied.

**F. Minimum Required Accessory Building Setbacks.**

1. **Side Yard.** Six feet.
2. **Rear Yard.** Six feet.

**G. Minimum Building Floor Area. [Amended by Ord. No. 2021-07, Eff. 6/27/21]**

1. All single family dwellings shall have at least 1,000 square feet of floor area and a minimum core area of living space of at least 20 feet by 20 feet; provided, however, that any two levels of a bi-level, tri-level or split-level single family dwelling shall be deemed the same for minimum floor area purposes, and shall therefore require the same minimum floor area as a one story dwelling.

**H. Required Conditions.**

1. Lands fronting on Highway M-20 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District as stated in Section 4.46.

- I. Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

*[Chapter 5 Eff. 2/8/2015; Section 5.5.G Eff. 5/21/2017; Section 5.5H Eff. 6/24/2018; Section 5.5F amended by Ord. No. 2018-10, Eff. 8/26/2018]*



## CHAPTER 6

### R-1 LOW DENSITY RESIDENTIAL DISTRICT

- 6.1 Purpose.** The R-1 Low Density Residential District is intended to provide for predominantly low-density one-family detached dwellings, together with permitted residentially related uses.
- 6.2 Permitted Uses.** Land, buildings and structures in the R-1 District may be used only for the following purposes;
- A. Single-family detached dwelling.
  - B. Adult foster care family home, state licensed, providing foster care to not more than six adults in a private residence for periods of 24 hours per day, five or more days per week.
  - C. Family child care home, state licensed, providing care and supervision for not more than seven minor children for periods of less than 24 hours per day in a private residence.
  - D. Adult day care home, state licensed, providing foster care for not more than six adults for periods of less than 24 hours per day, five or more days per week, in a private residence.
- 6.3 Special Land Uses.** The following special land uses may be permitted if authorized under the terms of Chapter 16:
- A. Bed and breakfast establishment.
  - B. Boarding/lodging house.
  - C. Church or other house of worship.
  - D. Group child care home, state licensed, in which at least seven but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, in a private residence.
  - E. Foster family home, in which fewer than five minor children are given care and supervision for 24 hours a day, for four or more days a week, in a private residence.
  - F. Essential services building.
  - G. Adult foster care small group home, state licensed, in which at least seven but not more than 12 adults are provided foster care for 24 hours a day, in a private residence.
  - H. Public parks.
  - I. Home-based business.
  - J. Solar Arrays and Solar Farms.

**6.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings, as regulated by Section 4.2.
- B. Driveways, as regulated by Section 4.11.
- C. Essential services, as regulated by Section 4.14.
- D. Exterior lighting, as regulated by Section 4.25.
- E. Attached garages, as regulated by Section 4.41.
- F. Height exceptions as regulated under Section 4.17.
- G. Home occupations, as regulated by Section 4.18.
- H. Landscaping, buffering and fences, as regulated by Section 4.37.
- I. Off-street parking and loading as regulated by Chapter 14.
- J. Outdoor storage as regulated by Section 4.42.
- K. Private roads, as regulated by Section 4.24.
- L. Satellite dish antennas, as regulated by Section 4.27.
- M. Signs, as regulated by Chapter 15.
- N. Temporary use permits, as regulated by Section 4.32.
- O. Trailer, truck or recreational vehicle storage, as regulated by Section 4.34.

**6.5 District Regulations.** Land, buildings and structures in the R-1 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** One acre.
- B. **Minimum Lot Width.** 150 feet.
- C. **Maximum Lot Coverage.** 20 percent.
  - 1. Open, unenclosed decks or walkways constructed of a pervious material or with spaces which permit water to flow through shall not be included in lot coverage.
  - 2. The total cumulative area of all decks and walkways described as excluded above shall not exceed 300 square feet. *[Amended by Ord. No. 2022-01, Eff. 3/27/2022]*

- D. **Maximum Building Height.**
1. **Principal Building or Principal Structure.** 35 feet.
  2. **Accessory Building.** 24 feet.
- E. **Minimum Required Principal Building Setbacks.**
1. **Front Yard.** 40 feet.
  2. **Side Yard.** 15 feet.
  3. **Rear Yard.** 30 feet.
- F. **Minimum Required Accessory Building Setbacks.**
1. **Side Yard.** Six feet.
  2. **Rear Yard.** Six feet.
- G. **Minimum Required Building Floor Area.** *[Amended by Ord. No. 2021-07, Eff. 6/27/21]*
1. All single family dwellings shall have at least 1,000 square feet of floor area and a minimum core area of living space of at least 20 feet by 20 feet; provided, however, that any two levels of a bi-level, tri-level or split-level single family dwelling shall be deemed the same for minimum floor area purposes, and shall therefore require the same minimum floor area as a one-story dwelling.
- H. **Required Conditions.**
1. Lands fronting on Highway M-20 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District as stated in Section 4.46.
- I. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

**[Chapter 6 Eff. 2/8/2015; Section 6.5.H Eff. 5/21/2017; Section 6.5.I Eff. 6/24/2018]**



## CHAPTER 7

### R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

- 7.1 Purpose.** The R-2 Medium Density Residential District is intended to provide for higher density single-family detached homes; duplexes and other two-family homes.
- 7.2 Permitted Land Uses.** Land, buildings and structures in the R-2 District may be used only for the following purposes:
- A. Single-family detached dwellings.
  - B. Duplexes, other two-family dwellings and multiple family dwellings up to four units. *[Amended by Ord. No. 2021-02, Eff. 4/13/2021]*
  - C. Family child care home, state licensed, providing care and supervision for not more than seven minor children for periods of less than 24 hours per day in a private residence.
  - D. Adult day care home, state licensed, providing foster care for not more than six adults for periods of less than 24 hours per day, five or more days per week, in a private residence.
- 7.3 Special Land Uses.** The following special land uses may be permitted when authorized under the terms of Chapter 16:
- A. Bed and breakfast establishment.
  - B. Boarding/lodging house.
  - C. Church or other house of worship.
  - D. Group child care home, state licensed, in which at least seven but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, in a private residence.
  - E. Foster family home, in which fewer than five minor children are given care and supervision for 24 hours a day, for four or more days a week, in a private residence.
  - F. Essential services building.
  - G. Adult foster care family home, state licensed, providing foster care to not more than six adults in a private residence for periods of 24 hours per day, five or more days per week.
  - H. Public parks.
  - I. Solar arrays and solar farms.

- J. Senior housing. *[Added by Ord. No. 2021-02, Eff. 4/13/2021]*
- K. Multiple-family housing. *[Added by Ord. No. 2021-02, Eff. 4/13/2021]*

**7.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings, as regulated by Section 4.2.
- B. Driveways, as regulated by Section 4.11.
- C. Essential services, as regulated by Section 4.14.h.
- D. Exterior lighting, as regulated by Section 4.25.
- E. Attached garages, as regulated by Section 4.41.
- F. Height exceptions as regulated under Section 4.17.
- G. Home occupations, as regulated by Section 4.18.
- H. Landscaping, buffering and fences, as regulated by Section 4.37.
- I. Off-street parking and loading as regulated by Chapter 14.
- J. Outdoor storage as regulated by Section 4.42.
- K. Private roads, as regulated by Section 4.24.
- L. Satellite dish antennas, as regulated by Section 4.27.
- M. Signs, as regulated by Chapter 15.
- N. Temporary use permits, as regulated by Section 4.32.
- O. Trailer, truck or recreational vehicle storage, as regulated by Section 4.34.

**7.5 District Regulations.** Land, buildings and structures in the R-2 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.**
  - 1. **One-Family Dwelling.** One acre, but if the lot is served by a public sanitary sewer system and a public water supply system and if the lot is part of a platted subdivision or site condominium, the minimum lot size shall be 10,000 square feet.
  - 2. **Duplex and Other Two-Family Dwelling.** One acre, but if the lot is served by a public sanitary sewer system and a public water supply system and if

the lot is part of a platted subdivision or site condominium, the minimum lot size shall be 20,000 square feet.

3. **Multiple Family Dwelling Up to Four Units.** 60,000 square feet, but not less than 5,000 square feet for each dwelling unit. *[Amended by Ord. No. 2021-02, Eff. 4/13/2021]*

**B. Minimum Lot Width.**

1. **One-Family Dwelling.** 110 feet, but if the lot is served by a public sanitary sewer system and public water supply system and the lot is part of a platted subdivision or site condominium, the minimum lot width shall be 70 feet.
2. **Duplex and Other Two-Family Dwelling.** 110 feet.
3. **Multiple Family Dwelling Up to Four Units.** 300 feet. *[Amended by Ord. No. 2021-02, Eff. 4/13/2021]*

**C. Maximum Lot Coverage.** 25 percent.

**D. Maximum Building Height.**

1. **Principal Building.** 35 feet.
2. **Accessory Building.** 24 feet.

**E. Minimum Required Principal Building Setbacks.**

1. **Front Yard.** 40 feet.
2. **Side Yard.** 15 feet.
3. **Rear Yard.** 25 feet.

**F. Minimum Required Accessory Building Setbacks.**

1. **Side Yard.** Six feet.
2. **Rear Yard.** Six feet.

**G. Minimum Required Building Floor Area.**

1. **Single-Family Detached Dwelling.**
  - a. A single family detached dwelling shall have at least 1,000 square feet of floor area and a minimum core area of living space of at least 20 feet by 20 feet; provided, however, that any two levels of a bi-level, tri-level or split-level single family dwelling shall be deemed

the same for minimum floor area purposes, and shall therefore require the same minimum floor area as a one-story dwelling.

2. **Duplex and Other Two-Family Dwelling.**

- a. One-story building. 900 square feet for each dwelling unit.
- b. More than one-story building. 900 square feet for each dwelling unit, of which at least 720 square feet shall be on the first floor.

3. **Multiple Family Dwelling Up to Four Units.** 650 square feet for each dwelling unit. *[Amended by Ord. No. 2021-02, Eff. 4/13/2021]*

*[Section 7.5.G. amended by Ord. No. 2021-03, Eff. 9/20/2021]*

- H. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100-foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

**7.6 Required Conditions.**

- A. Site plan review and approval by the Planning Commission is required for multiple family dwellings.
- B. Lands fronting on Highway M-20 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District as stated in Section 4.46.

**[Chapter 7 Eff. 2/8/2015; Section 7.6 Eff. 5/21/2017; Section 7.5.H Eff. 6/24/2018]**

## CHAPTER 8 RM MANUFACTURED HOME DISTRICT

- 8.1 Purpose.** The Manufactured Housing Community District is intended to provide a location for and regulation of manufactured housing communities. It is intended that manufactured housing communities be provided with necessary community services in a setting that provides a high quality of life for residents and residential development standards consistent with all other residential districts in the Township. This district shall be located in areas where it will be compatible with adjacent land uses.

It is the intent of this Ordinance to provide a reasonable opportunity for manufactured housing within the Township. A manufactured housing community contains specific site conditions unlike other types of residential development, and may have a crucial impact on adjacent and surrounding land uses. Sites with an abundance of natural features such as forested areas, wetlands, and steep slopes, lack of public service or water, or conditions for on-site sanitary sewage disposal and water system may be unsuitable for the development of a manufactured housing community. The Township shall rely on the Comprehensive Plan to determine future use and evaluate rezoning requests.

The regulations established by the Mobile Home Commission Act, Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission Rules, and this Chapter shall govern all manufactured housing communities in the Township.

- 8.2 Permitted Uses.** Land, buildings and structures in the RM District may be used only for the following purposes:

- A. Manufactured Housing Community.
- B. Single Family Detached Dwelling.
- C. Home Occupation, subject to Section 4.18.

- 8.3 Regulations for Manufactured Housing Communities.** Manufactured Housing Communities shall be developed only in accordance with the following requirements:

- A. Manufactured Housing Communities shall comply with all rules and regulations on development and operation of manufactured housing communities imposed by the Mobile Home Commission Act and the rules of the Michigan Manufactured Housing Commission, as amended from time to time, in addition to the other requirements of this section.
- B. Minimum specifications for manufactured home construction (including the home plumbing, heating, and electrical systems) shall be as established in the United States Department of Housing and Urban Development (“HUD”), and Manufactured Home Construction and Safety Standards (24 CFR 3280). If the home was built on or after June 15, 1976, the effective date of these standards per 24 CFR 3281.1(a). Section A119.1 of the ANSI (American National Standards Institute) Code shall be the minimum construction standards for the manufactured

homes built before June 15, 1976. A manufactured home whose construction is altered may be required to comply with codes established under 1972 PA 230, the Stille-DeRossett-Hale Single State Construction Code Act.

- C. A Manufactured Housing Community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. The 5,500 square foot average may be reduced by twenty percent (20%) provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under Rules R125.1946, R125.1941 and R125.1944 of the Michigan Manufactured Housing Commission.
- D. Parking spaces provided for resident vehicle parking shall be constructed of concrete, or of bituminous asphalt, and supported by suitable subgrade complying with the standards of the American Association of State Highway and Transportation Officials (“AASHTO”).
- E. If equal or greater standards are imposed on other residential developments, manufactured housing communities shall be landscaped as follows:
  - 1. If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
  - 2. If a community abuts a non-residential development, it need not provide screening.
  - 3. In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
  - 4. The landscaping shall consist of evergreen trees or shrubs at least three feet in height at time of planting, which are spaced so that they provide a continuous screen at maturity. Alternative screening devices may be utilized if they buffer the manufactured housing community as effectively as the required landscaping described above.
  - 5. Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees or shrubs that are capable of preventing soil erosions. The ground surface in all parts of the community shall be grated and equipped to drain all surface water in a safe and efficient manner.
- F. Homes, permanent buildings, and other structures shall not be located closer than 20 feet from the property boundary of the community.

- G. Common sidewalks shall be installed along one side of all internal collector roads within the community to the public right-of-way and to all surface facilities, including central laundry, central parking, and recreation areas.
- H. One storage shed that complies with the Michigan Residential Code may be placed upon any individual manufactured home site for the storage of personal property, if permitted by management. Storage sheds shall be constructed with durable weather and rust resistant materials and shall be maintained to reasonably preserve their original appearance.
  - 1. Storage sheds that are attached to homes shall consist of materials similar to that of the home and shall have a fire-graded wall separation assembly in accordance with the Michigan Residential Code.
  - 2. A detached storage shed shall not be larger than 144 square feet and shall be located at least 10 feet away from all adjacent homes.
  - 3. All storage sheds shall be securely anchored, in accordance with the Michigan Residential Code.
- I. If recreation vehicle storage is provided within the manufactured housing community, it should include, but not be limited to: Class A, B, and C motor homes; fifth wheel travel trailers; travel trailers; folding tent campers; trailer boats; trailered all-terrain vehicles; trailer personal watercraft; historic vehicles; and seasonable equipment. The storage area shall be adequately locked, fenced, and permanently screened, using the same standards of screening provided in the property's perimeter, and surface in accordance with Rule R125.922 of the Rules of the Michigan Manufactured Housing Commission. The storage area shall be limited to use by residents and management at the manufactured housing community.
- J. The community's internal road shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement. An additional access shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall satisfy this requirement.
- K. School bus stops, if provided, shall be located in an area that is approved by the school district.
- L. All electric utilities shall be underground and installed and serviced by a licensed electrician. All local distribution lines for utilities (telephones, electric service, and cable television) shall be placed entirely underground throughout the manufactured housing community. Main lines and perimeter feed lines existing on a section or quarter-section line may be above ground if they are configured or installed within the State codes.

**8.4 Regulations for Uses Other Than Manufactured Housing Communities.** Land, single-family detached homes, and other permitted buildings and structures outside Manufactured Housing Communities shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** 20,000 square feet, but if the lot is served by a public sanitary sewer system and a public water supply system and if the lot is part of a platted subdivision or site condominium, the minimum lot area shall be 10,000 square feet.
- B. **Minimum Lot Width.** 75 feet.
- C. **Maximum Lot Coverage.** 25 percent.
- D. **Maximum Building Height.**
  - 1. **Principal Building.** 35 feet.
  - 2. **Accessory Building.** 24 feet.
- E. **Minimum Required Principal Building Setbacks.**
  - 1. **Front Yard.** 40 feet.
  - 2. **Side Yard.** 15 feet.
  - 3. **Rear Yard.** 25 feet.
- F. **Minimum Required Accessory Building Setbacks.**
  - 1. **Side Yard.** Six feet.
  - 2. **Rear Yard.** Six feet.
  - 3. **Front Yard.** Accessory buildings are not permitted in the front yard.
- G. **Minimum Required Building Floor Area – Single-Family Detached Dwelling.**  
*[Amended by Ord. No. 2021-07, Eff. 6/27/21]*
  - 1. All single family dwellings shall have at least 720 square feet of floor area and a minimum core area of living space of at least 20 feet by 20 feet; provided, however, that any two levels of a bi-level, tri-level or split-level single family dwelling shall be deemed the same for minimum floor area purposes, and shall therefore require the same minimum floor area as a one-story dwelling.

H. **Other Accessory Building Requirements.**

1. An accessory building shall comply with subsections A through G of Section 4.2 of this Ordinance.
2. The maximum gross floor area of an accessory building and the maximum number of accessory buildings permitted to be located on a parcel of land shall be as follows:
  - a. **Parcel of one acre or less** – 1,200 square feet; there shall be not more than two accessory buildings, but their total square footage shall not exceed 1,200 square feet.
  - b. **Parcel of more than one acre, up to 10 acres** – 1,600 square feet; there shall be not more than two accessory buildings with a total floor area of up to 2,400 square feet, but any accessory building shall not be larger than 1,600 square feet.
  - c. **Parcel of more than 10 acres** – 2,000 square feet; there shall be no more than two accessory buildings with a total floor area of up to 3,000 square feet, but any accessory building shall not be larger than 2,000 square feet.

- I. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

**[Chapter 8 Eff. 7/26/2015; amended 9/18/15, Eff. 10/4/15; Sec. 8.4.I. Eff. 6/24/2018]**



## CHAPTER 9 LR LAKE RESIDENTIAL DISTRICT

- 9.1 Purpose.** The purpose of this district is to recognize the unique physical, environmental, and social attributes of lakefront properties in Dalton Township, and ensure that the uses and structures within this district are compatible with, and protect these unique attributes.

The requirements of this District apply to any parcel having frontage on North, West, Middle, Twin, Goose Egg, or Stevens Lakes within Dalton Township, including any parcel separated from the lake by a platted-park, walkway or road, or reserve strip. It is the intent of the Township to allow for lakefront parcels to redevelop or enlarge residential buildings on these lots and to impose other provisions unique to lakefront properties.

- A. **Lands in Lake Residential District.** Section 3.2 of the Zoning Ordinance of the Township of Dalton, the “Zoning Map”, is hereby amended to designate the lands with lake frontage to be within the Lake Residential District.

- 9.2 Permitted Uses.** Land, buildings and structures in the R-1 District may be used only for the following purposes:

- A. Single-family detached dwellings.
- B. Family child care home, state licensed, providing care and supervision for not more than seven minor children for periods of less than 24 hours per day in a private residence.
- C. Adult day care home, state licensed, providing foster care for not more than six adults for periods of less than 24 hours per day, five or more days per week, in a private residence.
- D. Licensed adult foster care family homes and adult foster care small group homes providing foster care to not more than six adults in a building constructed for residential purposes, not including an adult foster care facility licensed for care and treatment of persons released from or assigned to adult correctional institutions.

- 9.3 Special Land Uses.** The following special land uses may be permitted if authorized under the terms of Chapter 16:

- A. Bed and breakfast establishment.
- B. Boarding/lodging house.
- C. Church or other house of worship.
- D. Group child care home, State licensed, in which at least seven but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day, in a private residence.

- E. Foster family home, in which fewer than five minor children are given care and supervision for 24 hours a day, for four or more days a week, in a private residence.
- F. Essential services building.
- G. Public parks.

**9.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings, as regulated by Section 4.2.
- B. Driveways, as regulated by Section 4.11.
- C. Essential services, as regulated by Section 4.14.h.
- D. Exterior lighting, as regulated by Section 4.25.
- E. Attached garages, as regulated by Section 4.41.
- F. Height exceptions as regulated under Section 4.17.
- G. Home occupations, as regulated by Section 4.18.
- H. Landscaping, buffering and fences, as regulated by Section 4.37.
- I. Off-street parking and loading as regulated by Chapter 14.
- J. Outdoor storage as regulated by Section 4.42.
- K. Private roads, as regulated by Section 4.24.
- L. Satellite dish antennas, as regulated by Section 4.27.
- M. Signs, as regulated by Chapter 15.
- N. Temporary use permits, as regulated by Section 4.32.
- O. Trailer, truck or recreational vehicle storage, as regulated by Section 4.34.

**9.5 District Regulations.** Land, buildings and structures in the Lake Residential District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** 20,000 square feet
- B. **Minimum Lot Width.** 100 feet
- C. **Maximum Lot Coverage.** 30 percent

1. Open, unenclosed decks or walkways constructed of a pervious material or with spaces which permit water to flow through, shall not be included in lot coverage.
2. The total cumulative area of all decks and walkways described as excluded above shall not exceed 300 square feet. *[Amended by Ord. No. 2022-01, Eff. 3/27/2022]*
3. Flights of steps constructed as a means of access from the home to Lake and constructed of a pervious material shall not be included in lot coverage.

**D. Maximum Building Height.**

1. Principal Building or Principal Structure - 30 feet
2. Accessory Building – 24 feet, except as provided for accessory buildings permitted in the front yard, as regulated by Sections 4.2.C and .E.

**E. Minimum Required Principal Building Setbacks. [Section 9.5.E.a. amended by Ord. No. 2021-09, Eff. 7/25/2021]; [Amended by Ord. No. 2022-01, Eff. 3/27/22]**

- a. **Front Yard.** 60 feet from the ordinary high water mark as determined by the Michigan Department of Environment, Great Lakes and Energy, or the U.S. Army Corps of Engineers.
- b. **Side Yard.** 8 feet to eave
- c. **Rear Yard.** 25 feet (Roadside)

**F. Minimum Required Accessory Building Setbacks.**

1. **Side Yard.** Six feet.
2. **Rear Yard.** Six feet.

**G. Minimum Required Building Floor Area. [Amended by Ord. No. 2021-07, Eff. 6/27/2021]**

1. All single family dwellings shall have at least 720 square feet of floor area and a minimum core area of living space of at least 20 feet by 20 feet; provided, however, that any two levels of a bi-level, tri-level or split-level single family dwelling shall be deemed the same for minimum floor area purposes, and shall therefore require the same minimum floor area as a one-story dwelling.

**H. Other Residential District Requirements.**

- a. Fences shall be setback from the water a minimum of 20 feet. No fence shall be located within 25' of the right-of-way on the front (road) side of the

principal building, unless 4' or less in height, with 90% visibility (i.e., chain link, split rail, wrought iron, etc.).

- b. Setback requirements for decks, patios, porches or similar improvements per section 4.53 of this Ordinance.
- c. Accessory buildings on the front (lake) side of the building are permitted in accordance with Section 4.2 of this Ordinance.
- d. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home.

*[Ch. 9 adopted by Ord. No. 2019-06, Eff. 9.28/2019]*

**CHAPTER 10**  
**C-1 NEIGHBORHOOD COMMERCIAL DISTRICT**

**10.1 Purpose.** The C-1 Neighborhood Commercial District is intended primarily to serve the local shopping needs of the neighboring area, and is intended to permit light commercial activity which does not create nuisance-type effects which would impact nearby residential areas. The uses permitted are to be conducted on lots of a limited area to promote compatibility with the surrounding areas and a mixture of uses. No specific size limitation is provided for buildings housing the uses permitted in this district, but the building, setback, required parking, landscaping and other requirements imposed by this Ordinance must be satisfied within the lot area and lot coverage limitations provided by this chapter.

**10.2 Permitted Land Uses.** Land, buildings and structures in the C-1 District may be used only for the following purposes:

- A. Bank and other financial institutions without drive-through facilities.
- B. Child day care center for fewer than 13 children, if state licensed.
- C. Delicatessen, coffee shop.
- D. Drug store, pharmacy.
- E. Florist and gift shop.
- F. Laundry and dry cleaner, not including on-site cleaning processes, or laundromat.
- G. Medical and dental office or clinic; other professional office.
- H. Offices, including administrative, real estate, insurance, investment services and the like.
- I. Personal service establishments including barber shops, beauty shops, health and fitness centers, small appliance repair, photography studio, radio and television sales and repair, shoe repair, tailor and dressmaker, videotape rental and sale, computer sale and service.
- J. Restaurants, without drive-through facilities.
- K. Retail stores, including general merchandise, but not including the sale of beer, wine or spirits.
- L. Other similar retail business or service establishment which supplies merchandise or convenience commodities or performs services primarily for residents of the neighboring area, if authorized by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:

1. The size, nature and character of the proposed use, as compared to the permitted uses stated in this section.
  2. The proximity of the use to adjoining properties.
  3. The off-street parking area provided for the use.
  4. Any potential traffic congestion or traffic hazard.
  5. The extent to which the use is consistent or harmonizes with adjoining and nearby land uses and the surrounding area.
  6. The apparent need for the proposed use to serve the surrounding neighborhood or area.
  7. Whether the use may result in serious adverse effects on adjacent or nearby land uses or the surrounding area.
- M. Single family detached dwellings which were lawfully established on a parcel under a previous zoning ordinance may continue as a permitted use, except that if such residential use has been discontinued or abandoned for a period of at least 12 months, it shall no longer be considered a permitted use. Loss or damage by casualty shall not constitute abandonment so long as repair or reconstruction has commenced (by physical improvements on the site) not later than two years after the occurrence of the casualty. *[Added by Ord. No. 2022-04, Eff. 6/26/2022]*

**10.3 Special Land Uses.** The following special land uses may be permitted when authorized under the terms of Chapter 16:

- A. Animal clinic.
- B. Bank or other financial institution with drive-through facilities.
- C. Child day care center for 13 or more children.
- D. Church or other house of worship.
- E. Library; public park; governmental building.
- F. Restaurant with drive-through facilities.
- G. Retail store selling beer, wine, and spirits.
- H. Essential services buildings.
- I. Solar Arrays and Solar Farms.

**10.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings as regulated under Section 4.2.
- B. Driveways as regulated under Section 4.11.
- C. Essential services as regulated under Section 4.14.
- D. Exterior lighting as regulated by Section 4.25.
- E. Height exceptions as regulated under Section 4.17.
- F. Landscaping, buffering and fences as regulated by Section 4.37.
- G. Off-street parking and loading as regulated by Chapter 14.
- H. Outdoor storage as regulated by Section 4.42.
- I. Private roads as regulated by Section 4.24.
- J. Satellite dish antennas as regulated by Section 4.27.
- K. Signs as regulated by Chapter 15.
- L. Temporary use permits as regulated by Section 4.32.
- M. Trailer, truck or recreational vehicle storage as regulated by Section 4.34.

**10.5 Regulations For Uses Other Than Manufactured Housing Communities.** Land, buildings and structures in the C-1 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** 20,000 square feet, but if the lot is served by public sanitary sewer system, 15,000 square feet.
- B. **Maximum Lot Area.** One acre.
- C. **Minimum Lot Width.** 100 feet.
- D. **Maximum Building Height.** 35 feet.
- E. **Maximum Lot Coverage.** 60 percent.
- F. **Minimum Required Principal Building Setbacks.**
  - 1. **Front Yard.** 50 feet.
  - 2. **Side Yard.** 25 feet.

3. **Rear Yard.** 40 feet.

G. **Minimum Required Accessory Building Setbacks.**

1. Accessory building of 200 square feet or less:

a. **Side Yard.** Six feet.

b. **Rear Yard.** Six feet.

2. Accessory building over 200 square feet:

a. **Side Yard.** 25 feet.

b. **Rear Yard.** 40 feet.

H. **Minimum Building Floor Area.** None required.

I. **Required Conditions.**

1. Site plan review and approval by the Planning Commission is required.

2. All business, service and processing shall be conducted entirely within a fully enclosed building, except for motor vehicle parking, off-street loading and approved drive-through facilities.

3. Lands fronting on Highway M-120 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District as stated in Section 4.46.

J. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

K. **Other Accessory Building Requirements.**

1. An accessory building shall comply with subsections A through G of Section 4.2 of this Ordinance.

2. There is no maximum floor area limitation for commercial uses, however pre-existing residential uses shall be subject to a maximum gross floor area and number of accessory buildings permitted to be located on a parcel of land as follows:

- a. **Parcel of five acres or less** – There shall be no more than four accessory buildings with a total floor area of up to 2,400 square feet.
- b. **Parcel of more than five acres** – There shall be no more than four accessory buildings with a total floor area of up to 4,000 square feet.
- c. Any application for an accessory building larger than 4,000 square feet must first apply for a special use permit as described in Chapter 16 of this Ordinance.

*[Chapter 10 Eff. 2/8/2015; Section 10.5.J. Eff. 6/24/2018]; [Ch. 10 amended in its entirety 9/9/2013, Eff. 9/29/2013]; [Subsection K added by Ord. No. 2022-04, Eff. 6/26/2022]*

## CHAPTER 11 C-2 REGIONAL COMMERCIAL DISTRICT

- 11.1 Purpose.** The C-2 Regional Commercial District is intended to serve the overall shopping and other commercial needs of the Township and the area, including retail businesses and service establishments which supply goods and products or perform services for the local community, the surrounding area and the traveling public.
- 11.2 Permitted Land Uses.** Land, buildings and structures in the C-2 District may be used only for the following purposes:
- A. Any use permitted and as regulated in the C-1 District.
  - B. Animal clinic.
  - C. Bank and other financial institutions, including drive-through facilities.
  - D. Bars and taverns, if state licensed.
  - E. Building, electrical, mechanical and plumbing contractors.
  - F. Carwash, if connected to public sanitary sewer system.
  - G. Catering service.
  - H. Child day care centers, if state licensed.
  - I. Commercial greenhouse or plant nursery.
  - J. Computer and related technology business.
  - K. Exterminator service.
  - L. Farm machinery and farm implement sales and repair.
  - M. Funeral home.
  - N. Laundry and dry cleaner, including on-site cleaning processes and laundromats.
  - O. Physical therapy centers.
  - P. Publicly owned buildings.
  - Q. Recreational equipment and recreational vehicle sales.
  - R. Rental services, including equipment, household goods and motor vehicles.
  - S. Retail stores selling beer, wine and spirits, if state licensed.

- T. Restaurant with drive-through facilities.
- U. Small engine repair.
- V. Travel agency.
- W. Other similar retail business or service establishment which supplies merchandise or commodities or performs services primarily for the Township generally and the greater area, including the motoring public, if authorized by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:
  - 1. The size, nature and character of the proposed use, as compared to the permitted uses stated in this section.
  - 2. The proximity of the use to adjoining properties.
  - 3. The off-street parking area provided for the use.
  - 4. Any potential traffic congestion or traffic hazard.
  - 5. The extent to which the use is consistent or harmonizes with adjoining and nearby land uses in the general vicinity and the surrounding area.
  - 6. The apparent need for the proposed use to serve the Township and/or the surrounding area, including the motoring public.
  - 7. Whether the use may result in serious adverse effects on nearby land uses and those in the surrounding area.
- X. Licensed provisioning center, as defined by the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, and licensed marihuana retailer as that term is defined by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, subject to the following:
  - 1. Not more than a combined total of two provisioning centers and/or marihuana retailers (not two of each) are permitted in that portion of the existing C-2 District abutting M-120, and not more than a combined total of two provisioning centers and/or marihuana retailers (not two of each) are permitted in the existing C-2 District abutting Whitehall Road. A provisioning center and marihuana retailer operating in the same building shall be treated as one facility or establishment. The permitted locations shall be allocated on a first come, first served basis to facilities or establishments which have and maintain the appropriate State licensing and any Township license, and which have received a land use permit and site plan review, if applicable, and any other Township zoning approval required. Land use approval may be given contingent upon receipt of a

State and Township license. Priority for the number of permitted locations shall, if necessary, be based upon the issue date of the State license.

2. The establishment is not located within 1,000 feet of a pre-existing public or private school providing an education in kindergarten or any of grades one through 12, measured as the nearest distance between the marihuana establishment building and the property line of the school grounds.
  3. There shall be no consumption of marihuana products on site.
  4. The property and building shall be in compliance with all current requirements of the Zoning Ordinance for lot area, lot width, setbacks, overlay district requirements, and all other requirements. Properties or buildings which have non-conforming status are not eligible for this use.
  5. The building shall have a minimum floor area of 1,500 square feet and shall be constructed or have been constructed as a commercial building, not a residential structure.
  6. The facility or establishment shall be open for business not more than 12 hours, between the hours of 6 a.m. and 10 p.m. A schedule with the hours of operation shall be filed with the Township Zoning Administrator and changed not more often than once every three months.
  7. The Zoning Board of Appeals does not have jurisdiction to vary these requirements on use of the property.
- Y. Single family detached dwellings which were lawfully established on a parcel under a previous zoning ordinance may continue as a permitted use, except that if such residential use has been discontinued or abandoned for a period of at least 12 months, it shall no longer be considered a permitted use. Loss or damage by casualty shall not constitute abandonment so long as repair or reconstruction has commenced (by physical improvements on the site) not later than two years after the occurrence of the casualty.

*[Section 11.2.O deleted, remaining subsections re-lettered by Ord. No. 2020-04 on 3/9/2020]; [Subsection X. added by Ord. No. 2021-01, Eff. 3/23/2021]; [Subsection Y. added by Ord. No. 2022-04, Eff. 6/26/2022]*

**11.3 Special Land Uses.** The following special land uses may be permitted when authorized under the terms of Chapter 16:

- A. All uses permitted in the C-1 Neighborhood Commercial District with special land use approval, unless the use is permitted by right in this district.
- B. Sexually oriented businesses
- C. Boat sales and servicing.

- D. Church or other house of worship.
- E. Essential services buildings
- F. Construction equipment sales or supplier.
- G. Garden store.
- H. Gasoline service station.
- I. Greenhouse and nursery, including outdoor display and storage.
- J. Hotels and motels.
- K. Hospitals and out-patient healthcare facilities.
- L. Indoor sports business, including court games.
- M. Sanitation business. *[Section 11.3.M added and remaining subsections re-lettered by Ord. No. 2020-08 on 8/10/2020]*
- N. Mini-warehousing, self-storage units. *[Section 11.3.N moved from letter M by Ord. No. 2020-04 on 8/10/2020]*
- O. Vehicle repair shop. *[Section 11.3.N added by Ord. No. 2020-04 on 3/9/2020; re-letter to O by Ord. No. 2020-08 on 8/10/2020]*
- P. Mobile home sales.
- Q. Motor home, travel trailer and camper sales.
- R. Motor vehicle sales, both new and used.
- S. Technical schools and colleges.
- T. Transportation terminal.
- U. Theater, auditorium, banquet hall and similar places of assembly.
- V. Vehicle repair shops.
- W. Wholesale warehousing.
- X. Wireless communication facilities.
- Y. Yards for outdoor storage.

**11.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings as regulated under Section 4.2.
- B. Driveways as regulated under Section 4.11.
- C. Essential services as regulated under Section 4.14.
- D. Exterior lighting as regulated by Section 4.25.
- E. Height exceptions as regulated under Section 4.17.
- F. Landscaping, buffering and fences as regulated by Section 4.37.
- G. Off-street parking and loading as regulated by Chapter 14.
- H. Outdoor storage as regulated by Section 4.42.
- I. Private roads as regulated by Section 4.24.
- J. Satellite dish antennas as regulated by Section 4.27.
- K. Signs as regulated by Chapter 15.
- L. Temporary use permits as regulated by Section 4.32.
- M. Trailer, truck or recreational vehicle storage as regulated by Section 4.34.

**11.5 District Regulations.** Land, buildings and structures in the C-2 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** 30,000 square feet, but if connected to a public sanitary sewer system, 15,000 square feet.
- B. **Minimum Lot Width.** 100 feet.
- C. **Maximum Lot Coverage.** 60 percent.
- D. **Maximum Building Height.** 35 feet.
- E. **Minimum Required Principal Building Setbacks.**
  - 1. **Front Yard.** 40 feet.
  - 2. **Side Yard.** 20 feet.
  - 3. **Rear Yard.** 25 feet.

F. **Minimum Required Accessory Building Setbacks.**

1. Accessory building of 200 square feet or less:
  - a. **Side Yard.** Six feet.
  - b. **Rear Yard.** Six feet.
2. Accessory building of more than 200 square feet:
  - a. **Side Yard.** 20 feet.
  - b. **Rear Yard.** 25 feet.

G. **Minimum Required Building Floor Area.** None required.

H. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

I. **Other Accessory Building Requirements.** *[Subsection I added by Ord. No. 2022-04, Eff. 6/26/2022]*

1. An accessory building shall comply with subsections A through G of Section 4.2 of this Ordinance.
2. There is no maximum floor area limitation for commercial uses, however pre-existing residential uses shall be subject to a maximum gross floor area and number of accessory buildings permitted to be located on a parcel of land as follows:
  - a. **Parcel of five acres or less** – There shall be no more than four accessory buildings with a total floor area of up to 2,400 square feet.
  - b. **Parcel of more than five acres** – There shall be no more than four accessory buildings with a total floor area of up to 4,000 square feet.
  - c. Any application for an accessory building larger than 4,000 square feet must first apply for a special use permit as described in Chapter 16 of this Ordinance.

**11.6 Required Conditions.**

- A. Site plan review and approval by the Planning Commission is required.
- B. Lands having frontage on Highway M-120 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District, as stated in Section 4.46.

*[Chapter 11 Eff. 2/8/2015; Section 11.5.H Eff. 6/24/2018]*

## CHAPTER 12

### D-1 INDUSTRIAL DISTRICT

- 12.1 Purpose.** The D-1 Industrial District is intended for industrial activities which create minimal off-site effects. The district does not include industrial uses which cause excessive noise, vibration, odors, visual blight, environmental pollution, or which may involve potentially hazardous processes. The permitted uses include light to moderate manufacture, assembly and fabrication of goods and products from previously prepared or manufactured materials.
- 12.2 Permitted Land Uses.** Land, buildings and structures in the D-1 District may be used only for the following purposes:
- A. The manufacturing, compounding, processing, packing or treatment of food products, pharmaceuticals, drugs, cosmetics, perfumes and toiletries, but not including the rendering or refining of fats or oils.
  - B. The manufacturing, assembling, compounding, fabricating, processing, packing, treating and distributing of products from previously prepared or manufactured materials including aluminum and other metals, bone, canvas, cellophane, cellulose, ceramics, chemical products, cloth, cork, electrical components, felt, fiber and synthetic fiber, glass, grain, plastic, rubber, stone, shell, straw, textiles, wire, wood, paper and other previously prepared or manufactured materials.
  - C. Building, electrical, mechanical and plumbing contractors.
  - D. Employee training facilities.
  - E. Facilities for the processing of information and data.
  - F. Heavy construction equipment sales, supplies and repair.
  - G. Offices for or related to permitted industrial uses.
  - H. Laboratories for testing, sampling and research purposes.
  - I. Laundry and dry cleaning facilities, including on-site processing facilities.
  - J. Machining of small engines, equipment or tools.
  - K. Printing and publishing businesses.
  - L. Product research and development facilities.
  - M. Sign painting and servicing.

- N. Testing, repair and distribution of high technology goods and devices, including electronics devices, computers, computer components, telecommunications devices and similar devices and equipment.
- O. Marihuana Safety Compliance Facility licensed under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016 or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, or both.
- P. Marihuana Secure Transporter licensed under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016 or the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, or both.
- Q. Other similar light industrial uses that involve the manufacturing, assembly, compounding, processing, packing, treating or distribution of goods, articles or materials, but which do not involve heavy manufacturing, or manufacturing or other industrial processing from raw materials.
  - 1. The size, nature and character of the proposed use, as compared to the permitted uses stated in this section.
  - 2. The proximity of the use to adjoining properties.
  - 3. The off-street parking area provided for the use.
  - 4. Any potential traffic congestion or traffic hazard.
  - 5. The extent to which the use is generally consistent with other light industrial uses on adjoining or nearby lands.
  - 6. Whether the use may result in serious adverse effects on adjacent or nearby land uses or the surrounding area.

*[Subsections O. and P. added and existing O. renumbered to Q. by Ord. No. 2021-01, Eff. 3/23/2021]*

**12.3 Special Land Uses.** The following special land uses may be permitted when authorized under the terms of Chapter 16:

- A. Billboards.
- B. Engineering laboratories.
- C. Light manufacturing, including the processes of grinding, pressing, extruding, bending, heating or otherwise processing or finishing raw materials for wholesale or assembly.
- D. Modular-home and prefabricated home manufacturing.

- E. Public utility buildings, electrical substations, gas regulator stations and other similar utility facilities.
- F. Trade, vocational and technical schools.
- G. Transportation terminals.
- H. Vehicle impound lots.
- I. Warehousing and storage facilities.
- J. Wireless communication facilities.
- K. Solar Arrays and Solar Farms.
- L. Gravel and Sand Mining.

**12.4 Other Land Uses.** The following other land uses may be permitted as provided in this Ordinance:

- A. Accessory buildings as regulated under Section 4.2.
- B. Driveways as regulated under Section 4.11.
- C. Essential services as regulated under Section 4.14.
- D. Exterior lighting as regulated by Section 4.25.
- E. Height exceptions as regulated under Section 4.17.
- F. Landscaping, buffering and fences as regulated by Section 4.37.
- G. Off-street parking and loading as regulated by Chapter 14.
- H. Outdoor storage as regulated by Section 4.42.
- I. Private roads as regulated by Section 4.24.
- J. Satellite dish antennas as regulated by Section 4.27.
- K. Signs as regulated by Chapter 15.
- L. Temporary use permits as regulated by Section 4.32.
- M. Trailer, truck or recreational vehicle storage as regulated by Section 4.34.

**12.5 District Regulations.** Land, buildings and structures in the D-1 District shall comply with the following minimum requirements:

- A. **Minimum Lot Area.** 40,000 square feet.
- B. **Minimum Lot Width.** 200 feet.
- C. **Maximum Lot Coverage.** 35 percent.
- D. **Maximum Building Height.** 35 feet.
- E. **Minimum Required Principal Building Setbacks.**
  - 1. **Front Yard.** 70 feet.
  - 2. **Side Yard.** 30 feet.
  - 3. **Rear Yard.** 30 feet.
- F. **Minimum Required Accessory Building Setbacks.**
  - 1. Accessory building of 200 square feet or less:
    - a. **Side Yard.** Six feet.
    - b. **Rear Yard.** Six feet.
  - 2. Accessory building over 200 square feet:
    - a. **Side Yard.** 30 feet.
    - b. **Rear Yard.** 30 feet.
- G. **Minimum Required Building Floor Area.** None required.
- H. **Waterfront Setbacks.** Notwithstanding the setback provisions in this chapter, principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.

## 12.6 Required Conditions.

- A. Site plan review and approval by the Planning Commission is required.
- B. Lands having frontage on Highway M-120 or Whitehall Road shall comply with the provisions of the M-120 and Whitehall Access Management Overlay District, as stated in Section 4.46.
- C. All industrial and other land uses shall be designed, constructed and carried out so as to cause no serious adverse effects on other lands or streets by reason of excessive noise, smoke, fumes, dust, vibration, glare or other serious adverse effects.
- D. No use or operations shall directly or indirectly discharge waste of any kind into any river, stream, reservoir, pond or lake.
- E. All methods of waste treatment and disposal shall be subject to all required approvals of state and county health authorities.
- F. All operations and activities shall be conducted entirely within a completely enclosed building, except for motor vehicle uses and off-street parking and loading and other permitted outdoor uses, if any.
- G. Dumpsters and other outdoor receptacles for trash accumulation shall be fully enclosed and shall be subject to site plan review and approval.
- H. In considering the approval of site plans for permitted uses and special land uses, the Planning Commission may require additional measures for the screening and buffering of land uses, to avoid or moderate potentially adverse impacts on adjacent or nearby lands or streets. Such additional screening and buffering measures may include landscaping, fencing, revised placement of buildings and other facilities, and other measures.

*[Ch. 12 amended in entirety 9/9/2013; Eff. 9/29/2013]*

*[Section 12.5.H Eff. 6/24/2018]*



**CHAPTER 12A**  
**AN ORDINANCE TO CREATE A**  
**MARIJUANA PRODUCTION OVERLAY ZONING DISTRICT**

**12A.1 Purpose.**

The MPO Marijuana Production Overlay District is intended to provide a location for the operation of licensed growers, processors, safety compliance facilities, and secure transporters licensed under the Michigan Medical Marijuana Facilities Licensing Act, Public Act 281 of 2016 (“Act 281”) (“MMFLA”) or facilities operated at the same location pursuant to licenses issued under the Michigan Regulation and Taxation of Marijuana Act, Initiated Law 1 of 2018. This overlay district implements the provisions of General Township Ordinance No. 2019-05, which authorizes the issuance of licenses to facilities under the MMFLA within the Township, only in those areas so designated by the Zoning Ordinance.

**12A.2 Definitions.**

The following definitions apply to the terms used in this chapter. Any other terms shall have the definition provided by the Zoning Ordinance or the MMFLA.

1. **Authorizing Ordinance.** Ordinance No. 2019-03, as amended or replaced, or any other general ordinance which authorizes and provides for Township permits for the operation of growers, processors, safety compliance facilities and secure transporters.
2. **Grower.** A licensee that is a commercial entity that cultivates, dries, trims or cures and packages marijuana for sale to a processor or provisioning center.
3. **Licensee.** A person holding a state operating license.
4. **Marijuana Microbusiness.** A person or entity licensed to cultivate not more than 150 marijuana plants; process and package marijuana; and sell or otherwise transfer marijuana to individuals who are 21 years of age or older, or to a marijuana safety compliance facility, but not to other marijuana establishments, not defined or regulated by the Michigan Regulation and Taxation of Marijuana Act.
5. **Person.** Includes an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership or other legal entity.
6. **Processor.** A licensee that is a commercial entity that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.
7. **Provisioning Center.** A licensee that is a commercial entity that purchases marijuana from a grower, processor or registered primary caregiver, and sells, supplies or provides marijuana to registered qualifying patients, directly or through the patients’ registered primary caregivers, or to any other person. Provisioning center includes any commercial property at which marijuana is sold at retail to

registered qualifying patients, registered primary caregivers or any other person. A location used by a primary caregiver to assist a qualifying patient is not a provisioning center for purposes of this Ordinance.

8. **Safety Compliance Facility.** A licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, and tests it for contaminants and other adverse substances; returns the test results to the party requesting the testing; and may return the tested marijuana to the marijuana facility that submitted the marijuana.
9. **Secure Transporter.** A licensee that is a commercial entity that stores marijuana and transports marijuana between marijuana facilities for a fee.
10. **State Operating License.** A license that is issued under the MMFLA or Michigan Regulation and Taxation of Marijuana Act for the same location that allows the licensee to operate as one of the following, specified in the license: a grower, processor, secure transporter, provisioning center or safety compliance facility.
11. **Underlying Zoning District.** The zoning district which lies within the boundaries of an area designated as an MPO Marijuana Production Overlay District.

### **12A.3 Permitted Land Uses.**

Land, buildings and structure in the MPO Overlay District may be used only for the following purposes:

- A. Grower operating under a state operating license and the authorizing ordinance.
- B. Processor operating with a state operating license and the authorizing ordinance.
- C. Safety compliance facility operating with a state operating license and the authorizing ordinance.
- D. Secured transporter operating with a state operating license and the authorizing ordinance.
- E. Any other use permitted in the underlying zoning district, including uses permitted with special land use approval, subject to the conditions for special land uses, and other land uses permitted in the underlying zoning district, or which may be permitted pursuant to the provisions for any Planned Unit Development which may be approved for the area within the Overlay District.

### **12A.4 Provisioning Centers.**

Provisioning centers and marijuana microbusinesses, or any other facility which distributes marijuana directly to consumers is prohibited.

### **12A.5 General District Regulations.**

Land, buildings and structures in the MPO Overlay District shall comply with the minimum requirements and all other required conditions specified in the underlying zoning district, subject to modification by adoption of a planned unit development or by variance in accordance with the provisions of this Ordinance for planned unit developments and variances.

### **12A.6 Specific Regulations.**

- A. All operations of a grower, processor, and safety compliance facility shall take place indoors.
- B. All operations of a secure transporter shall take place indoors, except that outdoor storage of transport vehicles is allowed provided marijuana and supplies, materials or money are not kept in any vehicle parked outdoors.
- C. In review of a site plan or building permits, attention shall be given to odor control. If applicable for the type of facility or operation, the building used for marijuana production or marijuana processing shall comply with the following:
  - 1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
  - 2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter (s) shall be rated for the applicable CFM.
  - 3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  - 4. Negative air pressure shall be maintained inside the building.
  - 5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - 6. An alternative odor control system is permitted if applicant submits and the Township accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The Township may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted. Any costs incurred by the Township in hiring an expert to review the alternative system design shall be paid for by the applicant.

- D. Disposal of waste, chemicals, and unused plant material on site is prohibited. A plan for removal of these materials shall be submitted and approved by the Township.
- E. There must be a security presence in place on the property at all times, by licensed security guards or security cameras as approved by the Township.
- F. A list of all chemicals used in the facility shall be provided to the Township, along with any material safety data sheets.
- G. The facility shall be reviewed by the Township fire chief, who may make necessary requirements for fire protection or response for the facility.

*[Ch. 12A adopted 9/9/2019, Eff. \_\_\_\_\_]*

## CHAPTER 13 PLANNED UNIT DEVELOPMENT DISTRICT

**13.1 Purpose.** This chapter provides enabling authority and standards for the submission, review, and approval of applications to rezone property in the Township for planned unit developments. It is the intent of this section to authorize the consideration and use of planned unit development regulations for the following purposes:

- A. To encourage the use of land in accordance with its character, features and adaptability.
- B. To promote the conservation of natural features and fragile lands and the preservation of important community resources.
- C. To encourage flexibility and innovation in land use and design to protect the rural character of the community and enhance the quality of life in the Township.
- D. To promote the efficient use of land to facilitate a more appropriate arrangement of buildings, circulation systems, land use and utilities.
- E. To promote the enhancement of housing diversity, shopping, traffic circulation, and recreational opportunities for the people of the Township.
- F. To promote and ensure greater compatibility of design and use between and among neighboring properties.

A planned unit development must comply with this Ordinance. The provisions of this Ordinance are intended to result in land use and development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Ordinance to ensure appropriate, fair, and consistent decision-making. The planned unit development provisions are not intended as a device for ignoring the ordinance or the planning upon which it has been based.

**13.2 Definition.** A planned unit development (PUD) shall consist of an area of the Township to be planned, developed, operated, and maintained as a single entity and containing one or more residential, recreational, commercial, industrial, public or quasi-public land uses configured as an integrated entity and carried out in conformance with an approved plan. Mixed uses may be permitted in any PUD.

**13.3 Qualifying Conditions.**

- A. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of five acres.
- B. A PUD may be permitted in all zoning districts in accord with the terms of this Ordinance and the Township Master Plan.

- C. The applicant must demonstrate that the PUD will result in a recognizable and substantial benefit to the ultimate users and occupants of the project and to the community, where such benefit would otherwise be unfeasible or unlikely. Such benefit may include, but shall not be limited to, the preservation of important natural features, wildlife areas, the provision of open lands, the provision of a mix of housing types or land uses, and/or innovation in design and project configuration.

#### 13.4 Development Requirements.

- A. **In General.** The Township shall evaluate each application for rezoning to PUD in accord with the approval standards set forth at Section 13.6.E.
- B. **Density and Dwelling Unit Computation.** The total number of residential dwelling units permitted in a PUD shall not exceed the base density for the site. The base density shall be determined by the following formula: The total area of any wetlands, floodplain, slopes in excess of 18 percent, existing rights-of-way and areas proposed for non-residential development (if any) shall be subtracted from the gross area of the site to determine the adjusted parcel acreage. The adjusted parcel acreage shall be multiplied by 85 percent to account for rights-of-way, drainage facilities and similar facilities, and the resulting product shall be divided by a minimum lot area reflective of the density objectives for the area as expressed in the Township's future land use plan, rounded to the nearest whole number. In the event the parcel includes more than one future land use area, the calculation set forth in this paragraph shall be applied to the portion of the site lying in such area and the result for all areas shall be summed.
- C. **Landscaping and Grading.** In order to keep all graded areas and cuts to a minimum, to eliminate unsightly grading and to preserve the natural appearance and beauty of the property as far as possible while enabling an economic development, specific requirements may be placed on the size of areas to be graded or to be used for building and on the extent of removal of trees and natural features. All areas indicated as natural open space shall be undisturbed by grading, excavation or structures to the greatest extent possible. Where drainage improvements, utility lines, hiking or bicycle paths or similar recreational improvements are to be placed in natural areas, best engineering and design practices shall be used to make such improvements as unobtrusive as practicable. The PUD concept and final development plan shall include provision for the retention of existing landscape features and for the installation of appropriate new plantings of varying species, dimensions and design.
- D. **Permitted Uses Within a PUD.** In the PUD District, the Planning Commission may permit any principal or accessory uses as are consistent with the design principles and purposes of this chapter, the land uses permitted in the underlying zone district and the Township Master Plan.

### 13.5 Applicable Regulations.

- A. Unless specifically recommended by the Planning Commission and waived by the Township Board through the provisions of Section 13.5.B below, all regulations of the underlying zoning district prior to the PUD rezoning relative to lot size, lot width, yard area, lot coverage, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply. In projects with more than one underlying district, the regulations of the least restrictive district shall apply.
- B. Consistent with the planned unit development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding paragraph may be granted at the recommendation of the Planning Commission and upon the approval of the Township Board as part of the approval of a planned unit development. Such departures may be authorized if there are features or planning mechanisms incorporated into the project which would achieve the objectives of each of the regulations from which a departure is being requested.
- C. The stages or phases of any PUD development shall be so structured and scheduled that, if later stages or phases of the development are not implemented, the initial stage(s) shall be consistent with the provisions of this section and shall not detract from the feasibility of developing the remaining portion of the subject PUD area in an appropriate and desirable manner.
- D. Private roads within the PUD, if any, shall conform to the terms of the zoning ordinance.
- E. The proposed location and arrangement of structures shall not have a detrimental effect on residents of existing developments in the vicinity of the proposed PUD. Open space shall be used as a transitional device to buffer surrounding uses, as appropriate.
- F. An important aspect of any PUD shall be the integration of land uses and design techniques to create a coherent, attractive and well-defined neighborhood. All planned unit development proposals shall include comprehensive design principals and specific design and construction standards to achieve this result. These standards shall include, but not be limited to:
  - ◆ Landscaping, signage and lighting requirements.
  - ◆ Exterior construction style, materials and color schemes.
  - ◆ Building massing and orientation standards.
  - ◆ Pedestrian and vehicular traffic circulation standards.
  - ◆ Phasing requirements to achieve a unified neighborhood at every phase.

**G. Natural Features Protection.**

1. The landscape and natural features of the site shall be preserved, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site. Particular care should be taken with natural drainage areas.
2. Notwithstanding the setback provisions in this chapter, all principal buildings and accessory structures and buildings shall be located at least 100 feet from any lake or stream bank or ordinary high water mark. Rebuilds and additions require evaluation from the Muskegon County Health Department approving the existing septic system has adequate capacity for the home. Accessory buildings and decks are permitted in this 100 foot setback area if in compliance with Sections 4.2.E and 4.53 respectively, of this Ordinance.
3. An undisturbed natural vegetation buffer of 25 feet in width shall be maintained parallel and immediately adjacent to any wetland, lake or stream from the bank or high water line.

*[Section 13.5.G.2 Eff. 6/24/2018]*

**13.6 Application and Processing Procedures.**

- A. **In General.** The procedure for application, review and approval of a PUD shall be a two-part process. The first part shall be application and approval of a preliminary concept plan and rezoning, which shall require a public hearing and approval of the PUD as an amendment to the Township official Zoning Map. Such action shall result in an amendment to this zoning ordinance and confer upon the applicant concept approval for one year to complete the remainder of the PUD process. The second part of the review and approval process shall be the application for approval of a final development plan for the entire project or for any one or more phases of the project. Final development plan approval shall require the grant of site plan approval by the Planning Commission pursuant to Chapter 17 of this Ordinance.
- B. **Preapplication Conference.** Prior to the submission of an application for planned unit development, the applicant shall meet with the Zoning Administrator, and/or such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the planned unit development, and the following information:
  1. A legal description of the property in question.
  2. The total number of acres to be included in the project.
  3. A site analysis indicating all known natural resources and natural features and the most appropriate areas for development.

4. A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential uses.
5. A comparison plan indicating the maximum number of dwelling units that may be developed on the site under the terms of the existing zoning district, taking into account unbuildable areas as set forth in Section 13.4.B.
6. The approximate number of acres to be occupied and/or devoted to or by each type of use.
7. Departures from the regulations of the ordinance which may be requested.
8. The number of acres to be preserved as open space or recreation space.
9. An outline of the proposed PUD design principals and the benefits that are expected to result from the adoption of the PUD provisions pertaining to the subject site.

Based on the pre-application conference, the Zoning Administrator shall provide the applicant with guidance as to the materials to be included in the preliminary concept plan as set forth in subparagraph C of this section. As part of the initial approval process, the Planning Commission may direct that a market study be prepared for some or all of the elements of the proposed project.

- C. **Preliminary Concept Plan.** Following the above conference or conferences, 12 copies of a preliminary concept plan and application for a rezoning to planned unit development shall be submitted. The submission shall be made to the Zoning Administrator who shall forward it to the Planning Commission for consideration at a regular or special meeting. The plan shall be prepared by a licensed professional engineer, community planner or architect and shall be accompanied by an application form and fee as determined by the Township Board. The preliminary concept plan shall contain the following information:

1. Date, north arrow, and scale (which shall not be more than 1"=100').
2. Location sketch of site in relation to surrounding area.
3. A site analysis indicating all known natural resources and natural features and the most appropriate areas for development.
4. Legal description of property including common street address.
5. Size of parcel.
6. All lot or property lines with dimensions.
7. General location of all buildings within 100 feet of the property lines.

8. General location and size of all existing structures on the site.
9. General location and size of all proposed structures on the site.
10. General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.
11. General size and location of all areas devoted to open space.
12. Location and description of existing vegetation and general location and size of proposed landscaped areas and buffer strips.
13. All areas within the 100-year floodplain, wetland areas or bodies of water.
14. Existing topographical contours at a minimum of five-foot intervals.
15. A comparison plan indicating the maximum number of dwelling units that may be developed on the site under the terms of the existing zoning ordinance, taking into account unbuildable areas as set forth in Section 13.4.B.
16. An illustration of any project phases or stages.
17. The size and location of water, sanitary sewer and storm water utilities. In the event the proposed project is to be served by properly permitted community water and sanitary sewer systems in accord with Township policies, the preliminary concept plan shall indicate the size, location and capacity of the proposed well and the location, capacity and type of treatment and discharge for the wastewater system.
18. Elevation renderings of key elements of the proposed project consistent with the design principals and standards of the project.
19. A narrative describing:
  - a. The nature and concept of the project including a detailed description of the design principals and standards to be achieved within the project.
  - b. The proposed density, number, and types of dwelling units if a residential PUD.
  - c. A statement describing how the proposed project meets the objectives of the PUD including the benefits that are expected to result from the adoption of the PUD provisions pertaining to the subject site.

- d. A detailed description of the legal mechanisms and structures proposed to assure the perpetual maintenance of all open space proposed.
  - e. A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage or properly permitted community systems.
  - f. A narrative description of the phasing or staging plan.
  - g. A specific listing of all departures from the regulations of the ordinance which are requested.
  - h. A copy of the project market study, if required, shall be submitted with the narrative.
20. Proof of ownership or legal interest in property.
21. The name, address and phone number of the applicant.
22. The name, address and seal of the professional engineer, planner or architect that prepared the plan.
- D. Public Hearing.** Prior to setting the public hearing, the applicant shall submit all required and requested information to the Township. Once complete, the Zoning Administrator shall transmit the complete application to the Planning Commission and schedule the public hearing before the Planning Commission and shall provide for the proper notices of such hearing as required by this Ordinance.
- E. Standards for PUD Approval.** Following the public hearing, the Planning Commission shall take action on the rezoning application for a PUD pursuant to Chapter 21 of this Ordinance. The Planning Commission may recommend to the Township Board approval, denial or approval with conditions. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of this section and the following standards:
- 1. Approval of a rezoning to planned unit development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
  - 2. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.

3. The proposed development shall be compatible with the Master Plan of the Township.
4. The planned unit development shall not materially change the essential character of the surrounding area.
5. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.
6. The proposed phasing plan is feasible and each of the proposed phases shall be capable of standing on its own and in conjunction with previously constructed phases in terms of the provision of all required services, facilities, open space and amenities to insure the protection of natural resources and the health, safety and welfare of the users of the PUD and surrounding residents.
7. The preliminary concept plan shall be reviewed by the Muskegon County Road Commission and/or the Michigan Department of Transportation, whichever applicable, to ensure that all new curb cuts are placed in a safe and efficient location.

**F. Township Board Approval.**

1. The Planning Commission shall forward the preliminary concept plan and its recommendations thereon to the Township Board.
2. The Township Board shall review the preliminary concept plan of the PUD, the record of the Planning Commission proceedings and the recommendations submitted by the Planning Commission.
3. The Township Board shall convene a public hearing on the PUD preliminary concept plan and the proposed ordinance to rezone the land to the PUD District.
4. Notice of the public hearing shall be given by publication of a notice in a local newspaper of general circulation in the Township stating the date, time, place and purpose of the public hearing. The notice shall be published at least 15 days prior to the date of the public hearing. Public notice shall also be given by the mailing of the same or a similar notice by first-class U.S. mail to the owners of all lands within 300 feet of the lands proposed for PUD rezoning, as the names and addresses of the owners of such lands are shown in the current Township property tax assessment roll, as supplemented by any recent changes.

5. In making a decision on the PUD preliminary concept plan and the application for PUD rezoning, the Township Board shall determine whether the PUD zoning and the PUD preliminary concept plan:
  - a. Comply with the standards for PUD approval as stated in Section 13.6.E.
  - b. Comply with the required elements of the preliminary concept plan as stated in Section 13.6.C.
  - c. Comply with other standards, conditions and requirements for PUDs as stated in this chapter.
  - d. Promote the intent and purposes of this Ordinance.
  - e. Ensure that the proposed PUD will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed PUD.
  - f. Ensure that the proposed PUD will be consistent with the public health, safety, and welfare needs of the Township.
6. After the public hearing and after its review and consideration of the PUD preliminary concept plan and the proposed PUD ordinance, the Township Board shall approve, approve with conditions or deny the PUD preliminary concept plan and the PUD ordinance. The PUD ordinance, if adopted, shall be an amendment in the zoning map.
7. The design, development, construction and use of the lands comprising the PUD, and all elements and features thereof, shall comply with the PUD ordinance as adopted by the Township Board.

*[Section 13.6.F amended 9/9/2013, Eff. 9/29/2013]*

**13.7 Effect of Approval.** The planned unit development amendment including the preliminary concept development plan as approved, the incorporated narrative and all conditions imposed, if any, shall constitute the land use authorization for the property. Such authorization shall remain in effect for a period of one year unless a longer period is granted by the Township Board upon the recommendation of the Planning Commission. All uses not specifically identified in the preliminary concept development plan are disallowed and not permitted on the property. All improvements and uses shall be in conformity with this amendment, except as permitted by Section 13.13. During the period of effectiveness of the concept development plan, the applicant shall be permitted to submit one (or more if the project is to be proposed in phases) site plan applications seeking final site development plan approval pursuant to Section 13.8 of this chapter.

In the event that an application for a final site development plan is not submitted within the time limits set forth in the approved preliminary concept development plan and any

extensions thereof that may be permitted and approved, the approval granted under this Ordinance shall expire, and the Planning Commission may commence rezoning proceedings to an appropriate zone district in accord with the Township Master Plan. The applicant may apply to the Planning Commission for one extension of six months, if he or she desires.

**13.8 Final Site Development Plan.** After receiving the approval of the rezoning to a PUD and preliminary concept plan, the applicant shall submit a final site development plan for review and approval by the Planning Commission prior to starting any construction. The final site development plan shall contain the same information required for the preliminary concept plan, the information required for site plan review in Chapter 17, and any additional information required by the Planning Commission in its review of the preliminary concept plan.

**13.9 Standards for PUD Final Site Plan Approval.** The Planning Commission shall either recommend approval, denial, or approval with conditions of the final site development plan to the Township Board. In making its decision, the Planning Commission shall find that the final site plan for the PUD meets the intent of the PUD and the following standards:

- A. The site plan approval standards set forth in Chapter 17 except where specific deviations have been authorized pursuant to the approved PUD preliminary concept plan.
- B. The standards for approval of a PUD set forth in Section 13.6.E.
- C. Ingress and egress to the property and proposed structures, with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in cases of fire, catastrophe, or emergency.
- D. Off-street parking and loading areas where required, with particular attention to noise, glare, and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
- E. Sewer, water, and storm drainage with reference to locations, availability, and compatibility.
- F. Screening and buffering with reference to type, dimensions, and character.
- G. Signs, if any and their proposed lighting relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.

**13.10 Conditions.**

- A. In approving a PUD final site development plan, the Planning Commission may impose reasonable conditions which include but are not limited to conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and

conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the requirements of Section 16.3.D of this zoning ordinance.

- B. The conditions imposed with respect to the approval of a PUD final site development plan shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are unchanged. The final site plan, as approved, shall act as a restriction upon the development. The development must conform to the final site plan and no land use permit or building permit shall be issued for any improvements that are not in compliance with said plan.

**13.11 Performance Guarantee.** The Planning Commission may require the posting of a cash bond, irrevocable letter of credit or another form of performance guarantee satisfactory to the Township to assure the completion of the proposed planned unit development, in accordance with Section 17.9 of this Ordinance.

**13.12 Commencement of Construction.** Construction of a PUD must be started within one year from the effective date of the final site development plan approval. This time limit may be extended one year upon application to the Planning Commission if it is demonstrated that substantial progress is being made in completing plans and securing financing. In the case of a multiple-phase PUD, beginning construction of a phase shall satisfy the requirements of this paragraph even though the total PUD may be a number of years from completion, provided, however, that consecutive phases must be started within the later of one year of: The schedule set forth in the approved preliminary concept plan, or completion of the previous phase. This time limit may be extended by the Planning Commission annually for a cumulative total of four years, if it is determined by the Planning Commission that conditions beyond the applicant's control have caused the need for the extension, and, taking into consideration any changed facts or circumstances. In the event that construction has not commenced within these time limits and any extensions thereof that may be permitted and approved, the approval granted shall expire. For the purposes of this paragraph, completion of a phase shall be the date all structures intended for occupancy by homeowners, tenants, residents or businesses have been approved for occupancy. Where a PUD project is proposed for construction in phases, the planning and construction of each phase, in conjunction with any previously completed phases shall be capable of standing on its own in terms of the provision of all required services, facilities, open space and amenities to insure the protection of natural resources and the health, safety and welfare of the users of the PUD and surrounding residents.

**13.13 Modification of a PUD.**

- A. **Minor Changes.** A minor change may be approved by the Planning Commission if the change does not substantially alter the basic design of the PUD or substantially alter the terms and conditions included in the PUD ordinance as adopted by the Township Board.

The following items shall be considered as minor changes:

1. Reduction of the size of any building or sign.
2. An increase of not more than 5 percent in the size of a principal structure, or 5,000 square feet, whichever is less, if there is no increase in the number of dwelling units or commercial units proposed for separate users or businesses; a minor increase in the size of an accessory building if off-street parking and/or landscaped areas are not adversely affected.
3. An alteration of building or structure height by not more than 5 percent, if the resulting height is not greater than the maximum height otherwise stated in the zoning ordinance.
4. A minor adjustment of a building footprint that does not substantially alter a specific setback or separation distance that was imposed as a condition of PUD approval.
5. An increase or expansion of areas designated on the final PUD plan as open space or as areas not to be disturbed.
6. The replacement of plant or landscape materials specified in the approved PUD plan, if such materials are reasonably similar in scope and type to those originally approved.
7. Changes in interior floor plans which do not alter the type or character of the use of the building.
8. Changes in building materials to those of a higher quality.
9. Minor alterations in vehicle or pedestrian access routes or circulation systems, including but not limited to the addition of acceleration/deceleration lanes, boulevards, curbing, sidewalks or non-motorized paths.
10. Relocation of entrance or exit driveways for a distance of up to 100 feet, if required by the County Road Commission or the Michigan Department of Transportation, or if such relocation would result in safer or more convenient ingress to or egress from the site and would not result in adverse effects on the layout or use of the PUD.
11. Changing the location of approved signage if such change would not result in signs being located substantially closer to street rights-of-way or buildings or structures, and if such change in location would not lead to distraction of motor vehicle drivers.

12. Changing the location and/or design of exterior light fixtures, if there would be no change in the intensity of site lighting or result in the spillage of light onto other lands.
13. The internal rearrangement of parking spaces in an off-street parking area if the total number of parking spaces remains sufficient and if traffic circulation hazards or congestion do not result.
14. A change in the height and/or material of required fencing, if necessary for further screening of approved structures or uses.
15. A change in the name of the PUD or in the names of the streets therein.
16. Changes required by the Township for public safety reasons.
17. Changes which will preserve the natural features of the site, without resulting in adverse effects on off-street parking areas, vehicle or pedestrian circulation routes or other major elements of the PUD.
18. Other similar changes of a minor nature proposed to be made in the configuration, design, layout, topography or features of the final PUD plan which are determined by the Planning Commission to be not material or significant in relation to the entire PUD and which the Commission determines would not have a significant adverse effect on adjacent or nearby lands or the public interest.

- B. **Major Changes.** Changes other than those stated in subsection A above shall be major changes. If the Planning Commission determines that a requested change in a planned unit development is not a minor change, then the requested modification must be submitted to the Township by means of an application to amend the PUD; the consideration of and decision on such amendment shall be carried out in the same manner and with the same public notice as is required for an original application for a PUD.

*[Section 13.13 amended 8/12/2013, Eff. 9/29/2013]*



## **CHAPTER 14**

### **OFF-STREET PARKING AND LOADING**

**14.1 Purpose.** The purpose of this chapter is to regulate the parking, loading and access of motor vehicles in all zoning districts. Such regulations are intended to assure that adequate motor vehicle off-street parking and access to off-street parking areas are provided at safe and convenient locations, and to assure that off-street parking areas are designed, constructed and used in a manner consistent with safe and convenient motor vehicle access, circulation and parking.

#### **14.2 Location of Off-Street Parking Areas.**

- A. For all residential land uses, the required number of off-street parking spaces shall be located on the same lot or parcel of land as the dwelling or dwelling unit.
- B. For all other uses, the required number of off-street parking spaces shall be located on the same lot or parcel of land as the use being served by the parking spaces, and within 300 feet of the building or other structure being served by the parking spaces, as measured from the main wall of the building or structure to the nearest parking space of the off-street parking area.

#### **14.3 General Requirements.**

##### **A. Construction of Off-Street Parking Areas.**

- 1. All parking area drives, driveways and parking spaces shall be hard-surfaced, with a pavement consisting of asphalt, concrete or other hard-surfaced composition approved by the Planning Commission in its approval of a site plan.
- 2. In order to reduce the amount of impervious parking area surface, and the corresponding storm water runoff, the Planning Commission in its approval of a site plan may approve alternative parking area surfaces for all or portion of general use parking area, overflow parking area or employee parking area, or any of them. Such alternative surfaces may include gravel, crushed stone or structures installed in the ground so as to support a parked vehicle, yet permit grass to grow on the surface.
- 3. Parking area surfaces shall be graded and drained so as to dispose of accumulated surface water within the parking area. No surface water shall be permitted to drain onto adjoining property unless there is a joint or common drainage system shared with an adjoining property or properties, as approved by the Township or the County Drain Commissioner.
- 4. Off-street parking areas shall be fully constructed prior to issuance of a certificate of occupancy, unless a later time for completion of construction is permitted by the Planning Commission in its approval of a site plan.

5. Adequate and safe ingress to and egress from an off-street parking area, by means of clearly defined drives and driveways, shall be provided for all vehicles.
6. All off-street parking areas shall be designed and located so that vehicles maneuvering in the parking area need not back directly into a street.
7. If required by the Planning Commission in its approval of a site plan, wheel stops shall be provided in an off-street parking area, to prevent vehicles from projecting over walkways or lot or setback lines.

**B. Lighting of Off-Street Parking Areas.**

1. Light poles and light fixtures, including the nature, placement and operation thereof, shall comply with Section 4.25 of this Ordinance.
2. If required by the Planning Commission in its approval of a site plan, off-street parking areas shall be sufficiently lighted for safety and security purposes.

**C. Parking Area Setbacks.**

1. All off-street parking areas, except those serving residential uses with fewer than five dwelling units and subject to subsections D.1 and D.2, shall be set back at least five feet from the side and rear lot lines, and at least 15 feet from the front lot line; provided, however, that the Planning Commission, in its approval of a site plan, may permit parking aisles or vehicle maneuvering areas to be located within the parking area setback, if adequate screening or landscaping is provided.
2. Driveways serving off-street parking areas shall be located at least 20 feet away from any residentially-zoned or residentially-used land.

**D. Non-Residential Areas Abutting Residential Zones or Uses.**

1. Off-street parking areas for non-residential uses that abut or are across the street from residentially-zone or residentially-used property shall include a greenbelt at least 15 feet wide, adjacent to and on the side of the parking area next to the residential zone or use. The greenbelt shall be sufficiently landscaped to obscure the view of vehicles in the parking area.
2. In its approval of a site plan for a non-residential use, the Planning Commission may require other or alternate methods of screening non-residential parking areas from abutting residential zones or uses. Such alternate screening methods may include berms and fencing.

**E. Parking Area Locations.**

1. Applicants are encouraged to place off-street parking areas at the side or rear of buildings, wherever reasonably practicable.
2. In the case of off-street parking areas located in front of buildings, the Planning Commission, in its approval of a site plan, may require sufficient landscaping to obscure or moderate the view of vehicles parked in the parking areas, from the adjacent streets and other lands.

**F. Pedestrian Walkways; Access Aisles and Drives; Snow Storage.**

1. Off-street parking areas shall be designed and constructed to limit the number of points where pedestrians must cross in front of vehicles. Accordingly, vehicle access in front of building entrances and exits shall be minimized.
2. Access aisles or drives within parking areas shall be clearly identified, and shall be located to provide vehicle drivers with sufficient sight distance at the end of rows of parking spaces. Identification measures may include traffic islands, striped pavement or other methods.
3. Snow plowed from parking areas shall not be stored or piled up where it may prevent drivers or pedestrians from having adequate view of traveling or parked vehicles.

**G. Maintenance of Parking Areas; Landscaping.**

1. All parking areas shall be continuously maintained, including striping, labeling, repair of surfacing and snow removal.
2. Parking areas shall be landscaped and screened as required by the terms of this chapter.

**14.4 Shared or Joint Parking Areas; Deferred Parking Construction.**

- A. In those cases where a mix of land uses in the same building or on the same lot or parcel results in differing peak periods of parking area use, shared parking agreements that may have the effect of reducing the total amount of needed parking spaces on the site may be permitted by the Planning Commission in its approval of a site plan. Such agreements shall not include any off-street parking area required for residential uses.
- B. If in submitting a site plan, an applicant submits a signed agreement between the owners of adjacent or nearby properties, providing for the joint or collective use of off-street parking areas for buildings and uses on two or more adjacent or nearby properties, the Planning Commission in its approval of a site plan may approve fewer parking spaces than would otherwise be required for the buildings or uses.

In the case of such agreements for the joint or collective use of off-street parking areas, such areas shall be connected by driveways at approved locations for the safe and convenient passage of vehicles.

- C. In order to avoid an excessive amount of impervious parking area surface, the Planning Commission in its approval of a site plan may approve a parking area which provides fewer than the minimum number of parking spaces otherwise required by this chapter if the applicant demonstrates that such reduced number of parking spaces will nevertheless satisfy the current and reasonably foreseeable parking space requirements of the building or use.
  - 1. A sufficient amount of vacant and undeveloped land on the same parcel as the use or development shall remain available for the construction and use of additional off-street parking spaces if such additional spaces are subsequently determined by the Planning Commission to be necessary. Any such vacant land shall not be included in the calculation of any required open space area. If required by the Planning Commission in its approval of a site plan, such vacant land for future parking area shall be permanently reserved for such purpose by means of a recorded restrictive covenant, in form and content satisfactory to the Township.

#### **14.5 Parking Spaces and Maneuvering and Driving Aisles.**

- A. Off-street perpendicular and angled vehicle parking spaces shall be at least 10 feet wide and at least 18 feet long. Parallel parking spaces shall be at least 10 feet wide and 25 feet long.
- B. Maneuvering and driving aisles within off-street vehicle parking areas shall be at least 24 feet wide; provided, however, that a driving aisle that does not provide access to parking spaces shall be at least 12 feet wide, if one-way, and such driving aisle shall be at least 24 feet wide, if two-way.
- C. In the case of parallel or angled parking spaces, the Planning Commission may approve driving and maneuvering aisles that are less than 24 feet wide, upon a showing that the reduced-width aisles will not adversely affect vehicle turning radii or traffic circulation.
- D. The site plan for all land uses for which a site plan is required shall include a plan of the off-street parking area.
- E. All off-street parking spaces shall be located and arranged for safe and convenient use by motor vehicles.

#### **14.6 Schedule of Minimum Required Off-Street Parking Spaces.**

- A. Each land use shall include that number of off-street parking spaces complying with the following Table 14-6 of minimum number of required off-street parking spaces, subject, however, to subparagraph B of this subsection:

**Table 14-6**

Use	Number of Motor Vehicle Parking Spaces Required per Unit of Measurement
<b>Residential</b>	
Single family dwelling, two family dwelling	Two spaces for each dwelling unit.
Multiple family dwelling	Two spaces for each two-bedroom dwelling unit and 1.5 spaces for each one- bedroom dwelling unit in developments having 25 or more dwelling units. Two spaces for each dwelling unit in developments having fewer than 25 units.
State-licensed residential facilities	One per eight residents or clients plus one for each employee, with a minimum of three spaces.
Bed and breakfast establishment	One space for each guest room plus two spaces for the dwelling.

<b>Institutional Uses</b>	
Churches and other places of religious assembly	One space for each four seats in the sanctuary or other worship area.
Hospitals	One space for each two beds plus one for each staff doctor, plus one space for each two employees other than doctors.
Outpatient-care centers	Two spaces per exam room/station or procedure/operating room, plus one space per laboratory or recovery room plus one per employee.
Child Care Centers	One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required.
Elementary, junior high, middle schools	Two spaces per classroom, plus one space for each three seats of maximum seating capacity for the indoor place of assembly having the greatest seating capacity.

High schools	Eight spaces per classroom, or one space for each four seats of maximum seating capacity for the indoor place of assembly having the greatest capacity, whichever is greater.
Auditoriums (non-school)	One space for each three seats.
Conference rooms, exhibit halls, ballrooms, civic clubs, or similar places of assembly without fixed seats, whether public or private	One space for each four persons permitted on the premises within the maximum building occupancy load as determined by the Township building or fire code.

<b>Offices</b>	
Medical/dental clinics or offices	Five spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
General office buildings	One space per 300 square feet of gross floor area. A minimum of four spaces per building shall be required.
Banks and other financial institutions	Six spaces per 1,000 square feet of loans gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive-through automatic teller.

<b>Retail and Service Uses</b>	
Retail shopping centers, containing between 25,000 and 400,000 square feet	Four spaces per 1,000 square feet of usable floor area.
Retail centers containing between 400,000 and 600,000 square feet	Four and one-half spaces per 1,000 square feet of usable floor area.
Retail centers containing greater than 600,000 square feet	Five spaces per 1,000 square feet of usable floor area.

Other retail uses not otherwise specified	One space per 200 square feet of usable floor area plus one space per employee.
Grocery stores	One space per 200 square feet of usable floor area.
Personal service establishments not otherwise listed	One space per 300 square feet of usable floor area plus one space per employee.
Appliance stores	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
Gasoline service stations	Two spaces for each service bay, plus one space for each employee, plus one space for each 200 square feet of retail area. A service bay and the area on each side of a gas pump may each count as one space.
Automobile wash establishments (automatic)	One space for each employee, plus 15 on-site waiting spaces at each wash-bay entrance, plus two drying spaces at each wash-bay exit.
Automobile wash establishments (self-service)	One space for each employee, plus three on-site waiting spaces at each wash-bay entrance.
Barber shops, beauty salons	Two for each barber or beauty operator chair/station plus one space for each two employees.
Building supply store or home improvement store, containing up to 25,000 square feet of gross floor area	One space per 200 square feet of usable floor area plus one space for each employee.
Building supply store or home improvement store, with more than 25,000 square feet of gross floor area	Three and one-half spaces per 1,000 square feet of usable floor area plus one space for each employee.
Convenience stores	Four spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required.
Dry cleaners	Two spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required.

Funeral homes and mortuaries	One space per 50 square feet of assembly and chapel areas.
Furniture, carpet and home furnishing stores	One space per 800 square feet of usable floor area.
Hotel, motel or other commercial lodging establishment	One space for each guest room, plus one space for each two employees, plus spaces required for accessory uses, calculated at one-half of the space requirements for such uses, as if they were principal uses.
Laundromats	One space for each three washing machines.
Mini-storage warehouses	Six spaces on the site.
Motor vehicle sales	One space per 5,000 square feet of outdoor sales area, plus one space for each sales desk/office, plus three spaces for each service bay. A minimum of six spaces shall be required.
Quick oil change establishments	Two spaces for each bay plus one space for each employee.
Recreational vehicle and boat dealerships	One space per 800 square feet of gross floor area, plus two spaces for each vehicle service bay. A minimum of six spaces shall be required.
Restaurants (non-fast food) without drive-through window	Twelve spaces per 1,000 square feet of gross floor area, or 0.4 space per seat, whichever is greater.
Restaurants that serve take out, with six or fewer booths or tables	Six spaces plus one space for each employee
Restaurants that serve fast food and have no drive-through window	Seven spaces per 1,000 square feet of gross floor area.
Restaurants that serve fast food and have a drive-through window and indoor seating	Fifteen spaces per 1,000 square feet of gross floor area, plus three designated drive-through, short-term waiting spaces plus 10 on-site waiting spaces.

Restaurants that serve fast food and have a drive-through window, but no indoor seating	Fifteen spaces.
Video rental stores	One space for each 100 square feet of gross floor area plus one space for each employee.

<b>Recreational/Entertainment Uses</b>	
Bowling centers	Five spaces for each bowling lane plus spaces for accessory uses such as restaurants, bars, banquet facilities, and the like, calculated at one-half of the space requirements for such uses, as if they were principal uses.
Golf driving ranges	One and one-half spaces for each tee.
Golf courses, miniature	One and one-half spaces for each hole.
Golf courses	Five spaces for each hole on the golf course.
Health and fitness centers	Five spaces per 1,000 square feet of gross floor area.
Movie theaters	One space for each four seats, plus four spaces for each movie screen.
Racquetball and tennis centers	One space per 1,000 square feet of gross floor area or six spaces for each court, whichever is greater.
Public recreation centers	Five spaces per 1,000 square feet of gross floor area.
Roller/ice skating rink	Six spaces per 1,000 square feet of gross floor area.

<b>Industrial Uses</b>	
Manufacturing, light industrial and research establishment	One and one-half parking spaces per 1,000 square feet of gross floor area.
Wholesale, warehouses, or distribution facilities, and trucking terminals	One parking space per each 1,500 square feet of gross floor area, or one space per employee, whichever is greater.

- B. In its approval of a site plan, the Planning Commission may require additional off-street parking area, for parking spaces in addition to the number required by the schedule stated in Table 14-6. Such additional off-street parking area may be required so that sufficient off-street parking area will be available in the future, either because of a greater demand for parking for the proposed use, or the likely demand for parking for other permitted uses in the future.

In considering whether to require additional area, for the construction and use of future additional parking spaces, the Planning Commission shall consider the following factors:

1. The nature of the currently proposed use, and the likelihood that such use may subsequently require a greater number of off-street parking spaces than specified in the above-stated schedule in subparagraph (a).
2. The other uses that are specified in the zoning ordinance as permitted uses in the zone district in which the land is located.
3. The nature, type and impacts of the likely other permitted uses for the subject land, and in particular the likely off-street parking demand with respect to such other uses.
4. The availability of vacant land on the subject site, to be set aside for the implementing of future parking space demand.

**14.7 Barrier-Free Parking Spaces.** The size, design, placement and other aspects of barrier-free parking spaces, curbs, ramps, signs and other associated features shall be as required by the terms of the applicable State of Michigan requirements for barrier-free parking spaces and related facilities.

**14.8 Other Off-Street Parking Area Regulations.**

- A. The storage or repair of motor vehicles is prohibited in parking spaces.
- B. No display of motor vehicles, boats, motor homes, tractors, recreational equipment, farm implements or other motorized vehicles, equipment or structures, for purposes of sale, shall be permitted within any required non-residential off-street parking areas.

**14.9 Off-Street Loading Areas.**

- A. Off-street loading spaces shall be provided on the same premises as any building or part thereof used for commercial, industrial or other uses involving the recurring arrival, parking, loading and departure of trucks and other vehicles which deliver to or carry away from the premises any merchandise, material, commodities or other goods, objects, equipment or the like.

- B. Off-street loading spaces shall be designed, constructed and located so that the use thereof does not unduly interfere with the use of streets, driveways or parking areas.
- C. Off-street loading spaces may not be counted toward the required number of off-street parking spaces.
- D. Off-street loading spaces shall not be located in any public or private street right-of-way. Loading spaces shall not be located within the front yard, unless such location is permitted by the Planning Commission in its approval of a site plan.
- E. Off-street loading spaces shall not be located closer than 50 feet from any residential zone or residential use, unless such a location is permitted by the Planning Commission in its approval of a site plan. In that event, the Planning Commission may require adequate screening by means of fencing or other measures.
- F. An off-street loading space shall be at least 10 feet wide by at least 25 feet long, unless a lesser size is permitted by the Planning Commission in its approval of a site plan. The total off-street loading spaces required on a property shall be as determined by the Planning Commission in its approval of a site plan for the land use.
- G. Loading and unloading spaces shall be subject to the same surfacing, lighting and drainage requirements as specified in this chapter for off-street parking spaces.

*[Chapter 14 Eff. 2/8/2015]*



## CHAPTER 15 SIGNS

**15.1 Description and Purpose.** This chapter regulates the size, number, location and manner of display of signs in the Township, to achieve the following purposes, among others:

- A. To protect and further the health, safety and welfare of the Township residents, property owners and visitors.
- B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- C. To promote reasonable uniformity in size, number or placement of signs within districts.
- D. To promote economic development by minimizing visual clutter; to permit reasonable identification of business enterprises; to achieve other benefits resulting from reasonable sign usage, including the providing of directions, enabling of advertisement or commercial purposes and the like.
- E. To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the desires of businesses and other land uses to communicate by means of signs.

**15.2 Definitions.** The following words and phrases in this chapter are defined as follows:

- A. **Address Sign.** A sign that identifies the street address of the property on which it is placed.
- B. **Agricultural Industry Sign.** A sign on a farm which identifies items, products, breeds of animals, or farming methods used, grown, raised or sold on the farm.
- C. **Balloon Sign.** A sign composed of a non-porous bag filled with gas or air.
- D. **Banner Sign.** A sign on paper, cloth, fabric or other combustible material of any kind, either with or without frames.
- E. **Billboard or Off Premises Advertising Sign.** A sign which contains a message or advertises an establishment, product, service, space or activity not available on the parcel of land on which the sign is located.
- F. **Building Frontage.** The length of the portion of a building facing a street abutting to the premises on which a business is located.
- G. **Business Park or Office Park Sign.** A sign identifying a multiple-building business or commercial development or multiple-building office development.

- H. **Changeable Message Sign.**
1. **Manual.** A sign on which copy is changed manually, such as reader boards with changeable letters or pictorials; or
  2. **Electronic.** A sign in which the display or message is changed by electric means, with each message or image remaining stationary or illuminated for the period of time required by this chapter.
- I. **Community Service Group Sign.** A sign which displays the name, logo or location of an agency, organization or group whose primary purpose is to promote or provide community or public service such as the Rotary Club, Jaycees, Lion's Club or similar organization.
- J. **Community Special Event Sign.** A portable sign which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolent.
- K. **Construction Sign.** A sign identifying a project under development, erected for the period of construction, identifying its developers, contractors, engineers, brokers and architects.
- L. **Directional Sign.** A sign which gives directions, instructions or facility information for the purpose of expediting the flow of vehicular and/or pedestrian traffic within the property in which the sign is located. Parking, exit and entrance signs are included, but not signs containing a commercial message.
- M. **Electronic Sign.** A sign that consists of or includes an image, message or sign face that is projected or otherwise produced, in whole or in part by electronic means, which may include the use of light-emitting technologies, liquid crystal displays, computer-generated images or messages or lights or a series of lights produced or operated by electronic means.
- N. **Essential Services Sign.** A sign installed and maintained by a public utility, municipal corporation, cable television company or telecommunications company, for the purpose of identifying systems, installations, equipment and other components necessary for the furnishing of public utility and similar services for the public health, safety or benefit, but not including a ground sign or a wall sign identifying an office building or administrative building.
- O. **Flag Sign.** A flag which is attached to a pole and which contains the name, logo or other symbol of a business, company, corporation or agency of a commercial nature.
- P. **Garage, Estate, Auction or Yard Sale Sign.** A temporary sign erected to advertise the resale or auction of personal property belonging to the resident of the

property where the sale is held, including rummage sales or similar casual sales of personal property.

- Q. **Governmental Sign.** A sign erected or required to be erected by a local government, county, or the state or the federal government.
- R. **Ground Sign.** A freestanding sign supported by a base, column, pole, or any of them, including one or more, which rests directly on the ground or on a foundation installed on or in the ground; the bottom of the sign may be no more than 24 inches above the finished grade below the sign.
- S. **Handicapped Sign.** A sign limited to indicating that off street parking is reserved for the physically handicapped, or a sign which is limited to indicating facilities for the physically handicapped.
- T. **Historic Landmark Signs.** Signs identifying buildings or sites designated as historic landmarks or centennial farms by state or federal agencies and other similar memorial signs, tablets, or markers.
- U. **Identifying Signs.** Any sign on the same premises it identifies which serves only to tell the name or use of any non-residential building; or to inform the public as to the use of a parking lot. *[Subsection U added and remaining subsections re-lettered by Ord. No. 2021-05; eff. 5/9/2021]*
- V. **Incidental Sign.** A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, e.g., a credit card sign, restroom sign or sign indicating hours of business.
- W. **Information/Announcement Sign.** A portable sign announcing or providing information about a particular occasion or event, but not advertising any product or service or soliciting an offer to engage a service or to purchase any product; such signs may include signs announcing the opening of a new business, a birthday or other family occasion or the like.
- X. **Multi-Vision Sign.** A sign that has an image or images on a sign-display face that presents or is capable of presenting sequentially two or more separate images, in whole or in part, by means of components or devices such as rotating cylinders or slats that turn to change a sign image.
- Y. **Nameplate.** A non-illuminated, on-premises sign giving only the name, address and/or occupation of an occupant or group of occupants.
- Z. **Off Premises Directional Sign.** A sign intended to provide directions to a business located within the Township, consisting of the business name and a directional arrow. No graphics, pictures or other text is permitted.

- AA. **Pedestrian Sign.** A portable sign held or worn by a person standing, walking or otherwise located out of doors on either public or private property, for the purpose of displaying the sign to passing motorists, pedestrians or other persons on the property where the person is located or on a nearby public street or sidewalk or other lands, and for the further purpose of directing attention to a business, product, service, event or other item or matter referred to on the pedestrian sign.
- BB. **Placard.** A sign not exceeding two square feet which provides notices of a public nature, such as “No Trespassing,” “No Hunting” or “Gas Main” signs.
- CC. **Political Sign.** A temporary sign relating to an election of candidates for public office, a vote on a public proposal or other election or vote called by a governmental body.
- DD. **Portable Sign.** A sign, sign board, or banner which is not permanently anchored or secured to either a building, structure or the ground; or any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising. A portable sign includes a pedestrian sign.
- EE. **Premises.** A lot or group of lots with one or more buildings which functions as a single use, is under the same ownership or control and is not divided by a public street. Multiple tenants of a single premises may share common entranceway and off street parking.
- FF. **Pylon Sign.** A freestanding sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.
- GG. **Reader Board.** A sign or part of a sign on which the message is changed, either electronically or manually, and which is designed and intended to be readable from only a short distance away on the property on which the reader board is installed.
- HH. **Real Estate Sign.** A sign advertising the real estate upon which the sign is located as being for sale, rent or lease.
- II. **Residential Development Sign.** A sign identifying or recognizing a platted subdivision, site condominium, multi-family development or other residential development.
- JJ. **Roof Sign.** A sign erected, constructed or maintained on or above the roof of a building or any portion thereof.
- KK. **Sign.** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designated to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

- LL. **Sign Area.** The entire area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material, graphic or color forming an integral part of the display or message, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, if no advertising matter is placed thereon.
- MM. **Snipe Sign.** A sign that is attached to a utility pole, tree, fence, or similar object that is located on public or private property.
- NN. **Street Signs.** Signs erected by private developers or county, state, or federal governments for street names or traffic control.
- OO. **Vehicle Sign.** A sign affixed, painted or drawn on a vehicle or trailer, the primary purpose of which is to advertise or identify an establishment, product, service or activity, rather than merely to identify the vehicle or trailer while it is being used for transport, delivery or similar purpose, but excluding a sign on a licensed vehicle or trailer being parked overnight or otherwise being parked for a time of short duration and associated with the use of the vehicle or trailer for travel, transport, delivery or the like.
- PP. **Wall Sign.** A sign painted or attached directly on or parallel to the exterior wall of a building, and which extends no greater than 12 inches from the exterior face of the wall to which it is attached or which is painted, and does not project beyond either side of the wall to which it attaches or above the roof line of the building to which it is attached.

**15.3 Regulations Applicable to All Signs.** The following provisions are applicable to signs in all zoning districts.

**A. Sign Structure and Placement.**

1. All signs shall be at least ten feet from all property lines and rights-of-way, unless otherwise provided in this chapter; they shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of the effects of the weather.
2. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
3. Signs shall be constructed to withstand all reasonably expected wind and vibration forces.
4. A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or constitute a nuisance.

5. A wall sign shall not extend in any direction past the face of the wall to which it is affixed.
6. A sign or its supporting structure or any part thereof shall not extend beyond a lot line of the property on which it is located.
7. A light pole, power pole or other supporting member shall not be used for the placement of any sign, except as may be permitted by this chapter.
8. All signs shall pertain only to the business or activity conducted on the premises on which the sign is located, except for community special event signs, existing billboards and other off-premises signs permitted in this chapter.

**B. Illumination and Non-Stationary Features.**

1. If permitted, signs may be illuminated either internally or externally. If externally illuminated, the following requirements shall apply:
  - a. External lighting fixtures shall be so located, aimed and shielded so that light is directed only onto the sign face. Such lighting fixtures shall not be directed at other properties or public or private streets.
  - b. External lighting fixtures shall be of a type such that the bulb or other light source shall not be directly visible from other properties or streets.
  - c. To the extent possible, external lighting fixtures shall be mounted and directed downward (that is, below the horizontal plane).
2. Flashing, oscillating, blinking or variable intensity light is prohibited, except for time and temperature signs.
3. A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

**C. Measurement of Sign Area.** No sign shall exceed the maximum sign area permitted for the district in which it is located. The area of a sign shall be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:

1. **Area.** The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the

sign from the background against which it is placed, excluding only the structure necessary to support the sign.

2. **Double-Faced Sign.** The area of a freestanding, ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
3. **Wall Sign.** For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
4. **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less, excluding any artificially constructed earthen berms.

**D. Other Regulations.**

1. All signs shall be stationary, except as otherwise permitted in this chapter.
2. No sign shall exceed a height of 35 feet. Pylon signs shall be measured from the highest point of the sign to the grade of the nearest street or the average grade of the ground immediately beneath the sign, whichever is less. The sign shall not be less than four feet measured from the grade of the street to the bottom of the sign.

*[Section 15.3D added by Ord. No. 2021-05, Eff. 5/19/2021]*

**15.4 Sign Permits and Applications.**

- A. **Sign Permit.** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate any sign unless a permit shall have been first obtained from the Zoning Administrator; provided, a permit shall not be required with respect to those signs that are specifically excluded from permitting requirements of this chapter. A sign that makes use of electricity shall, in addition to a sign permit, require an electrical permit, regardless of size.
- B. **Permit Applications.** Applications for sign permits shall be made upon forms provided by the Township for this purpose and shall contain the following information:
  1. Name, address and phone number of applicant.
  2. Location of the building, structure, or lot on which the sign is to be attached or erected.

3. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
4. Position of the sign in relation to buildings, structures, signs, property lines, and rights-of-way, existing or proposed, located within 300 feet of the proposed sign.
5. Zoning district in which the sign is to be located.
6. Two copies of the sign plans and specifications for method of construction and attachment to the building or in the ground. The sign plans shall include all pertinent data including maximum and minimum sign heights, face outline and total sign area with method of calculation. When public safety so requires the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
7. Name and address of the sign installer/erector.
8. Such other information as the Township may require to show full compliance with this chapter and other applicable Township ordinances, county ordinances and state laws.

**C. Sign Maintenance or Change of Message.**

1. No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message designed for occasional message change without change of sign structure, including a changeable message board or static-faced billboard.
2. The changing of a sign, including the augmenting or altering the type of illumination, the augmenting or altering the structural components of the sign face, the electrification of a sign, or similar augmentation or alteration as determined by the Township Zoning Administrator, shall not qualify as ordinary sign servicing or maintenance, and accordingly shall be accomplished only in accordance with the requirements of this chapter. The change of a static display face of a sign or billboard to a changeable, electronic or other type of display face, in whole or in part, shall not be considered to be ordinary sign servicing or maintenance, and shall be accomplished only if permitted by this chapter and in compliance with the requirements hereof.

- D. Sign Permit Expiration.** A sign permit shall become null and void if the work for which the permit was issued is not completed within 180 days of the date of issue. The permit may be extended for an additional 180 days by the Zoning Administrator upon written request demonstrating the delay was caused by reasons beyond the control of the applicant.

**15.5 Exempt Signs.** (But subject to the regulations in Section 15.3). *[Amended 11/9/2020; Eff. 11/25/2020]*

Table 15.5 Exempt Signs (but subject to the regulations in Section 15.3).	
Type of Sign	
1.	Governmental signs
2.	Essential services signs not more than two square feet in area
3.	Community service group signs not more than two square feet in area
4.	Nameplate signs not more than six square feet in area
5.	Political signs – Exempt from all regulations in this chapter <i>[Amended 11/9/2020; Eff. 11/25/2020]</i>
6.	Directional signs (on premises only) if not more than four square feet in area
7.	Construction signs
8.	Signs for residential yard sales and residential garage sales
9.	Real estate sale signs
10.	Address signs not more than two square feet in area
11.	Street signs
12.	Handicapped signs not more than four square feet
13.	Placards
14.	Home occupation and home-based business signs in compliance with the regulations of this Ordinance for such signs
15.	Historic landmark signs not more than six square feet in area nor more than four feet in height

**15.6 Prohibited Signs.** The following types of signs are prohibited in all districts:

Table 15.6 Signs Prohibited in all Districts	
Type of Sign	Regulation or Exception
A sign not expressly permitted by the terms of this Ordinance	
Strings of light bulbs, pennants, streamers, ribbons, flags (except in C-1 and C-2 Districts, per Table 15.9), sequins, discs, banners or similar type of material used for commercial advertising purposes	
Portable signs	Except information/announcement signs.
Balloon signs	
Any sign located in a public street right-of-way or a private street right-of-way	Also a sign located in a clear-vision corner.
Roof sign	
Snipe sign	

Billboards	Except an existing billboard installed prior to the effective date of Section 15.6 and which fully complied with the sign regulations then in effect may continue as a lawful nonconforming use, subject to Section 15.12 and Chapter 18.
Multi-vision sign	
Electronic changeable message sign	Except as permitted in C-1 and C-2 Districts by Table 15.9 of Section 15.9
Vehicle sign	Except registered vehicles or trailers lawfully parked and regularly used for vehicular travel purposes in the normal day-to-day operations of a bona fide business located on the same premises to which the vehicle sign relates.
Pedestrian sign	
Any sign which is structurally or electrically unsafe	
Any sign structure or sign frame that no longer supports or contains a sign	

*[Section 15.6 amended by Ord. No. 2021-12, Eff. 9/20/2021]*

**15.7 Signs Permitted in all Districts, Except the RM District.** The signs listed in Table 15.7, below, are permitted in all zone districts, except the RM Manufactured Home District, subject to the requirements stated therein and other applicable provisions.

Table 15.7 Signs Permitted in all Districts, except the RM District	
<b>Community Special Event Sign</b>	
Maximum Number	Not more than three for each special event, of which one may be on-premises.
Maximum Size	24 square feet.
Maximum Height	10 feet.
Location	May be on-premises or off-premises; at least 10 feet away from all property lines.
Other	May be displayed up to seven days before event. Must be removed within one day after event.
<b>Directional Sign, On-Premises Only</b>	
Maximum Size	Four square feet.
Maximum Height	Three feet.
Location	At least 10 feet away from all property lines.
Other	Sign is limited to traffic control functions, may have no advertising but may include a business name and/or logo.
<b>Construction Sign</b>	
Maximum Number	One per development or project; if for a building, only one is permitted.

Maximum Size	32 square feet.
Maximum Height	10 feet.
Location	At least 10 feet away from all property lines.
Other	Must be removed within 30 days after completion of development or project; if for a building, must be removed within 30 days after issuance of occupancy permit.
<b>Community Service Group Sign</b>	
Maximum Number	One per premises plus up to two off-premises.
Maximum Size	Nine square feet.
Maximum Height	10 feet.
Location	At least 10 feet away from all property lines.
<b>Information/Announcement Sign</b>	
Maximum Number	One sign per property.
Maximum Size	32 square feet.
Maximum Height	10 feet.
Location	At least 10 feet away from all property lines; on-premises only.
Other	Must be a portable sign; may remain in place not longer than 14 consecutive days, on up to four separate occasions in a calendar year; a permit is required.
<b>Real Estate Sign</b>	
Maximum Number	One per property.
Maximum Size	Nine square feet, except that on a parcel of land of five acres or more, up to 32 square feet.
Maximum Height	10 feet.
Location	At least 10 feet away from all property lines.
Other	May not be illuminated. Must be removed within 14 days after sale or lease of property.
<b>Placard</b>	
Maximum Number	Signs placed along lot lines must be at least 50 feet apart, except for no-trespassing signs.
Maximum Size	Two square feet.
Location	At least 10 feet away from all property lines, except that no-trespassing signs may be placed on the property line.
Other	Provisions do not apply to Miss-Dig signs to mark utility locations, but signs must be removed within three days after the end of the project that required marking of utilities

**15.8 Signs Permitted in the AG/RC, R-1, R-2 and PUD Districts.** The signs listed in Table 15.8, below, are permitted in the AG/RC, R-1, R-2 and PUD Districts, subject to the requirements stated therein and other applicable provisions.

<b>Table 15.8 Signs Permitted in the AG/RC, R-1, R-2 and PUD Districts.</b>	
<b>Ground Sign for Permitted Non-Residential Uses</b>	
Maximum Number	One for each street frontage.
Maximum Size	16 square feet.
Maximum Height	Six feet.

Location	At least 10 feet away from all property lines.
Other	May not be illuminated.
<b>Wall Sign for Permitted Non-Residential Uses</b>	
Maximum Number	One per property.
Maximum Size	Up to 5% of wall area to which it is affixed, but not to exceed 32 square feet.
Location	To be affixed flat against a building wall.
Other	May not be illuminated.
<b>Home Occupation Sign</b>	
Maximum Number	One per property.
Maximum Size	Two square feet.
Maximum Height	If a ground sign, three feet.
Location	May be a wall or ground sign; if a ground sign, it must be set back at least 10 feet from all property lines.
Other	May not be illuminated.
<b>Garage Sale, Estate Sale, Auction and Yard Sale Sign</b>	
Maximum Number	Five.
Maximum Size	Six square feet.
Maximum Height	Three feet.
Location	At least 10 feet away from all property lines. May be either on-premises or off-premises.
Other	May be erected no earlier than two days before the sale; must be removed within one day after the sale.
<b>Agricultural Industry Sign in AG/RC District Only</b>	
Maximum Number	Not more than one for each farm.
Maximum Size	32 square feet.
Maximum Height	10 feet.
Location	At least 10 feet away from all property lines.
<b>Nameplate Sign</b>	
Maximum Number	One per property.
Maximum Size	One square foot.
Location	May be a wall sign only, affixed flat against a building wall.
Other	May not be illuminated.
<b>Residential Development Sign</b>	
Maximum Number	One sign at each main entrance, unless otherwise permitted in Township approval of development.
Maximum Size	32 square feet, or as otherwise permitted in approval of development.
Maximum Height	10 feet, or otherwise provided in approval of development.
Location	At least 10 feet away from all property lines.
Other	May not be illuminated, unless permitted in approval of development.
<b>Identifying Sign</b>	
Allowed when authorized by the Planning Commission. In considering the granting of such authorization, the Planning Commission shall consider the following standards:	

1. The type, kind, size and nature of the identifying sign. (Size not to exceed that allowed in a commercial zone).
  2. The type and kind of buildings and structures in the general neighborhood surrounding the lot or parcel of land upon which the sign is to be located.
  3. The effect of the sign upon adjoining property.
  4. The reasons and necessity for the sign.
- ["Identifying Sign" added by Ord. No. 2021-05, Eff. 5/19/2021]***

**15.9 Signs Permitted in the C-1 and C-2 Districts.** The signs listed in Table 15.9, below, are permitted in the C-1 and C-2 Districts, subject to the requirements stated therein and other applicable provisions.

<b>Table 15.9 Signs Permitted in the C-1 and C-2 Districts.</b>	
<b>Ground Sign</b>	
Maximum Number	One per property, except if a property has two or more street frontages, there may be one ground sign for each street frontage. The ground sign may be allowed in place of a pylon sign if it meets the requirements of Section 15.3.
Maximum Size	48 square feet.
<b>Wall Sign</b>	
Maximum Number	One for each street frontage.
Maximum Size	Not greater than 20% of the wall area to which it is affixed, but in any event, not greater than 96 square feet.
Location	To be affixed flat against the wall facing a street.
<b>Pylon Sign</b>	
Maximum Number	One per property, except if a property has two or more street frontages, there may be one pylon sign for each street frontage.
Maximum Size	Two square feet of signage for each five feet of linear road frontage not to exceed 200 square feet.
Location	Five feet from all property lines.
<b>Office or Business Park Identification Sign</b>	
Maximum Number	One at each primary entrance.
Maximum Size	32 square feet.
<b>Electronic Changeable Message Sign</b>	
Maximum Number	One for each street frontage
Location	Shall be permitted as part of any permitted pylon, ground or wall sign.
<b>Wall Signs for Multi-Tenants in Commercial Building</b>	
Each separate commercial establishment in a building may have one wall sign on its front wall, but the sign area shall not be greater than 20% of the wall area, but in any event not greater than 32 square feet, of the wall of the separate establishment to which it is affixed.	
<b>Incidental Sign</b>	
Maximum Number	One sign at the main entrance of the business; one sign at each exterior entrance to a restroom in the building. A gas station may have up to two incidental signs on or at each gasoline pump.
Maximum Size	One square foot.

*[Section 15.9 amended by Ord. No. 2021-05, Eff. 5/19/2021; amended by Ord. No. 2021-12, Eff. 9/20/2021]*

**15.10 Reserved.** *[Section 15.10 deleted by Ord. No. 2021-12, Eff. 9/20/2021]*

**15.11 Permitted Signs in the D-1 District.** The signs listed in Table 15.11, below, are permitted in the D-1 District, subject to the requirements stated therein and other applicable provisions.

Table 15.11 Permitted Signs in the D-1 District.	
<b>Ground Sign</b>	
Maximum Number	One sign per parcel, except if a property has two or more street frontages, there may be one ground sign for each street frontage.
Maximum Size	40 square feet.
Maximum Height	Eight feet.
Location	At least 10 feet away from all property lines.
<b>Wall Sign</b>	
Maximum Number	One.
Maximum Size	40 square feet.
Location	To be affixed to the wall of the building facing the street that provides primary access to the building.
<b>Wall Sign for Multi-Tenants in Industrial Buildings</b>	
Each separate industrial establishment in a building may have one wall sign on its front wall, but the sign area shall not be greater than 10% of the wall area, but in any event, not greater than 32 square, of the wall of each separate establishment to which it is affixed.	

**15.12 Non-conforming Signs, Including Non-Conforming Billboards.**

- A. **Intent.** It is the intent of this chapter to encourage the eventual elimination of signs that as a result of the adoption of this chapter become non-conforming; to administer this chapter to realize the eventual removal of non-conforming signs; and to adopt regulations on the limited alteration or provisional relocation of certain non-conforming signs.
- B. **Lawful Existing Signs.** A sign lawfully existing at the time of the adoption of these provisions which does not fully comply with the provisions of this chapter or other relevant provisions of this Ordinance shall be deemed a lawful non-conforming sign and may be permitted to remain if the sign is properly maintained, except as otherwise stated in this section.
- C. **Continuance of Non-conforming Signs, Except Non-conforming Billboards.** This subsection C regulates non-conforming signs other than non-conforming billboards.

1. **Expansion.** A non-conforming sign shall not be enlarged or expanded in area, increased in height or changed to another non-conforming sign, in whole or in part.
  2. **Removal or Relocation.** A non-conforming sign shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, whether on the same parcel of land or on another parcel of land.
  3. **Alterations, Reconstruction of Sign Structures.** A non-conforming sign shall not be structurally altered, rebuilt or reconstructed, in whole or in part; nor shall it be altered or revised (nor shall any pole or other sign support be replaced, in whole or in part) so as to change the shape, size, type, placement or design of the structural elements of the sign, or in order to add illumination, either by the addition of additional light sources or by an increase in the intensity of existing illumination.
  4. **Ordinary Maintenance.** A non-conforming sign shall not be altered or revised; provided, however, that the following actions with respect to a non-conforming sign shall be permitted: normal and usual maintenance (which shall not include the replacement of any pole or other sign support, in whole or in part); the changing of the sign surface area to a lesser or equal area; the replacement of landscaping below the base of the sign; or the changing of the sign's background, letters, figures, graphics or other characters, but such changes shall not include the changing of a static display face of a sign to an electronic changeable message, digital or tri-vision display face, in whole or in part.
  5. **Damage from Casualty.** A non-conforming sign shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the sign, within any 12-month period, would cost more than 60 percent of the cost of an identical new sign. In evaluating evidence presented as to the cost of an identical new sign, the Township may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
- D. **Continuance of Non-conforming Billboards.** This subsection D regulates only non-conforming billboards. Non-conforming signs that are not billboards are regulated by subsection C above.
1. **Expansion.** A non-conforming billboard shall not be enlarged or expanded in area or increased in height, in whole or in part.
  2. **Replacement.** A non-conforming billboard shall not be changed to another non-conforming billboard or another non-conforming sign, except as permitted under subsection E.

3. **Removal or Relocation.** A non-conforming billboard shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, on the same parcel of land, except as permitted under subsection E. A non-conforming billboard may not be relocated, re-erected or re-installed on a different parcel of land.
  4. **Damage from Casualty.** A non-conforming billboard shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the billboard, within any 12-month period, would cost more than 60 percent of the cost of an identical new billboard. In evaluating evidence presented as to the cost of an identical new billboard, the Township may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
  5. **Ordinary Maintenance.** A non-conforming billboard shall not be altered or revised, except as permitted under subsection E; provided, however, that the following actions with respect to a non-conforming billboard shall be permitted: normal and usual maintenance; the changing of the billboard surface-area to a lesser or equal area; the replacement of landscaping below the base of the billboard; or the alteration of the billboard's background, letters, figures, graphics or other characters, but such changes shall not include the changing of a static display face of a sign to an electronic changeable message, digital or tri-vision display face, in whole or in part.
- E. **Special Exception Use to Permit Limited Changes to Non-conforming Billboards.** Notwithstanding the provisions of subsection D, a non-conforming billboard may be (1) changed to another non-conforming billboard or another non-conforming sign, or (2) altered or revised, but only in accordance with this subsection E.
1. **Planning Commission Approval.** The Planning Commission may approve, as a special exception use, the following actions with respect to a non-conforming billboard (but any such approval shall not include approval of changing a static display face of a billboard to an electronic changeable message, digital or tri-vision display face, in whole or in part):
    - a. The conversion of a non-conforming billboard to another non-conforming billboard or another non-conforming sign.
    - b. The alteration or revision of the non-conforming billboard.
  2. **Application Procedure.** An applicant shall apply for the special exception use on a form provided by the Township, shall pay the application fee and shall pay any required zoning escrow deposit. With the application, the applicant shall submit an accurate site plan and other written material describing in detail the proposed action(s) with respect to the non-conforming billboard.

- a. The site plan shall comply with the site plan content requirements of Section 17.3 of this Ordinance, except that it need not include items or information deemed by the Zoning Administrator to be not necessary for consideration of the application.
  - b. The applicant shall include such other information with respect to the requested use as the Zoning Administrator or the Planning Commission may determine necessary or useful in considering the application.
3. **Review of Application Completeness.** The Township Zoning Administrator shall determine whether the application and the other materials are complete. After such determination, the application, the site plan and other materials submitted by the applicant shall be forwarded to the Planning Commission.
  4. **Planning Commission Consideration.** The Planning Commission shall consider the application for the special exception use at a public meeting. A public hearing shall not be required.
  5. **Types of Billboard Alteration Planning Commission May Approve.** The special exception use may authorize the following:
    - a. The change of a non-conforming billboard to another non-conforming billboard if the resulting billboard would have less sign surface area, or would be of lesser height, than the existing non-conforming billboard.
    - b. The alteration or revision of a non-conforming billboard if the altered or revised billboard would be less distracting to motor vehicle drivers or would otherwise have fewer adverse effects than those of the existing non-conforming billboard, by reason of reduced sign area, reduced sign height, revised configuration, less illumination or other alteration beneficial to the public interest.
  6. **Terms and Conditions.** The special exception use may include terms, conditions and limitations.
  7. **Standards for Review.** In determining whether to approve a requested special exception use, the Planning Commission shall consider the following:
    - a. Whether the non-conforming billboard as changed, altered or revised would result in a billboard that would be less distracting to motor vehicle drivers, by reason of reduced size, reduced height, different configuration, less illumination, or by reason of other improvements in the public interest.

- b. Whether the changed, relocated, altered or revised non-conforming billboard would eliminate, reduce or mitigate a vehicle traffic hazard resulting from the existing non-conforming billboard or other adverse effect resulting from the existing billboard.
  - c. Whether the resulting non-conforming billboard would otherwise advance the goals and purposes of the zoning ordinance.
8. **Zoning Board of Appeals Jurisdiction.** The Zoning Board of Appeals shall not have jurisdiction to vary, modify, reverse or otherwise consider the approval or disapproval of the special exception use.
  9. **Signs Accessory to Nonconforming Use.** A sign that is lawfully accessory to a lawful nonconforming use may be erected in accordance with the sign regulations for the district in which the property is located.
  10. **Removal of Signs no Longer Used.** Any sign which for a period of one year or more no longer advertises a bona fide business actually conducted or a product actually available for sale shall be removed by the owner of the building, structure or property upon which the sign is located, within 30 days after the mailing or delivery of a written notice by the Township to do so.

### **15.13 Modification of Requirements for Signs in PUD District and Special Land Uses.**

- A. Except as provided below in this Section 15.13, all signs approved in connection with a special land use or a Planned Unit Development (PUD) shall comply with the requirements of this chapter for signs applicable to the zoning district in which the special land use or PUD is located.
- B. In cases where extenuating or extraordinary circumstances create practical difficulties in complying with the requirements of this chapter and where a modification of the requirements may still result in achieving the objectives of the zoning district in which the sign is to be located, the size, placement, number and height requirements for signs may be modified as provided in this section.
- C. If the sign is part of a PUD, the Planning Commission may recommend to the Township Board, and the Board may modify the size, placement, number and height requirements for signs in the PUD.
- D. If the sign is part of a special land use, the Planning Commission may modify the size, placement, number and height requirements for any signs proposed.
- E. In determining whether to approve a proposed modification, the Planning Commission or Township Board, as the case may be, shall find, based upon the facts presented by the applicant, that the following criteria have been met:

1. The modification of requirements is justified due to the nature, size, density, location or design of the proposed PUD or special land use, including the design or placement of proposed signs;
2. The modification of requirements will not result in traffic or other safety hazards, will not be injurious to the use or enjoyment of nearby property, will not result in visual blight, distraction or clutter, and will not otherwise result in a detriment to the public health, safety or general welfare; and
3. The modification will still achieve the intended purpose of the PUD District or the zoning district, if it is a special land use, in which the sign is to be located.

*[Chapter 15 Eff. 7/26/2015]*

## CHAPTER 16 SPECIAL LAND USES

### 16.1 Description and Purpose.

- A. A special land use is a use that is permitted within a specified zoning district upon compliance with the applicable requirements of this chapter. Due to unique characteristics of special land uses, special limitations and controls are necessary to insure compatibility with adjacent land uses, with the natural environment, and with existing and projected capacities of public services and facilities affected by such uses.
- B. This chapter also describes special approval conditions and regulations applicable to certain uses which are permitted with special land use approval.
- C. No special land use shall be engaged in unless the required approval has been granted, in accordance with the procedures specified in this chapter.

### 16.2 Special Land Use Applications. A special land use application shall be submitted and processed according to the following procedures:

- A. An application, on a form provided by the Township, shall be completed by the applicant and submitted to the Zoning Administrator.
- B. Among other matters, the application shall include the name and address of the applicant; the address of the property involved; the date of the application; and a statement indicating the sections of this Ordinance under which the special land use is sought. The applicant shall also specify the grounds upon which the special land use is requested to be granted.
- C. A site plan in 12 copies covering the special land use shall be submitted with the application, in accordance with Section 17.5. The site plan shall comply with all of the required contents of a site plan, as stated in Section 17.5 of this Ordinance; provided, however, that the Planning Commission, in its discretion, may waive any element or component otherwise required to be included in a site plan, if such matters are not deemed necessary for review and consideration of the proposed special land use application.
- D. The fee established for an application for a special land use shall be paid at the time of the filing of the application. The applicant shall also deposit the required sum into an escrow account with the Township, for use in reimbursing the Township for its expenses in the consideration of the matter, as specified in the Township's zoning escrow account procedures.

### 16.3 Action on Special Land Use Applications.

- A. **Initial Review by Planning Commission.** The Zoning Administrator shall determine whether a special land use application is complete. An application

deemed to be incomplete by the Zoning Administrator shall be returned to the applicant, and no further action need be taken until the application is completed and resubmitted. In considering a special land use application, the Planning Commission or the Township Board may require the submission of additional reports, studies or information, including an environmental impact assessment, traffic impact study, utility system plan, storm water drainage plan, water supply system plan and other plans or studies, or any of them, bearing upon the operation and effects of the special land use.

- B. **Public Hearing.** Once the Planning Commission determines that a complete special land use application has been received, the Planning Commission shall hold a public hearing on the proposed special land use. The Planning Commission shall determine the date, time and place for the public hearing. Notice of the public hearing shall be published and delivered in accordance with Section 20.7.
  
- C. **Planning Commission Action.** After the public hearing and upon the review of the merits of the special land use application, the Planning Commission shall approve, deny, or approve with conditions the special land use application. The Planning Commission's decision shall be incorporated within a motion or resolution containing conclusions reached relative to the proposed special land use, which specifies the basis for the decision and any conditions imposed.
  
- D. **Terms and Conditions of Approval.** In its approval of a special land use, the Planning Commission may impose reasonable terms and conditions. The terms and conditions shall be for the purpose of achieving the following goals and favorable results:
  - 1. To assure that public services and facilities affected by the special land use will be capable of accommodating increased service requirements resulting from the use.
  - 2. To assure that the special land use is reasonable.
  - 3. To assure that the special land use is compatible with adjacent and nearby land uses.
  - 4. To protect natural resources; the health, safety and welfare of those who will utilize the special land use and also residents in the vicinity of the special land use and the Township as a whole.
  - 5. To assure that the special land use is consistent with the intent and purposes of the zoning ordinance.
  - 6. To assure compliance with the general special land use standards and the specific standards applying to the special land use under consideration.
  - 7. If the special land use is of a temporary nature, or if it involves uses or activities which by their nature will terminate at some point in the future,

terms and conditions may be imposed which limit the duration of the special land use.

- E. **Periodic Review of Approved Special Land Use.** The Planning Commission may periodically review a special land use for the purpose of determining whether the terms and conditions of the use are being complied with. All terms and conditions of a special land use shall remain unchanged unless revoked or amended by the Planning Commission.
- F. **Township Consultants and Advisors.** In reviewing a proposed special land use, the Planning Commission may submit the application and other materials to its consulting engineer, attorney and any other professional consultants and advisors, for their review and comment.
- G. **Special Land Use Permit; Commencement of Approved Use.**
  - 1. A special land use permit shall be issued by the Zoning Administrator upon approval of the special land use by the Planning Commission. The special land use permit shall include all of the conditions of approval stipulated by the Planning Commission. Alternatively, the special land use resolution adopted by the Planning Commission may serve as the permit, if the resolution includes all of the terms and conditions of the special land use as approved. The Zoning Administrator shall forward a copy of the special land use permit to the applicant and the Township Clerk.
  - 2. A special land use permit for a special land use shall be valid for a period of one year from the date of issuance. If construction or other commencement of the special land use has not substantially occurred by the end of the one-year period, and if it does not proceed diligently to completion, the Zoning Administrator shall notify the applicant in writing of the expiration of the permit: provided, however, that upon request by the applicant the Planning Commission may extend the period of time in which the permit is to expire, upon finding that an extension of time is reasonable under the circumstances. The conducting of some use other than the special land use, even if a permitted use, shall not extend or otherwise affect the one-year period for commencement of the special land use.
  - 3. A site plan approved in conjunction with a special land use shall be processed according to the procedures of Chapter 17.

**16.4 Minimum Requirements for Special Land Use.** Special land uses shall comply with all of the minimum requirements provided in this Ordinance and in other applicable Township ordinances for all of the aspects and features of the land use for which minimum requirements are so specified, including but not limited to requirements on minimum lot area and minimum lot width, minimum building setbacks, street access, street frontage, sewage disposal and water supply, off-street parking and loading, landscaping and buffering, outdoor lighting, building and structure height, accessory buildings and

structures, screening, private roads, public utility service, required open space, signage, fences and walls, storm water management and facilities and other land use aspects, unless such requirements are modified, as provided in this section.

- A. In approving a special land use the Planning Commission (1) may modify such minimum requirements; or (2) may impose other or different minimum requirements. The above decisions shall be based on the relevant facts and circumstances, and if the standards for consideration of special land uses stated in Section 16.5 would nevertheless be satisfied.
- B. Further provided, however, that any such modification of the above-stated minimum requirements, or any such determination that any of such requirements need not be satisfied, shall be based upon findings by the Planning Commission that the following criteria have been met.
- C. Any such modification of the above-stated minimum requirements, or any such determination that any of such requirements need not be satisfied, shall be based upon findings by the Planning Commission that the following criteria have been met:
  - 1. The modification of such requirements is justified due to the nature, size, density, location or design proposed special land use.
  - 2. The modification of such requirements will not result in serious adverse effects upon the special land use lands or other lands.
  - 3. The modification will nevertheless achieve the land use purposes of the special land use under consideration.
  - 4. Such modification of requirements would not be inconsistent with the general intent and purposes of the zoning ordinance and the Master Plan.

**16.5 Standards for Considering Special Land Uses.** In considering an application for a special land use the Planning Commission shall apply and make findings upon the following general standards, in addition to other standards provided in this Ordinance for particular special land uses:

- A. The size, character and nature of buildings and structures comprising the special land use shall not have a substantial adverse effect upon adjoin or nearby lands or the uses thereof.
- B. The special land use shall not have a substantial adverse effect on storm water drainage; street capacity and volume of traffic; traffic safety and vehicle circulation; sanitary sewage disposal and water supply; or other adverse effects.
- C. The special land use shall not have a substantial adverse effect on the need and extent of law enforcement and fire protection services, or other public safety and emergency services.

- D. The special land use shall not have a substantial adverse effect on the protection and preservation of natural resources and natural features.
- E. Vehicular and pedestrian traffic circulation shall be designed to minimize conflicts on public streets and upon the property thereof. Safe and convenient off-street parking areas, appropriate to the special land use shall be provided.
- F. Safe and adequate sewage disposal facilities and water supply measures shall be provided in compliance with county and state requirements, and shall be designed for compatibility with existing systems and anticipated future development. Connection with existing sanitary sewer systems and water supply systems may be required.
- G. The period of day and times of the year during which a special land use activity commences or continues shall be reasonably related to both the use and the neighborhood or area in which it is proposed.
- H. The special land use shall not create excessive additional demand, at public cost, for public facilities and services.
- I. The special land use shall be consistent with the intent and purposes of the zoning ordinance and the Township Master Plan.

**16.6 Reapplication.** No special land use application which has been denied wholly or in part by the Planning Commission shall be resubmitted until at least 12 consecutive months after the date of denial, except on the grounds of newly discovered evidence or proof of changed conditions affecting the proposed special land use, as determined by the Planning Commission. A reapplication shall be processed in the same manner as an original special land use application.

**16.7 Amendment of Special Land Use.**

- A. A special land use may be amended if approved by the Planning Commission, following the same procedure as required for an original special land use application, including the giving of notice and holding of a public hearing by the Planning Commission; provided, however, that minor amendments in a special land use may be approved by the Zoning Administrator as stated in subsection C of this section and, provided further, that minor site plan amendments as defined in Section 17.12.C. may be approved by the Zoning Administrator, without public notice or public hearing.
- B. An amendment of a special land use may pertain to the site plan, additional or revised terms and conditions or other aspects of the use as originally approved. In considering any such amendment that is not a minor amendment, the Planning Commission may review the entire existing special land use, and all operational and other aspects thereof, in order to determine whether the terms and conditions of the special land use have been complied with. In its recommendation concerning a proposed amendment, the Planning Commission may include, and in its approval

of a proposed amendment the Planning Commission may impose, additional terms and conditions for the purpose of achieving compliance with the terms and conditions specified for the original special land use.

- C. As defined by this subsection, minor amendments to a special land use may be approved by the Zoning Administrator, either prior or subsequent to construction. The Zoning Administrator may, in his or her discretion, refer any decision regarding a proposed amendment to the Planning Commission for review and approval whether or not the change would qualify as a minor amendment under this section. In making a determination as to whether a change is a minor amendment, or whether to refer an amendment to the Planning Commission for approval, the Zoning Administrator may consult with the chairperson of the Planning Commission. Minor amendments to a special land use shall include:
1. Minor site plan amendments as defined in Section 17.12.C.
  2. Changes in the nature of the special land use which permanently decrease or mitigate impacts from such use on surrounding properties, the general public or public facilities or service.
  3. Minor changes in, and/or minor additions to, the uses included in an approved special land use that (1) do not change the basic type, nature or character of the use; (2) do not alter its basic design; (3) are determined by the Zoning Administrator to be not material or significant in relation to the entire special land use; and (4) would not involve an unrelated use and would not have a significant adverse effect on adjacent or nearby lands or the public interest.

**16.7A Revocation of Special Land Uses.** The Planning Commission shall have the authority to revoke any special land use permit following a public hearing noticed according to the procedures provided in Section 16.3.B, if the holder of the permit has failed to comply with any of the applicable conditions specified in the permit.

**16.8 Violation of Special Land Use Requirements.** A violation of any of the terms and conditions of a special land use shall be a violation of this Ordinance, and all penalties specified herein for violation of the ordinance shall apply, and the Township shall have such other enforcement remedies authorized by law. The Township may also take such other lawful action as may be necessary to remedy and/or moderate the violation, including revocation of the land use permit for the special land use.

**16.9 Appeals.** Any appeal of a special land use decision or condition shall be made only to the Circuit Court. The Zoning Board of Appeals shall have no jurisdiction to hear appeals from a special land use decision, nor authority to grant a variance or other relief with regard to a special land use or any part or aspect thereof.

**16.10 Standards for Particular Special Land Uses.** The following provisions are standards and requirements for specific special land uses, which must be satisfied with respect to a

specified special land use, in addition to compliance with the general special land use standards set forth in this chapter.

### **16.11 Reserved.**

### **16.12 Agricultural Service Establishment.**

- A. **Definition.** Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services, and farm labor and management services.
- B. **Regulations and Conditions.**
  - 1. Animal holding areas shall be set back at least 100 feet from all property lines and the road right-of-way.
  - 2. No storage of manure or dust producing material shall occur within 100 feet of any property line or road right-of-way.
  - 3. All signs shall be in accordance with Chapter 15.
  - 4. All parking shall be in accordance with Chapter 14.
  - 5. Agricultural service business shall be established and conducted in compliance with all other applicable laws and ordinances.

### **16.13 Animal Clinic.**

- A. **Definition.** A place where animals are given medical care, limited grooming, and the boarding of animals is limited to short-term care incidental to clinical use.
- B. **Regulations and Conditions.** Animal clinics may be permitted as a special land use within the C-1, C-2 or AG/RC Districts if the following requirements are met:
  - 1. Animal remains, wastes, bio hazard materials or byproducts shall be disposed of as required by the Medical Waste Law of the State of Michigan and animal clinic operations shall be subject to inspection by the Michigan Department of Public Health as that law requires. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than once per week. No animal remains, wastes, biohazard materials or byproducts shall be buried or incinerated on site.
  - 2. Said use shall be located on not less than one-half acre of land if located in the C-1 or C-2 Districts, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
  - 3. Only small animals (household pets) shall be treated on the premises.

4. There shall be sufficient soundproofing to prevent any noise disturbance beyond the property boundaries.
5. All outdoor exercise areas for animals shall be adequately fenced to prevent both escape and entry by wild animals into the facility.
6. All signs shall be in accordance with Chapter 15.
7. All parking shall be in accordance with Chapter 14.
8. Landscaping. Landscaping shall be maintained in all required yards including exercising yards, in accordance with the approved site plan.
9. Outdoor lighting shall be in accordance with Section 4.25.
10. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for an animal clinic.

**16.14 Bank or Other Financial Institution.**

- A. **Definition.** A state-chartered or federally-chartered bank, savings and loan association or credit union, including a branch or neighborhood bank, savings and loan or credit union; such facility may have or need not have drive-through banking facilities.
- B. **Regulations and Conditions.** A bank or other financial institution shall comply with all of the following requirements:
  1. The minimum lot area and width and the minimum building setbacks of the zone district shall be complied with, unless the Planning Commission requires otherwise in its approval of the special land use.
  2. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
  3. If the use includes a vehicle drive-through facility, there shall be sufficient stacking capacity for vehicles waiting to be served, in order to avoid interference with driving aisles or driveways.
  4. Signs shall comply with Chapter 15.
  5. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  6. Exterior light fixtures shall comply with Section 4.25.
  7. Landscaping and buffering shall be provided in accordance with Section 4.37.

### 16.15 Bed & Breakfast Establishment.

- A. **Definition.** An owner-occupied dwelling that offers overnight accommodations for guests for compensation, and in which breakfast may be served to overnight guests.
- B. **Regulations and Conditions.** Bed and breakfast establishments shall be subject to the following requirements: The property shall be suitable for transient lodging, with overnight lodgers staying typically not longer than seven nights.
  - 1. Breakfast may be served to overnight guests only.
  - 2. The use shall be compatible with other allowed uses in the vicinity and the impact of the establishment in terms of parking, traffic, noise and odors shall be consistent with that of a private home with house guests.
  - 3. All signs shall be in accordance with Chapter 15.
  - 4. All parking shall be in accordance with Chapter 14.
  - 5. Landscaping and buffering shall be provided in accordance with Section 4.37.
  - 6. The establishment shall be the principal dwelling unit on the property and shall be occupied by the owner and proprietor at all times.
  - 7. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
  - 8. No cooking facilities shall be permitted in any rooms or suites used by guests.

### 16.16 Reserved.

### 16.17 Boarding or Lodging House.

- A. **Definition.** A dwelling having one kitchen and primarily used for the purpose of providing meals and/or lodging for transient guests staying for an indeterminate duration, for compensation.
- B. **Regulations and Conditions.** Boarding or lodging houses shall be subject to the following requirements: The property shall be suitable for long duration lodging facilities with overnight lodgers staying typically more than seven nights.
  - 1. Meals may be served to overnight guests only.
  - 2. All signs shall be in accordance with Chapter 15.
  - 3. All parking shall be in accordance with Chapter 14.

4. Landscaping and buffering shall be provided in accordance with Section 4.37.
5. The establishment shall be the principal dwelling unit on the property and shall be occupied by the owner and proprietor at all times.
6. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
7. No cooking facilities shall be permitted in any rooms or suites used by roomers.
8. Any required county licensing shall be in effect at all times.

### **16.18 Boat Sales and Servicing.**

- A. **Definition.** A business in which boats and other watercraft are offered for sale; the use may also include maintenance and repair of boats and other watercraft.
- B. **Regulations and Conditions.** Boat sales and servicing shall comply with all of the following requirements:
  1. The minimum lot area and width and the minimum building setbacks of the zone district shall be complied with, unless the Planning Commission requires otherwise in its approval of the special land use.
  2. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
  3. The site shall be of sufficient area to provide space for the parking of boats, boat trailers and motor vehicles, including those being serviced, those being parked for service at a future time and the temporary parking of boats, watercraft, trailers and vehicles for service or for departure from the site.
  4. Signs shall comply with Chapter 15.
  5. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  6. Exterior light fixtures shall comply with Section 4.25.
  7. Landscaping and buffering shall be provided in accordance with Section 4.37.

### 16.19 Building, Electrical Mechanical and Plumbing Contractors.

- A. **Definition.** A business, generally professionally licensed, involved in the provision of building, heating, electrical, plumbing and mechanical services for residential and commercial construction.
- B. **Regulations and Conditions.** The special land use shall be subject to the following requirements:
  - 1. All service and commercial vehicles shall be parked off-street.
  - 2. All outdoor storage of materials, scrap, equipment and related materials shall be screened from view from all off-site areas with an opaque fence, at least six feet in height or evergreen screening, at least six feet in height.
  - 3. All signs shall be in accordance with Chapter 15.
  - 4. All parking shall be in accordance with Chapter 14.
  - 5. Landscaping and buffering shall be provided in accordance with Section 4.37.

### 16.20 Car Wash.

- A. **Definition.** A building and equipment used for the commercial washing, waxing and detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities may include self-wash, automated and hand-wash facilities, as well as any combination thereof.
- B. **Regulations and Conditions.** Car washes shall be subject to the following requirements:
  - 1. All such facilities shall be connected to a public sewer system.
  - 2. All washing activities shall be carried on within a building.
  - 3. No vacuum equipment shall be located closer than 100 feet from any property line, which abuts a property zoned or used for residential purposes.
  - 4. Noise generated on site from any source shall not exceed 50 decibels measured at any property line.
  - 5. All parking areas shall comply with the provisions of Chapter 14.
  - 6. All wash bays shall be at least 100 feet from any wetland or water body
  - 7. All signs shall comply with Chapter 15.

8. Landscaping and buffering shall be provided in accordance with Section 4.37.

### 16.21 Cemeteries.

- A. **Definition.** Privately owned property which guarantees perpetual care of grounds used solely for the interment of deceased human beings or customary household pets.
- B. **Regulations and Conditions.** Cemeteries shall be subject to the following requirements:
  1. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, Public Act 88 of 1875, as amended, or other applicable state laws.
  2. All parking areas shall comply with the provisions of Chapter 14.
  3. All signs shall comply with Chapter 15.

### 16.22 Child Care Center.

- A. **Definition.** A commercial establishment, other than a private dwelling, in which one or more children are received for care and supervision for periods of less than 24 hours per day, including such care and supervision for not less than two consecutive weeks.
- B. **Regulations and Conditions.** A child care center shall be subject to the following requirements:
  1. All required State licensing shall be maintained at all times.
  2. All outdoor areas used for the care and supervision of children shall be fully enclosed with a privacy fence at least six feet high along the side or sides of the outdoor areas that adjoin another dwelling. Such outdoor areas shall be fenced with a minimum four-foot high fence along the sides thereof facing areas that do not include another dwelling.
  3. Any dumpsters on site shall be enclosed on four sides with an opaque fence equipped with a lockable gate.
  4. The child care center shall be provided with a paved and smooth pick-up and drop-off area which shall be adequately removed from any street or driveway area.
  5. The child care center shall be located at least 1,500 feet from any one of the following:
    - a. A licensed or pre-existing operating group day care home.

- b. A facility offering substance abuse treatment and rehabilitation service to seven or more people.
  - c. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
6. The child care center shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
  7. Hours of operation shall not exceed a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities.
  8. All parking areas shall comply with the provisions of Chapter 14.
  9. All signs shall comply with Chapter 15.
  10. Landscaping and buffering shall be provided in accordance with Section 4.37, in addition to the above-stated fencing.

**16.23 Child Care Home, Group.**

- A. **Definition.** A private dwelling in which more than six but not more than 12 minor children are received for care and supervision for compensation, for periods of less than 24 hours per day, unattended by a parent or guardian.
- B. **Regulations and Conditions.** A group child care home shall be subject to the following requirements:
  1. All required State licensing shall be maintained at all times.
  2. All outdoor areas used for the care and supervision of children shall be fully enclosed with a privacy fence at least six feet high along the side or sides of the outdoor areas that adjoin another dwelling. Such outdoor areas shall be fenced with a minimum four-foot high fence along the sides thereof facing areas that do not include another dwelling.
  3. The group child care home shall be located at least 1,500 feet away from any one of the following:
    - a. A licensed or pre-existing operating group child care home.
    - b. A facility offering substance abuse treatment and rehabilitation service to seven or more people.
    - c. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.

4. The group child care home shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
5. Hours of operation shall not exceed a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities.
6. All parking areas shall comply with the provisions of Chapter 14.
7. All signs shall comply with Chapter 15.
8. Landscaping and buffering shall be provided in accordance with Section 4.37, in addition to the above-stated fencing.

#### **16.24 Church.**

- A. **Definition.** A building or structure, or groups of buildings or structures that are intended for conducting organized religious services and associated accessory uses, including synagogues, mosques, worship centers and the like.
- B. **Regulations and Conditions.** Churches shall be subject to the following requirements:
  1. All churches shall be located on a parcel of at least one acre.
  2. Spires and steeples in excess of the height permitted in the zoning district may be constructed only through the approval of the Planning Commission.
  3. A childcare facility may be operated on church property if approved by the Planning Commission in its approval of the special land use.
  4. All parking areas shall comply with the provisions of Chapter 14.
  5. All signs shall comply with Chapter 15.
  6. Landscaping and buffering shall be provided in accordance with Section 4.37.

#### **16.25 Commercial Stump Grinding.**

- A. **Definition.** A business in which tree stumps and other parts of trees and other vegetation are cut, ground up, reduced to mulch or otherwise processed into some other usable or disposable form, by mechanical or other means.
- B. **Regulations and Conditions.**
  1. The Planning Commission may require a greater lot area for the use than that specified as the minimum lot area in the zone district, if necessary to

provide sufficient isolation distance between the use and adjacent or nearby dwellings or other residential uses.

2. The Planning Commission may require greater setbacks for that part of the use involving machinery or other equipment for grinding, if necessary to avoid or moderate excessive noise or other adverse effects on adjacent or nearby lands.
3. Protective measures may be required in order to avoid or prevent the spread of sawdust or other debris on adjacent or nearby lands.
4. Fencing and/or screening of the use may be required, in particular, as to adjacent residential lands or uses.
5. There shall be sufficient driveways and on-site parking areas in order to accommodate trucks or other vehicles for the delivery of stumps and other material for grinding, and for the hauling away of mulch or other product resulting from the grinding operation.

#### **16.26 Construction Equipment, Sales or Supplier, Facilities.**

- A. **Definition.** Buildings and outdoor storage areas associated with the operation of a business of storing and marketing materials and equipment to the general public and to construction companies, including the outdoor storage of equipment, vehicles, trailers, materials and machinery.
- B. **Regulations and Conditions.** Construction equipment, sales or supplier, facilities shall be subject to the following requirements:
  1. The area of the site shall not be less than one-half acre.
  2. The site shall be fenced on both sides and the rear with chain link or similarly durable fencing not less than six feet nor more than 16 feet in height.
  3. Landscaping and buffering shall be provided in accordance with Section 4.37.
  4. No building materials, scrap, or equipment shall be stored outdoors in any configuration higher than the surrounding fencing or screening.
  5. All signs shall be in compliance with the provisions of Chapter 15.
  6. All off-street parking shall be in compliance with Chapter 14.

#### **16.27 Electrical Substations, Gas Regulator Stations and Similar Utility Facilities.**

- A. **Definition.** Facilities for the transmission or distribution of electricity, the transmission of natural gas and similar utility facilities, but not including the poles

and wires for transmission of electricity nor underground pipelines and associated components for the transmission of natural gas. Buildings owned and operated by regulated utilities are subject to the special land use provisions for essential services buildings.

**B. Regulations and Conditions.**

1. Such facilities shall be established and operated only by regulated utilities, having appropriate authority for such purpose by virtue of state or federal law requirements and regulations.
2. The setback of such facilities from all property lines shall be at least the minimum principal building setbacks specified in the zone district, but such setbacks may be increased by the Planning Commission in its approval of the special land use.
3. Such facilities shall be fully enclosed by fencing, of a height determined by the Planning Commission. Gates shall be locked when not in use. Other screening and buffering may be required.
4. The location, construction and use of the facility shall comply with all permits issued by the utility regulating authority having jurisdiction. A copy of all such permits shall be furnished to the Township as a part of the application for the special land use.

**16.28 Engineering Laboratories.**

A. **Definition.** A laboratory or similar facility for analysis of materials, components, chemicals or other objects or substances associated with engineering, manufacturing and similar or accessory uses. Such laboratories may be separate facilities or may be located within and as a part of a manufacturing plant or facility.

**B. Regulations and Conditions.**

1. The minimum lot area and minimum lot width shall be as determined by the Planning Commission in its approval of the special land use.
2. If such laboratory facilities involve testing or analysis in such a manner that noise, vibration, fumes or other adverse impacts are likely to result, then buildings or other structures or land used for such purposes shall be situated a sufficient distance away from adjacent and nearby lands and nearby streets so as to avoid adverse impacts arising beyond the property boundaries.
3. Adequate off-street parking and loading areas shall be provided.
4. Off-street parking areas shall comply with the provisions of Chapter 14.
5. Signs shall comply with Chapter 15.

6. Exterior light fixtures shall comply with Section 4.25.
7. Landscaping and buffering shall be provided in accordance with Section 4.37.

### **16.29 Essential Services Buildings.**

- A. **Definition.** A building owned and/or maintained by a municipal corporation, public utility or other entity regulated by franchise or under agreement with a public body, such building being constructed and used for services in connection with the providing of gas, electricity, communications, water supply, sewage disposal or other utility services for the benefit of the public health, safety or general welfare.
- B. **Regulations and Conditions.**
  1. The setback of any such building shall comply with the minimum building setback requirements of the zone district; provided, however, that in approving the special land use, the Planning Commission may require greater or different building setback distances.
  2. The design of such buildings and the exterior materials thereof shall be generally compatible with the buildings in the surrounding neighborhood, though it is recognized that by their nature, such essential service buildings have particular requirements which may affect the extent of compatibility with other types of buildings.
  3. Adequate driveways and off-street parking areas for the vehicles entering and leaving the site shall be provided.
  4. Fencing of the site and screening and buffering of the buildings may be required.
  5. If the buildings or the site will involve potentially unsafe utility installations, such as electric generation or transmission equipment, adequate protective measures shall be taken so as to assure a high level of public safety.

### **16.30 Farm Markets, Seasonal.**

- A. **Definition.** A public or private open-air venue where local farm products, primarily including fruits, vegetables, and other locally produced goods or crafts, are sold only during the growing season. Seasonal farm markets may include a temporary covered structure to protect against weather conditions.
- B. **Regulations and Conditions.** Seasonal farm markets shall be subject to the following requirements:

1. The structure or structures comprising the farm market shall be located a sufficient distance back from the street right-of-way line so as to avoid hazardous traffic conditions.
2. The maximum size of the open-air structure used for the farm market shall be as determined by the Planning Commission in its approval of the special land use.
3. Adequate off-street parking shall be provided. The location of off-street parking areas and the length of driveways shall be sufficient to avoid the backing up of vehicles into any street right-of-way. In addition, off-street parking areas shall be in accordance with Chapter 14 and shall also comply with the following:
  - a. All parking shall be off-street parking and shall not utilize any public right-of-way areas.
  - b. No parking areas shall be located less than 20 feet from any property line.
  - c. Each area or section in the farm market designed for individual proprietors shall have a minimum of 400 square feet of loading/unloading space.
  - d. There shall be a minimum of two parking spaces per individual sales area within the market.
4. Signs shall comply with Chapter 15.
5. Exterior light fixtures shall comply with Section 4.25.
6. Landscaping and buffering shall be provided in accordance with Section 4.37.

**16.31 Foster Care Large Group Home, Adult; Foster Care Small Group Home, Adult.**

- A. **Definition.** An adult foster care small group home is an adult foster care facility that is a private dwelling that provides adults with foster care for 24 hours per day, five or more days per week, and for two or more consecutive weeks. It has an approved capacity to receive at least seven but not more than 12 adults.
  1. An adult foster care large group home is an adult foster care facility that is a private dwelling that provides adults with foster care for 24 hours per day, five or more days per week, and for two or more consecutive weeks. It has an approved capacity to receive at least 13 but not more than 20 adults.

- B. **Regulations and Conditions.** The special land use shall not be located within 1,500 feet of the property line of any other adult foster care small group home or adult foster care large group home.
1. The holder of the license for the adult foster care group home shall be a member of the household and an occupant of the dwelling.
  2. The foster care group home shall have its primary access directly from a paved, all-season street.
  3. All required State licenses shall be maintained at all times; a failure to maintain proper licensing shall be grounds for revocation of the special land use.
  4. All parking areas shall have a smooth, dust-free surface.
  5. There shall be a minimum usable floor area above grade of at least 250 square feet per occupant. No residents of the facility shall be housed in a basement.
  6. There shall be minimum lot area of 2,000 square feet for each occupant of the foster care group home, but in any event, no such lot shall have less than 10,000 square feet.
  7. All signs shall comply with the provisions of Chapter 15.
  8. All off-street parking shall comply with the provisions of Chapter 14.
  9. Landscaping and buffering shall be provided in accordance with Section 4.37.
  10. All foster care group homes shall provide a storm shelter adequate to serve all occupants.
  11. The property shall be maintained in a manner consistent with the general characteristics of the neighborhood.

### **16.32 Garden Store.**

- A. **Definition.** A business, consisting of a building, which may include outdoor display, in which plants, gardening and landscape supplies, yard tools and accessories and other goods, materials, supplies and merchandise involving gardening, yard landscaping and similar activities are offered for sale.
- B. **Regulations and Conditions.** Garden stores shall comply with all of the following requirements:

1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
2. Outdoor storage of gardening and landscape supplies and materials shall be adequately screened from view from adjacent and nearby lands. Other screening and buffering shall be in compliance with Section 4.37.
3. Outdoor display of gardening tools and equipment, mulch and other landscape supplies and materials shall be located only in a well-defined area, sufficiently located and/or screened from vehicle parking and circulation areas.
4. Signs shall comply with Chapter 15.
5. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
6. Exterior light fixtures shall comply with Section 4.25.
7. Landscaping and buffering shall be provided in accordance with Section 4.37.

### **16.33 Gasoline Station.**

- A. **Definition.** A place where operating fuels or lubrication oils for motor vehicles are offered for sale at retail to the public, and also including the sale of accessories installed by the proprietor thereof and minor engine adjustment services.
- B. **Regulations and Conditions.** Gasoline service stations shall be subject to the following requirements:
  1. Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence eight feet in height.
  2. Minimum road frontage of 150 feet shall be required.
  3. Minimum lot area shall be increased 500 square feet for each fuel pump unit in excess of four, and 1,000 square feet for each service bay in excess of two, and 300 square feet for each parking space intended for the storage of inoperative vehicles.
  4. All buildings and accessory structures including gasoline pumps shall be set back 50 feet from any lot line and 75 feet from any street right-of-way line.
  5. All equipment, including automobile washing and minor repair equipment, shall be entirely enclosed within a building. There shall be no outdoor

storage of merchandise such as tires, lubricants and other accessory equipment.

6. All activities, except those required to be performed at the fuel pump and except those involving the use of outdoor air-supply equipment, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
7. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases.
8. All signs shall be in compliance with the provisions of Chapter 15.
9. All off-street parking shall be in compliance with Chapter 14.
10. Landscaping and buffering shall be provided in accordance with Section 4.37.
11. Proper licensing shall be maintained at all times.

#### **16.34 Golf Courses.**

- A. **Definition.** A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and may also include a clubhouse and shelter.
- B. **Regulations and Conditions.** Golf courses shall be subject to the following requirements:
  1. All golf courses must have direct access to a public street.
  2. Tees, fairways, greens and trails shall be arranged in a manner to limit stray golf shots and trespassing onto neighboring properties.
  3. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light poles shall be no higher than 20 feet.
  4. All waterbody impacts, including rivers, streams, lakes, and wetlands shall be avoided and protected with natural vegetative buffering features. All waterbodies shall be depicted on the site plan with a development overlay and protected throughout every phase of the development.
  5. Golf course siting, design, construction, and management shall be accomplished in a manner that minimizes the effects on all endangered and threatened plant and animal species.
  6. Hazardous chemicals, including oil, gasoline, fertilizers, pesticides, herbicides, and any other substance that has the potential of contaminating

water and/or soil resources shall be contained in a manner to prevent any accidental release of hazardous chemicals to the environment.

7. Erosion control, i.e. silt fencing and/or straw bales, shall be integrated in any areas that may susceptible to erosion during construction.
8. All signs shall be in compliance with the provisions of Chapter 15.
9. All off-street parking shall be in compliance with Chapter 14.
10. Landscaping and buffering shall be provided in accordance with Section 4.37.

### **16.35 Gravel and Sand Mining.**

- A. **Definition.** A parcel of land utilized for the removal or extraction of sand, gravel, rock fragment, soil, and organic soils by open pit mining methods for sale or use off the premises.
- B. **Regulations and Conditions.** The mining and removal of sand, gravel, and certain other natural resources shall be subject to the following requirements:
  1. The mining and removal of sand, gravel, other earthen material and other subterranean natural resources, except oil, gas and water, shall be subject to approval by special land use.
  2. **Site Plan Requirements.** In addition to the regular application for a special land use permit and payment of fees, the application shall be accompanied by a site plan as required in Chapter 17. The plan shall be drawn to a scale of 1”-100’ and said plan shall include the following information:
    - a. Name and address of owner(s) of land upon which removal will take place.
    - b. Name, address and telephone number of person, firm, or corporation who will be conducting the actual removal operation.
    - c. Location, size and legal description of the total site area to be mined.
    - d. A plan for extraction and reclamation for the total project which shall include:
      - i. Surface overburden and topsoil stripping and stockpiling plans.
      - ii. Provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.

- e. Surface water drainage provisions and outlets.
  - f. The location and size of any structures.
3. **Rehabilitation.** All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of five feet shall be graded to angles which do not exceed one foot in elevation for each three feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.
4. **Site Development Requirements.**
- a. No part of the mining operation, other than ingress and egress, may take place within 25 feet of any property line or road right-of-way and no machinery will be erected or maintained within 100 feet of any property or road right-of-way line.
  - b. Soil and gravel stockpiles shall not be located within 200 feet of wetlands or water bodies.
  - c. Extraction operations shall not occur within 100 feet of a wetland or water body.
  - d. An undisturbed natural vegetative buffer strip of 35 feet shall be provided immediately adjacent to wetlands or water bodies during excavation activities.
  - e. If fencing is deemed a necessary requirement of the special land use permit, the Planning Commission shall specify the type and location of the required fencing.
  - f. Interior access roads, parking lots, haul road, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind-blown dust.
  - g. Hours of operation shall be Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturday from 8:00 a.m. to 12:00 p.m.
  - h. No hours of operation on Sundays or the following holidays:
    - i. New Year's Day - January 1st
    - ii. Memorial Day - Last Monday of May
    - iii. Independence Day - July 4th
    - iv. Labor Day - First Monday in September

- v. Thanksgiving Day - Fourth Thursday in November
  - vi. Christmas Day - December 25th
5. Failure to maintain all required state or federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the conditional use permit may result in the immediate revocation of said conditional use permit and any and all other sanctions and/or penalties available to the County.
  6. **Evidence of Continuing Use.** When activities on or the use of the mining area, or any portion thereof, have ceased for more than one year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within 30 days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.
  7. **Financial Guarantees.** A minimum pit bond of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the Township Treasurer. The bond shall be in the form of a letter of credit drawn of a bank located in Muskegon County, a cash bond posted in lieu of a letter of credit or an insurance policy with the Township named as an insured party. The amount of a cash bond filed with the Township may be one-half (1/2) the total required bond if approved by the Planning Commission. The bond shall be returned when all conditions stipulated in the special land use permit shall have been complied with and the special land use permit revoked prior to its release. There shall be no partial release of the bond.
  8. **Issuance of a Special Land Use Permit.** Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the conditional use permit may be transferred.
  9. **Permit Expiration.** If approval for a special land use permit is granted by the Planning Commission it shall be for a specific period of time not to exceed five years. Those permits granted for a period exceeding one year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and ordinance.

10. **Modification of the Site Plan.** The site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the site plan when:
  - a. Modification of the plan is necessary so that it will conform with the existing laws.
  - b. It is found that the previously approved plan is clearly impractical to implement and maintain.
  - c. The approved plan is obviously not accomplishing the intent of the ordinance.

### 16.36 Greenhouse and Nursery.

- A. **Definition.** A business consisting of the growing, display and sale of plants, shrubbery, trees and other vegetation used for landscaping and yard purposes, including greenhouse or conservatory buildings and land used for the growing of plants, shrubs and trees for display and sale.
- B. **Regulations and Conditions.**
  1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
  2. Adequate and safe locations shall be established for the picking up and loading of plants, shrubs and trees and other landscape supplies and materials in customers' motor vehicles, situated so as not to interfere with vehicle circulation areas on the site or pedestrian routes.
  3. Outdoor storage of landscape supplies and materials shall be adequately screened from view from adjacent and nearby lands. Other screening and buffering shall be provided in accordance with Section 4.37.
  4. Outdoor storage of mulch, dirt and other gardening commodities shall be suitably contained so as not to become unsightly or be tracked into areas used for motor vehicle traffic or pedestrian routes.
  5. Signs shall comply with Chapter 15.
  6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  7. Exterior light fixtures shall comply with Section 4.25.

8. Landscaping and buffering shall be provided in accordance with Section 4.37.

### **16.37 Home Based Business.**

- A. A home based business may be permitted in the AG/RC and R-1 Districts, as a special land use, in accordance with this section.
- B. A home based business shall be carried on by one or more members of a family residing on the premises, plus not more than one additional non-resident employee.
- C. Not more than 25 percent of the total floor area of any story of the dwelling, or not more than 50 percent of an on-site accessory building shall be used in the operation of the home based business.
- D. No outdoor storage shall be permitted in connection with a home based business.
- E. No goods or commodities other than those customarily associated with the home based business shall be sold on the premises.
- F. There shall be no change in the outside appearance of the dwelling or any accessory building, or other part of the premises, as a result of the conducting of the home based business, except that limited outdoor signage may be permitted, but such signage shall comply with the applicable sign requirements of the zone district in which the use is located.
- G. An accessory building used in a home based business shall comply with all other applicable provisions of this Ordinance with respect to accessory buildings.
- H. There shall be only incidental or occasional sale of goods, merchandise, supplies or products on the premises.
- I. No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and local requirements concerning the use, handling, storage, transport and disposal of any such materials; provided, however, that the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted if otherwise lawful.
- J. There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat or glare resulting in an adverse effect beyond the property where the home based business is located.
- K. Any motor vehicle traffic generated by the home based business shall be only to such limited extent that the number of vehicles, the frequency of vehicle trips, the noise of vehicles and other resulting impacts shall have no serious adverse effects on adjacent or nearby lands.

- L. If the parking of motor vehicles will result from the home based business, an adequate off-street parking area shall be provided on the parcel of land where the home occupation is conducted; such off-street parking area shall not be located in a required front yard setback area, except that vehicles generated by the home based business may be parked in a driveway that is used to provide vehicle access to the dwelling.
  
- M. Home based businesses which may be approved as a special land use are the following:
  - 1. Beauty salons and barber shops, but any one of them shall not have more than two chairs for the providing of beauty salon services or barber shop services, as the case may be.
  - 2. Photography studios.
  - 3. Furniture upholstery.
  - 4. Small engine repair.
  - 5. Cabinet making and carpentry work.
  - 6. Television and other appliance repair.
  - 7. Catering business.
  - 8. Indoor storage of boats and recreational vehicles.
  - 9. Motor vehicle repair, but all repair services and similar permitted services shall take place only within a fully enclosed building.
  - 10. Other home based businesses complying with the requirements of this section and which are determined by the Planning Commission to be reasonably similar in character to those listed in this subsection, and which do not have adverse effects on adjacent or nearby lands that are greater or more serious than those resulting from any of the above-listed home based businesses.

In determining whether a proposed home based business is reasonably similar in character to those listed in this subsection, the Planning Commission shall consider the following:

- a. A home based business need not be so similar to the listed businesses as to be nearly identical to or included within of any of the listed businesses.
- b. Primary consideration shall be given to the major features and characteristics of the proposed home based business, with the

assumption that some of the lesser or more minor aspects of the business may be different from those of the listed businesses.

- c. It is understood that the number and variety of potential, reasonably similar home based businesses make it impractical to include a listing of all such businesses in this section. The purpose of this subsection is therefore to provide a means whereby a non-listed home based business may qualify for consideration by the Planning Commission, if the home based business complies with the requirements of this section.
  - d. Substantial weight shall be given to the definition of home based business, as stated in Section 2.3.14, and the features and characteristics of the listed home based businesses, as stated in subsections A through L of this section, in order that any home based business determined to be reasonably similar to the listed businesses shall (1) involve only limited business activity; (2) have no serious adverse effects on nearby lands or streets; and (3) be so established and operated that its commercial aspects do not seriously impinge upon the residential character of adjacent and nearby lands.
- N. The applicant shall submit, with the application for special land use, a site development plan accurately showing the location of the home based business, the location of the dwelling and all other external aspects of the proposed special land use, including accessory structures, means of access, off-street parking and loading areas, landscaping and screening, storm water control measures, water supply, sanitary sewage disposal and other elements of the proposed use.
- O. In considering whether to approve a home based business as a special land use, the Planning Commission shall determine whether the use complies with the special land use standards of Section 16.5 and, in addition, the Planning Commission shall consider, among other matters, the following aspects of the proposed home based business:
- 1. The size and location of any accessory building to be used in the home based business.
  - 2. The means of access to the home based business and the expected frequency of vehicle trips to and from the home based business, by customers, delivery vehicles, and others.
  - 3. The distance between the location of the home based business and dwellings on adjacent or nearby lands; any landscaping or screening proposed to be installed for the purpose of shielding the view of the home based business from other lands.
  - 4. The area and location of any off-street parking area and any off-street loading area.

5. Proposed signage, if any, and proposed outdoor lighting, if any.
  6. The expected hours of operation of the home based business.
  7. The nature and type of the equipment, materials and processes to be used in the home based business, and the likelihood that any such equipment, materials or processes may generate noise, vibration, fumes, odors, glare or electrical interference.
  8. Other aspects of the home based business, in relation to adjacent and nearby land uses and the adjacent and nearby streets.
- P. In approving any such special land use the Planning Commission may impose reasonable terms and conditions. Such reasonable terms and conditions may pertain to the following matters, among others:
1. The size and location of any accessory building to be used in the home based business.
  2. The means of access to the home based business and the expected frequency of vehicle trips to and from the home based business, by customers, delivery vehicles, and others.
  3. The distance between the location of the home based business and dwellings on adjacent or nearby lands; any landscaping or screening proposed to be installed for the purpose of shielding the view of the home based business from other lands.
  4. The area and location of any off-street parking area and any off-street loading area.
  5. Proposed signage, if any, and proposed outdoor lighting, if any.
  6. The expected hours of operation of the home based business.
  7. The nature and type of the equipment, materials and processes to be used in the home based business, and the likelihood that any such equipment, materials or processes may generate noise, vibration, fumes, odors, glare or electrical interference.
  8. Other aspects of the home based business, in relation to adjacent and nearby land uses and the adjacent and nearby streets.
- Q. Upon the cessation of a home based business for a period of one year, the home based business special land use shall be of no further effect.
- R. A home based business shall at all times comply with the minimum requirements of this section and all other applicable requirements. The expansion or enlargement

of a home based business, or its departure from any required conditions or limitations, shall be grounds for the revoking of the special land use. Upon the revoking of the special land use, the applicant shall no longer engage in the home based business.

### **16.38 Hospital – Patient Care Facilities.**

- A. **Definition.** A facility providing health services, on both an in-patient and out-patient basis, for medical or surgical care of sick or injured persons, including such related facilities as convalescent or nursing homes, laboratories, out-patient departments, training facilities, central service facilities and staff offices.
- B. **Regulations and Conditions.** Hospitals and patient care facilities shall comply with the following requirements:
1. Locations for the dropping off and picking up of patients and others shall be located a sufficient distance back from the adjacent streets so as to avoid motor vehicle conflicts and unsafe conditions.
  2. Driveways shall be located a sufficient distance away from street intersections to avoid unsafe traffic conditions.
  3. Convenient and prominently marked access for ambulances and other emergency vehicles shall be provided.
  4. Adequate driveways and parking areas for the delivery of goods and supplies and for service vehicles shall be provided and, if required by the Planning Commission, they shall be separated from driveways and parking areas used by the public.
  5. Trash and refuse receptacles shall be fully enclosed and screened.
  6. If located in a residential district, site locations should be chosen to have the least effect of the nonresidential use into a residential area.
  7. Signs shall comply with Chapter 15.
  8. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  9. Exterior light fixtures shall comply with Section 4.25.
  10. Landscaping and buffering shall be provided in accordance with Section 4.37.

***[Section 16.38 amended by Ord. No. 2021-02, Eff. 4/13/2021]***

### 16.39 Hotels and Motels.

- A. **Definition.** A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.
- B. **Regulations and Conditions.** Hotels and motels shall be subject to the following requirements:
  - 1. The property shall be suitable for transient lodging facilities.
  - 2. The use shall be generally compatible with other allowed uses in the vicinity.
  - 3. All signs shall be in accordance with Chapter 15.
  - 4. All parking shall be in accordance with Chapter 14.
  - 5. Landscaping and buffering shall be provided in accordance with Section 4.37.
  - 6. The Planning Commission may require particular building setbacks, in the approval of the special land use.

### 16.40 Indoor Sports Business.

- A. **Definition.** A building or buildings, with associated off-street parking area and other incidental facilities, established and operated as a place for the playing of recreational sports and games, including but not limited to tennis, racquetball, bowling, ice skating, roller-skating, basketball, indoor running and other sports, games, and athletic contests and activities, made available to the public on a commercial or membership basis or otherwise.
- B. **Regulations and Conditions.**
  - 1. Adequate, safe and convenient driveway access shall be provided. Driveways shall be located a sufficient distance away from street intersections and other driveways so as to avoid adverse traffic impact.
  - 2. The minimum lot area and width and the minimum building setbacks of the zone district shall be complied with, unless the Planning Commission requires otherwise in its approval of the special land use.
  - 3. Signs shall comply with Chapter 15.
  - 4. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.

5. Exterior light fixtures shall comply with Section 4.25.
6. Landscaping and buffering shall be provided in accordance with Section 4.37.

#### **16.41 Kennels.**

- A. **Definition.** A commercial or noncommercial establishment in which domesticated animals are housed, groomed, bred, boarded, trained, or sold.
- B. **Density.** No more than five adult, six months of age or older, household dogs shall be kept or housed on any lot or premises unless a special land use is approved for such use.
- C. **Regulations and Conditions.** Kennels shall be subject to the following requirements:
  1. Animal wastes, bio-hazard materials or byproducts shall be disposed of as required by Michigan law. Kennel operations shall be subject to inspection by the County Health Department. All other wastes shall be contained in leak-proof and odor-proof containers that are removed not less frequently than once per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.
  2. A county kennel license, if required, shall be in force at all times.
  3. The use shall be located on not less than one-half acre of land. All operations and the housing of animals shall be in one or more completely enclosed buildings.
  4. Only small animals (household pets) shall be boarded on the premises.
  5. There shall be sufficient soundproofing to prevent any noise disturbance beyond the property boundaries.
  6. All outdoor exercise areas for animals shall be adequately fenced to prevent both escape and entry by other animals into the facility.
  7. All signs shall be in accordance with Chapter 15 of this zoning ordinance.
  8. All parking shall be in accordance with Chapter 14 of this zoning ordinance.
  9. Landscaping shall be maintained in all required yards including exercising yards, in accordance with plans approved by the Township Planning Commission.
  10. Outdoor lighting shall be in accordance with Section 4.25.

11. Kennel areas shall be a minimum of one hundred (100) feet from any property line and 50 feet from any wetland or surface water body.

**16.42 Reserved.**

**16.43 Library; Public Park; Governmental Building; Recreation Facilities.**

- A. **Definition.** A building and site serving as a public library or for the purpose of a state, county or municipal office, public meeting hall, fire station or other governmental use, as the case may be; a public park is an area of land designed and dedicated for use by the general public as a place of recreation and leisure, including playground, picnic areas, athletic fields, nature preserves and other public lands intended for outdoor recreation, including buildings, pavilions and similar facilities for recreational purposes.
- B. **Regulations and Conditions.** Libraries, public parks, governmental buildings and recreation facilities shall comply with the following requirements:
  1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
  2. Those portions of the use involving public assembly, or having other characteristics which may cause noise or other adverse impact shall be located a sufficient distance away from other lands, or shall be adequately buffered, to avoid the transmission of noise or other adverse impacts onto other lands.
  3. There shall be adequate and convenient water supply and sanitary sewage disposal.
  4. Off-street parking areas shall be designed and constructed to facilitate the convenient circulation and parking of motor vehicles, without interference with pedestrians or other persons engaged in recreational activities on the site.
  5. Signs shall comply with Chapter 15.
  6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  7. Exterior light fixtures shall comply with Section 4.25.
  8. Landscaping and buffering shall be provided in accordance with Section 4.37.

#### 16.44 Light Manufacturing.

- A. **Definition.** Manufacturing that involves the processes of grinding, pressing, extruding, bending, heating or otherwise processing or finishing raw materials, for the production of products or for the making of components for use in assembly or other purposes.
- B. **Regulations and Conditions.** Light manufacturing shall comply with all of the following requirements:
1. The minimum lot area shall be two acres and the minimum lot width shall be 200 feet.
  2. Buildings use for light manufacturing shall be a sufficient distance away from adjacent and nearby lands and the nearby streets so as to avoid adverse impacts by reason of noise, vibration, fumes and other adverse effects.
  3. Adequate off-street parking, delivery and loading areas shall be provided. Driveways shall be of sufficient width for large-size trucks and other motor vehicles. There shall be a sufficient distance between driveways and intersecting streets so as to avoid adverse traffic conditions. Other off-street parking requirements shall comply with Chapter 14.
  4. Outdoor storage areas shall be screened so as to obscure the view of the materials being stored. Landscaping, screening and buffering shall be provided in accordance with Section 4.37.
  5. All signs shall be in accordance with Chapter 15.
  6. All outdoor lighting shall comply with Section 4.25

#### 16.45 Mini-Warehousing; Self-Storage Units.

- A. **Definition.** A commercial venture that rents individual cubes of space for storage purposes. Individuals typically have joint access to the lot but possess individual access and keys to their respective units.
- B. **Regulations and Conditions.** Mini-warehouses shall be subject to the following requirements:
1. The area of the proposed site shall be at least one acre.
  2. All storage shall be inside an enclosed building unless outdoor storage is permitted by the Planning Commission.
  3. The cumulative area(s) of the storage building(s) shall not exceed 8,000 square feet or such greater area as may be permitted in the approval of the special land use.

4. All exterior light fixtures shall be in compliance with Section 4.25 of this Ordinance.
5. All signs shall be in compliance with the provisions of Chapter 15 of this Ordinance.
6. All off-street parking shall be in compliance with Chapter 14 of this Ordinance.
7. Outdoor storage areas shall be screened so as to obscure the view of the materials being stored. Landscaping and buffering shall be provided in accordance with Section 4.37 of this zoning ordinance.

**[Section 16.45 amended by Ord. No. 2021-13, Eff. 11/22/2021]**

**16.46 Mobile Home Sales; Motor Home, Travel and Camper Sales; Motor Vehicle Sales.**

**A. Definitions.**

1. Mobile homes sales is a business in which manufactured homes or modular homes are offered for sale; examples of such homes may be located on the site for purposes of demonstration and sales.
2. Motor home, travel and camper sales consist of a business or businesses offering for sale various types of motorized conveyances which, when parked appropriately, may be used as temporary facilities in which to live, travel and engage in recreational activities. The site of such businesses may include motor homes, travel trailers, and camper-trailers for sales or demonstration purposes.
3. Motor vehicle sales consist of a business offering automobiles, trucks and similar motor vehicles for sale; such businesses may also include the maintenance and repair of motor vehicles.

**B. Regulations and Conditions.** Motor home, travel and camper sales and motor vehicles sales shall comply with all of the following requirements:

1. The minimum lot area shall be one-half acre and the minimum lot width shall be 100 feet.
2. A storage or sales area which adjoins a residential property shall be enclosed with a six-foot fence, which fence shall be capable of containing debris, trash and other blowing objects.
3. The lot area used for display and sales purposes shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.

4. Lighting shall be in accordance with Section 4.25.
5. All signs shall be in compliance with the provisions of Chapter 15.
6. All off-street parking shall be in compliance with Chapter 14.
7. Landscaping and buffering shall be provided in accordance with Section 4.37.
8. All required licenses for the use shall be maintained in force at all times.

**16.47 Modular-Home and Prefabricated Home Manufacturing.**

- A. **Definition.** The manufacture of dwelling units from previously assembled or previously manufactured components, including but not limited to, walls, floors, roofs or portions thereof.
- B. **Regulations and Conditions.**
  1. The minimum lot area shall be five acres and the minimum lot width shall be 400 feet, except as may otherwise be permitted or required by the Planning Commission in its approval of the special land use.
  2. All principal and accessory buildings and structures shall be a sufficient distance away from property lines so as to avoid adverse impacts on other lands and the public streets.
  3. Any outside storage shall be screened by a solid fence or substantial landscaping so as to obscure the view from other lands and the public streets.
  4. Off-street parking and loading areas shall be paved or shall have such other hard surface as will avoid excessive accumulation of dust. Off-street parking areas shall otherwise comply with Chapter 14.
  5. The minimum front-yard setback for buildings, structures and other elements of the special land use shall be 50 feet, or such greater distance as the Planning Commission may require in its approval of the special land use.
  6. Signs shall comply with Chapter 15.
  7. Exterior light fixtures shall comply with Section 4.25.
  8. Landscaping and buffering shall be provided in accordance with Section 4.37.

**16.48 Multi-Family Dwellings (more than four units).**

- A. **Definition.** A building containing more than four dwelling units, each of which is designed and used by one family and provides independent living, cooking, and kitchen accommodations.
- B. The density of development as measured in the number of dwelling units per acre of land shall not exceed 16 units.
- C. The minimum lot width shall be 300 feet.
- D. The minimum lot size shall be two acres.
- E. Maximum building height shall be four stories or 45 feet.
- F. Maximum lot coverage 30 percent.
- G. Building setbacks.
  - 1. Front Yard. 40 feet.
  - 2. Side Yard. 25 feet.
  - 3. Rear Yard. 50 feet.
- H. Minimum Required Floor Area.
  - 1. Efficiency 400 sf
  - 2. One bedroom unit 500 sf
  - 3. Two bedroom unit 700 sf
  - 4. Three bedroom unit 900 sf
  - 5. For each bedroom unit in excess of three, an additional 100 square feet is required.

The minimum required floor area shall be exclusive of basements, garages, porches and breezeways.
- I. Minimum separation between buildings shall be 30 feet.

*[New Section 16.48 added by Ord. No. 2021-02, Eff. 4/13/2021, previous Sections 16.48 through 16.64 renumbered.]*

#### **16.49 Restaurant with Drive-Through Facilities.**

- A. **Definition.** A restaurant which has an associated vehicle driving aisle, signage, food-ordering mechanism and service window whereby customers may order meals, pay for them and receive the meals ordered while remaining in their motor vehicles.
- B. **Regulations and Conditions.** Restaurants with drive-through facilities shall comply with all of the following requirements:
1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, so as to avoid adverse traffic conditions.
  2. Sufficient stacking capacity for the drive-through portion of the use shall be provided, so as to assure that motor vehicles do not back up into or otherwise occupy the public right-of-way. At least ten stacking spaces for the service-ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicle circulation and egress from the property, nor interfere with the use of parking spaces by vehicles not utilizing the drive-through portion of the use.
  3. In addition to adequate off-street parking space being provided, at least three parking spaces shall be provided in close proximity to the entrance of the drive-through portion of the use, so as to provide space for vehicles of customers waiting for delivery of orders.
  4. Any trash receptacle shall be fully screened and enclosed so as to prevent trash, paper and other debris from blowing onto adjacent properties, and to prevent the site from becoming unsightly.
  5. Signs shall comply with Chapter 15.
  6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
  7. Exterior light fixtures shall comply with Section 4.25.
  8. Landscaping and buffering shall be provided in accordance with Section 4.37.

#### **16.50 Retail Store Selling Beer, Wine and Spirits.**

- A. **Definition.** A business establishment in which beer, wine and spirits are offered for sale, for consumption off the premises, in accordance with the applicable state license.

**B. Regulations and Conditions.**

1. The required license of the establishment issued by the Michigan Liquor Control Commission shall be obtained and shall be maintained in force at all times.
2. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
3. Any outdoor trash receptacle shall be fully screened and enclosed so as to prevent trash, paper and other debris from blowing onto adjacent properties.
4. If the use is adjacent to any residential use or residentially zoned lands, a landscape buffer or solid fence shall be provided, at locations approved by the Planning Commission, to obscure the view of the use from such other lands. Other landscaping and buffering, if required by Section 4.37, shall be provided.
5. Signs shall comply with Chapter 15.
6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
7. Exterior light fixtures shall comply with Section 4.25.

**16.51 Roadside Stands.**

- A. **Definition.** A temporary or seasonal booth or stand for the display and sale of agricultural and related products typically grown or produced on site; such structure shall not have space for customers within the stand or booth itself.
- B. **Regulations and Conditions.** Roadside stands which exceed a floor area of 32 square feet and are operated for more than six weeks in any 12 month period shall be subject to the following requirements:
1. The total floor area of the roadside stand shall not exceed 200 square feet.
  2. Only fruits, cut flowers and vegetables that have been grown on the premises shall be sold in a roadside stand.
  3. No part of the roadside stand, sales area or parking area shall be located within a road right-of-way.
  4. All structures associated with the roadside stand shall be portable and shall be removed when not in use.
  5. Only one roadside stand shall be permitted on any one parcel.

6. The Planning Commission shall give due consideration to the nature of the proposed use and its potential impact on the surrounding land uses and may establish appropriate site conditions to assure that the use will generate no detrimental impacts on surrounding property.
7. A roadside stand shall be permitted not more than two signs with a combined surface area of 32 square feet. Such signs shall not be lighted.

#### **16.52 Sexually Oriented Businesses.**

- A. It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral ordinance which addresses the adverse secondary effects of sexually oriented businesses.

There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this section.

A primary goal of regulation of these uses is to prevent a concentration of the uses in any one area of the Township; to minimize and/or prevent the well documented adverse secondary effects of such uses; to insure the integrity of the Township's residential and agricultural areas; and to protect the integrity of churches, synagogues or other places of religious worship, schools, licensed day-care facilities, parks and playgrounds, and other areas where persons congregate. Nothing in this section shall be construed as permitting or allowing a violation of any state or federal law.

A sexually oriented business shall be permitted only if approved as a special land use under the terms of this chapter. It shall also be subject to review and approval under Chapter 17, Site Plan Review, and the provisions of this section.

- B. **Definition.** A sexually oriented business includes, but is not limited to, an adult bookstore or adult video store; an adult nightclub or cabaret, bar or restaurant; an adult motel; an adult motion picture theater; and other establishments catering to adult patrons and which may involve the actual or depiction of specified anatomical areas and/or specified sexual activities, as those terms are commonly understood, or by means of video, motion pictures, photographic reproductions or other visual media, or in which a person or persons may appear in a state of nudity or in live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas.

C. **Regulations and Conditions.** Sexually oriented businesses are subject to all of the following requirements:

1. A sexually oriented business shall be located only in the C-2 Regional Commercial District.; nor shall it be located or operated within 800 feet of another sexually oriented business, a church or other place of worship, a park, playground, school or licensed day-care facility, a dwelling or dwelling unit, or an agricultural or residential zoning district. For purposes of determining the above-stated distance, measurement shall be made by extending a straight line from the property line of the sexually oriented business to the nearest property line occupied by any other of the above-stated land uses or zone districts.
2. Entrances to the sexually oriented business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two inches in height that:
  - a. “Persons under the age of 18 are not permitted to enter the premises.”
  - b. “No alcoholic beverages of any type are permitted within the premises.”
3. Alcoholic beverages of any type shall not be sold, consumed, or permitted on the premise of any sexually oriented business.
4. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.
5. Hours of operation shall be limited to 10:00 A.M. to 10:00 P.M., Mondays through Saturdays.
6. All signs shall be in accordance with Chapter 15; provided, however, that no sign visible from the nearest adjoining road right-of-way or a neighboring property shall display or depict any specified anatomical areas or specified sexual activities.
7. All parking shall be in accordance with Chapter 14; provided, however that all off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.

8. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized as showing specified anatomical areas or specified sexual activities shall:
  - a. Be handicap accessible to the extent required by the Americans with Disabilities Act.
  - b. Be unobstructed by any door, lock or other entrance and exit control device.
  - c. Have at least one side totally open to a public; lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  - d. Be illuminated by a light bulb of wattage not less than 25 watts.
  - e. Have no holes or openings, other than doorways, in any side or rear walls.

**D. Application for Special Land Use; Submission of Information.**

1. In addition to the information and documents required to be submitted with an application for a special land use in accordance with the requirements of this chapter, an applicant for a special land use to establish a sexually oriented business shall submit the following:
  - a. A floor plan of the premises showing the following:
    - i. Location and dimensions of any manager's station, demonstrating that there is an unobstructed view from a least one of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
    - ii. Location of all overhead lighting fixtures.
    - iii. Identification of any portion of the premises in which patrons will not be permitted.
    - iv. The location of any stage.
    - v. Identification of the use of each room or other area of the premises.
  - b. A straight-line drawing depicting the property lines of the site of the sexually oriented business and the property lines of any other sexually oriented business, church or other house of worship, park,

playground, school, licensed daycare facility, dwelling or dwelling unit or agricultural or residential zoning district, within 800 feet of the nearest property line of the site on which the business will be located.

E. **Conditions Requiring Rejection of Special Land Use Application.** The Planning Commission shall not approve a special land use application for a sexually oriented business if it finds that one or more of the following to be true:

1. An applicant is under 18 years of age.
2. An applicant has failed to provide information required by the zoning ordinance or has knowingly answered a question or request for information falsely.
3. The premises to be used for the sexually oriented business has not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
4. The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one year prior to the date of application.
5. The applicant is not in good standing or authorized to do business in Michigan.
6. The application fee has not been paid.
7. An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this chapter.

F. **Inspection.** The applicant or owner shall permit all representatives of the Township, the County and the State of Michigan to inspect the premises for the purpose of insuring compliance with this Ordinance, any County ordinance and applicable State law.

G. **Interior Structural Requirements.**

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment.
2. A manager's station shall not exceed 32 square feet of floor area.
3. No private viewing rooms or booths shall be constructed unless one side is always open to a central public area. No door shall be placed on any

viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent viewing rooms or peep booths.

**H. Registration of Managers, Entertainers and Employees.**

1. No person shall work as a manager, entertainer or employee at a sexually oriented business without being registered under this section.
2. All managers, entertainers and employees shall provide to the Township their legal name and any aliases, social security number, home address, telephone number, date of birth and satisfactory proof that they are 18 years of age or older, and any other necessary identifying information for the Township to conduct a criminal background check on the manager, entertainer or employee.
3. The owner or manager of a sexually oriented business shall provide the Township with the names, any aliases, dates of birth, and social security numbers of all managers, entertainers and employees within five days of employment. This information will be used to verify the information submitted by the manager, entertainer or employee, who must also register with the Township within five days of employment.

**16.53 Special Events Venue.**

**A. Regulations and Conditions.** Special Events Venues shall be subject to the following requirements:

1. The minimum parcel size for special events shall be five (5) acres.
2. All events shall be on an invitation basis, and events shall not be advertised or open to the general public.
3. The applicant shall provide proof of Muskegon County Health Department approval of food and beverage service, and adequate water and sanitation facilities.
4. The applicant shall provide proof of approval of any entrance by the Muskegon County Road Commission or Michigan Department of Transportation, as applicable.
5. The applicant shall provide proof of dumpster/garbage containers.
6. If liquor is to be served, proof of license from Liquor Commission.
7. The applicant shall provide proof of liability insurance with limits not less than \$1,000,000/\$3,000,000 and property damage insurance naming the

Township and Muskegon County Sheriff and Road Commission as additional insureds.

8. In no case shall any event authorized under the terms of this ordinance cause or result in any serious, adverse effect on adjacent or nearby lands by reason of excessive sound.
9. The Special Event Venue shall be located on a property which contains the principal residence of the operator, or which is being put to active agricultural use.
10. To carry out the intention to allow for the use of existing agricultural and other buildings as Special Event Venues, not to promote construction of new buildings for commercial purposes, the event shall be conducted in a building which is in existence five (5) years, not a building which is constructed to serve as a Special Event Venue.
11. All signs shall comply with the provisions of Chapter 15.
12. Parking area for special event patrons shall be on a flat surface and durable enough to withstand the event traffic.
13. Any structures utilized for the event shall be in compliance with the Michigan Building Code per the Building Inspector's review.
14. The operator shall provide the Township with the name, cell phone number and other contact information of the person who will be responsible and in charge of the property during all events to address any problems or issues which may arise.
15. Prior to the approval of application, the Planning Commission may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property of attendants or citizens of the Township. Conditions may include, but not be limited to, limitations on number of events, days of events, hours of events, lighting, and number of attendees.

*[New Section 16.52 (now 16.53) added by Ord. No. 2019-04, Eff. 7/24/2019; Sections 16.53 through 16.62 re-numbered.]*

#### **16.54 Technical Schools and Colleges.**

##### **A. Definition.**

1. Technical schools and colleges consist of trade, vocational and industrial schools, established for the purpose of training or apprenticeship in a trade, craft or similar vocation. Such schools may include the use of industrial machinery or equipment for the purpose of instruction of students.

2. Colleges include academic institutions which offer post-secondary education and grant academic degrees for students who fulfill instructional and other requirements.

**B. Regulations and Conditions.** Technical schools and colleges shall comply with all of the following requirements:

1. Primary access to the use shall be directly from a paved, all-season street.
2. All required state or other licenses, charters or permits shall be maintained in force at all times.
3. All parking areas shall be provided with a smooth, dust-free surface.
4. All exterior lighting shall be equipped with cut-off fixtures. Exterior light poles shall be no higher than 20 feet. Outdoor lighting shall otherwise comply with Section 4.25.
5. Signs shall comply with Chapter 15.
6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
7. Exterior light fixtures shall comply with Section 4.25.
8. Landscaping and buffering shall be provided in accordance with Section 4.37.

**16.55 Theater, Auditorium, Banquet Hall and Similar Places of Assembly.**

**A. Definition.** A building, arena, assembly hall, outdoor amphitheater and similar facilities in which persons assemble for particular purposes, whether for observing music and theatrical performances, lectures, sporting events and the like or for participating in events, observances, banquets and other gatherings, including both public and private facilities and locations.

**B. Regulations and Conditions.**

1. Adequate, safe and convenient access driveways shall be provided. The number and location of access driveways shall be appropriate to the maximum number of patrons which can be accommodated in the building or buildings. All driveways shall be located a sufficient distance away from any street intersection and from any other driveway so as to avoid adverse traffic impacts.

2. The site shall be adequately lit for the convenience of patrons attending performances or other events during evening or nighttime hours. Other outdoor lighting requirements in accordance with Section 4.25 shall be complied with.
3. A traffic impact study may be required. The study shall include proposed traffic circulation routes on the site, projected traffic impacts from the operation of the use and shall analyze other potential traffic impacts.
4. The length and configuration of access driveways on the site shall be so designed as to enable entering traffic to conveniently enter the site and to disperse, so as to avoid the accumulation of parked vehicles on the public street waiting to enter the site.
5. The special land use shall be subject to the approval of the Township Fire Chief under the terms of the fire protection provisions of the applicable building codes.
6. All outdoor waste receptacles shall be screened from view from the public street or from other lands.
7. Signs shall comply with Chapter 15.
8. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.

**16.56 Transportation Terminal. *[Amended by Ord. No. 2022-01, Eff. 3/27/2022]***

A. **Definition.** A transportation terminal is a building or area in which freight brought by truck is assembled or stored for routing or reshipment, or in which semi-trailers, including tractor or trailer units and other trucks, are parked, stored or maintained.

1. Trucks and other equipment involved in the off-site transportation of waste or other similar material shall be included in this section so long as such material is not stored or processed at the proposed site.

B. **Regulations and Conditions.**

1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
2. Access driveways shall be of sufficient width so as to accommodate the trucks and other transportation vehicles that utilize the site.
3. Any trucks and trailers to be parked overnight on the site shall be set back from the front lot line at least 100 feet, or such other distance as may be required by the Planning Commission in its approval of the special land use.

4. A principal building and other structures shall be located at least 200 feet away from any residential use or residential district, or such other distance as may be required by the Planning Commission.
5. The off-street parking area shall be graded and drained so as to dispose of all surface water in a safe and effective manner without causing ponding or adverse impacts on other lands or the public streets.
6. Outdoor storage may be permitted by the Planning Commission, but shall be screened so as to obscure the view of the materials being stored from outside the property.
7. Signs shall comply with Chapter 15.
8. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
9. Exterior light fixtures shall comply with Section 4.25.
10. Landscaping and buffering shall be provided in accordance with Section 4.37.

#### **16.57 Vehicle Impound Lots.**

- A. **Definition.** A fenced area of land designed and used as a place for the storage of motor vehicles that have been impounded or otherwise taken control of by law enforcement agencies, for storage or other safekeeping.
- B. **Regulations and Conditions.**
  1. Adequate, safe and convenient driveways for the ingress and egress of impounded motor vehicles shall be provided.
  2. All impounded motor vehicles on the site shall be located only within a completely enclosed fence of at least six feet in height, with a gate that is locked except when access to the impound lot is necessary.
  3. Access to the vehicle impound lot shall be made only by authorized law enforcement personnel of the jurisdictions authorized to store impounded vehicles at the site.
  4. Exterior light fixtures shall comply with Section 4.25.
  5. Signage for the vehicle impound lot shall be as determined by the Planning Commission in its approval of the special land use.

### 16.58 Vehicle Repair Shops.

- A. **Definition.** A garage, building or area used for the repair, repainting or refurbishing of motor vehicles, boats, trailers, farm equipment or similar mobile equipment, but not including minor part replacement and motor tuning services customary for a service station.
- B. **Regulations and Conditions.** A vehicle repair shop may be permitted in a C 2 General Commercial District by the Planning Commission as a special use provided the following documents are submitted and the following conditions are met:
1. All vehicles, parts, material and equipment shall be stored within enclosed buildings or within an area completely enclosed by an opaque fence eight feet in height.
  2. The area enclosed by the screening fence may not be larger in area than the first floor area of the building(s) on the same premises and may not take up any of the area of the premises required for minimum yards.
  3. All storage tanks or other facilities used to store hazardous, toxic, explosive or flammable substances shall be equipped with appropriate containment structures or equipment to prevent any migration of such substances into the groundwater or surface waters of the Township.
  4. All signs shall be in compliance with the provisions of Chapter 15 of this Ordinance.
  5. All off-street parking shall be in compliance with Chapter 14 of this Ordinance.
  6. Landscaping and buffering shall be provided in accordance with Section 4.37 of this zoning ordinance.
  7. Any vehicle repair shop that also provides a vehicle sales area shall also comply with the requirements of Section 16.58.
  8. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for a vehicle repair shop.

### 16.59 Vehicle Sales Area.

- A. **Definition.** An area or building used for the display, sale or rental of new or used motor vehicles, boats, trailers, farm equipment, or other similar mobile equipment in operable condition where no repair work is done.
- B. **Regulations and Conditions.** Vehicle sales areas shall be subject to the following requirements:

1. The minimum lot area shall be one-half acre and the minimum lot width shall be 100 feet.
2. A storage or sales area which adjoins a residential property shall be enclosed with a six-foot fence, which fence shall be capable to containing debris, trash and other blowing objects.
3. The lot area used for display and sales purposes shall have a permanent, durable and dustless surface and shall be graded and drained to dispose of all surface water.
4. Lighting shall be in accordance with Section 4.25.
5. All signs shall be in compliance with the provisions of Chapter 15 of this Ordinance.
6. All off-street parking shall be in compliance with Chapter 14 of this Ordinance.
7. Landscaping and buffering shall be provided in accordance with Section 4.37 of this zoning ordinance.
8. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for a vehicle sales area.

#### **16.60 Wholesale Warehousing.**

- A. **Definition.** A building and the use thereof primarily for the storage of goods, materials, and commodities, and including associated driveways, vehicle circulation areas and off-street parking areas. A wholesale warehouse includes the storage of goods, materials, and commodities on a wholesale basis, prior to their distribution for retail sale.
- B. **Regulations and Conditions.** Wholesale warehouses and wholesale warehousing shall comply with the following requirements:
  1. Access driveways shall be located a sufficient distance away from an intersecting street, and from other driveways, to avoid adverse traffic conditions.
  2. Driveways on the site shall be of sufficient length so that there shall be adequate stacking capacity for motor vehicles making deliveries to the site or removing stored goods or materials from the site.
  3. No toxic, hazardous, flammable or explosive materials shall be stored or otherwise permitted on the site.

4. Outside storage shall not be permitted on the site of a wholesale warehouse.
5. Signs shall comply with Chapter 15.
6. All off-street parking and vehicle circulation aisles shall comply with Chapter 14.
7. Exterior light fixtures shall comply with Section 4.25.
8. Landscaping and buffering shall be provided in accordance with Section 4.37.

**16.61 Wireless Communication Facilities.** Wireless communication facilities, including wireless communication antennas and wireless communication facility support structures shall be regulated in accordance with the special land use requirements stated in Section 4.44.

**16.62 Yards for Outdoor Storage.**

- A. **Definition.** The keeping, of any goods, junk, material, merchandise, or vehicles in an open and unsheltered area for more than 24 hours.
- B. **Regulations and Conditions.** Yards used for outdoor storage shall be subject to the following requirements:
  1. The site shall be fenced on both sides and rear with chain link or similarly durable fencing not less than six feet nor more than 16 feet in height.
  2. Landscaping and buffering shall be provided in accordance with Section 4.37.
  3. No building materials, scrap, or equipment shall be stored outdoors in any configuration higher than the surrounding fencing or screening.
  4. All signs shall be in compliance with the provisions of Chapter 15.
  5. All off-street parking shall be in compliance with Chapter 14.
  6. Storage shall not be permitted within 100 feet of a wetland or surface water body.

**16.63 Motor Sports Park.**

- A. **Definition.** An area of land in the AG/RC District designed, developed and used for the purpose of establishing, maintaining and operating a race track, speedway or other defined course or track for the racing of motor vehicles, including automobiles, motor-driven go-carts, motorcycles, motor-bikes, motor scooters, all-terrain vehicles or other types of motor vehicles driven in a racing or timing contest.

B. **Procedures.** This special land use shall be permitted only after recommendation by the Planning Commission and upon final approval by the Township Board. In its discretion, the Township Board may convene a public hearing on the special land use; if a public hearing is held, the notice of the hearing shall be the same as that required for a special land use public hearing by the Planning Commission.

C. **Regulations and Conditions.**

1. The application for the special land use shall include or address the following matters, among others:
  - a. A site plan complying with the required contents of a site plan as stated in Chapter 17.
  - b. Motor vehicle access and off-street parking.
  - c. Sanitation facilities.
  - d. Water supply and waste disposal.
  - e. Noise control measures.
  - f. Outdoor lighting, if any.
  - g. Control and retention of storm water drainage.
  - h. Liability insurance.
  - i. Fencing, if any.
  - j. Security and supervisory measures.
  - k. Emergency measures, including availability of emergency personnel and vehicles.
  - l. Other information concerning the special land use, as may be required by the Planning Commission.
2. The motor sports park shall be located a sufficient distance away from lands zoned or used for residential purposes, so as to avoid serious adverse effects on such other lands by reason of noise, excessive motor vehicle traffic and other adverse effects which may result from the special land use.
3. Adequate off-street parking areas shall be provided on the site of the special land use. Such parking areas shall be sufficient to accommodate the vehicles of all participants, spectators and others. Parking on the adjacent or nearby public streets is prohibited.

4. Sufficient on-site toilet facilities shall be provided for participants, spectators and others on the site.
5. Sound amplification during racing events or at other times shall be controlled, so as not to result in serious adverse effects on adjacent or nearby residential land uses.
6. The number of racing events annually, or the portions of the calendar year during which racing events may take place, may be limited in the approval of the special land use.
7. The hours of operation of the motor sports park may be limited in the approval of the use.
8. If the racetrack, other racing areas and/or off-street parking areas will not be paved with asphalt or other hard surface, the applicant shall submit with the application a detailed plan for the control of dust resulting from the use of such areas, to ensure that dust and particulate matter will not result in serious adverse effects on other lands.
9. Overnight camping or other overnight accommodations on the site shall not be permitted unless specifically approved under the terms of the special land use.
10. One fireworks display per racing season, on a night on which a racing event is otherwise taking place, may be approved if specifically permitted by the terms and conditions of the special land use.
11. All storm water drainage and other surface water runoff shall be contained entirely within the site. A detailed storm water management plan shall be submitted, and shall be subject to the approval of the Township engineer.
12. Racing events shall take place only during daylight hours, unless otherwise specifically permitted in the terms of the special land use. If night time racing is permitted, sufficient outdoor lighting shall be provided. Any such outdoor lighting shall consist of light fixtures which direct illumination only downward so that light shall be fully contained within the special land use property. A photometric plan may be required, to demonstrate the level of illumination on the site and at the boundaries thereof.
13. In its consideration of the special land use, the Planning Commission may impose other terms, conditions and limitations so as to prevent or avoid adverse effects or conditions resulting from the design, construction and operation of the motor sports park.

***[Chapter 16 Eff. 5/31/2015; Sec. 16.61.C.10 (now 16.63.C.10) Eff. 5/21/2017]***

**16.64 Solar Energy Systems.** Solar energy systems shall be regulated in accordance with the special land use requirements stated in Section 4.55.

*[Section 16.62 (now 16.64) Eff. 6/24/2018]*

## CHAPTER 17 SITE PLAN REVIEW

### 17.1 Description, Scope and Purpose.

- A. The purpose of this chapter is to provide standards and procedures under which applicants would submit, and the Township would review, site development plans for specified types of land uses within the Township. Such review of proposed site plans by the Township, and the approval thereof under appropriate terms and conditions, will help to assure compliance with the terms of the zoning ordinance and implementation of the goals and policies of the Township Master Plan.
- B. Among other matters, this chapter provides standards under which the Township may consider the approval of site plans, including standards with respect to effect on existing land uses; vehicle traffic patterns; impact on natural features and natural resources; storm water drainage; access from public and private streets; placement of buildings and off-street parking areas; adequate water supply and wastewater disposal; the providing of open space; and a variety of other aspects of land development, including signs, exterior lighting, alteration of grades, fire protection and the like.
- C. The types of site plan review for various land uses and circumstances are the following:
  - 1. **Exemptions from Site Plan Review.** Land uses that are exempt from site plan review are stated in Section 17.2.
  - 2. **Full Site Plan Review.** The land uses for which full site plan review is required are stated in Section 17.3.
  - 3. **Administrative Site Plan Review.** The land uses that are eligible for administrative site plan review are stated in Section 17.4.

### 17.2 Land Uses Exempt From Site Plan Review. The following land uses, if lawful, are exempt from site plan review:

- A. Single-family and two-family detached dwellings.
- B. Farms; farm buildings and farm structures.
- C. Roadside market stands in the AG-RC District.
- D. Home occupations.
- E. Permitted residential accessory buildings.

**17.3 Land Uses Subject to Full Site Plan Review.** Except as otherwise provided in Sections 17.4 and 17.2, full site plan review by the Planning Commission shall be required for the following land uses and in the following circumstances:

- A. Land uses in the AG-RC, R-1, R-2 and RM Districts except single-family and two-family detached dwellings, residential accessory buildings and permitted farm buildings and farm structures.
- B. Land uses in the C-1, C-2 and D-1 Districts.
- C. Special land uses.
- D. Site condominiums and condominium subdivisions.
- E. Planned unit developments.
- F. Open space preservation developments under Section 4.45.
- G. Any change in an existing land use if site plan approval was not previously given for the existing land use, in whole or in part, unless the change is an exempt change under Section 17.2, or unless the change is subject to administrative site plan review under Section 17.4.
- H. Any change in an existing land use that does not qualify as a minor change under Section 17.12.C in or with respect to any of the following:
  - 1. The principal building(s) or other principal structure(s).
  - 2. The means or location of vehicle access to the land.
  - 3. A decrease in the area of the land.
  - 4. The addition of a building or structure.
  - 5. The addition of one or more land uses, including the addition of an additional business or commercial use.
  - 6. A change in the principal building or principal structure, including a change in area, height, façade or other significant aspect thereof.
  - 7. An increase or reduction in the size or configuration of off-street parking area.
  - 8. A major change in an approved site plan that has been referred to the Commission by the Zoning Administrator under Section 17.12.E.

***[Section 17.3.H amended by Ord. No. 2022-01, Eff. 3/27/2022]***

- I. A major change in an approved site plan that has been referred to the Commission by the Zoning Administrator under Section 17.12.E.

**17.4 Land Uses Subject to Administrative Site Plan Review.** The following land uses, in the following circumstances, are subject to administrative site plan review by the Zoning Administrator:

- A. A change in an existing land use that qualifies as a minor change under Section 17.12.C, if site plan approval was previously given for the existing land use, except minor changes referred by the Zoning Administrator to the Planning Commission under Section 17.12.D.
- B. A change from an existing, lawful nonconforming land use to a permitted land use if the change involves only minimal site plan changes or would result in only minimal impacts on adjacent or nearby lands or uses.
- C. A change from an existing permitted land use to a different permitted land use, if the proposed land use complies with all the following:
  - 1. The proposed land use would be conducted entirely within an existing enclosed building.
  - 2. The proposed land use would not increase the area of an existing off-street parking area by more than 20 percent.
  - 3. The proposed land use would not substantially alter the character or appearance of an existing building or the site.
  - 4. The proposed land use would not result in serious adverse impacts on adjacent or nearby lands or uses.
- D. Expansion of an existing building that is included in an existing permitted use, if the proposed expansion complies with all the following:
  - 1. The proposed expansion would not increase the total gross floor area of the building by more than 20 percent, but in any event, not more than 2,000 square feet.
  - 2. No variances are required for the proposed building expansion.

**17.5 Applications For Site Plan Review, Whether Full or Administrative Site Plan Review.**

- A. An application for site plan review shall be submitted to the Zoning Administrator, together with a site plan complying with the requirements of this section and other applicable provisions of this Ordinance.
- B. Subject to subsection C, the application for site plan review and the site plan shall include at a minimum the following information:

1. The name and business address of the person responsible for preparation of the site plan.
2. The name and address of the property owner and applicant.
3. A locational sketch.
4. Legal description of the subject property.
5. The size (in acres) of the subject property.
6. Property lines and required setbacks, including proposed building envelopes.
7. Refuse and service areas, including locations of dumpsters or other types of trash receptacles.
8. Loading and unloading facilities.
9. Exterior lighting and signs.
10. The location of all existing structures, driveways, and parking areas within 300 feet of the subject property's boundaries.
11. The location and dimensions of all existing and proposed buildings and structures on the subject property.
12. The location of all existing and proposed streets and drives, including proposed lengths; acceleration/deceleration lanes and sidewalks; the location and area of existing and proposed off-street parking and loading areas.
13. The location and right-of-way width of all abutting roads, streets, alleys or easements.
14. The current uses of all properties abutting the subject property, showing the boundary lines of the abutting properties, and also showing the current zoning thereof.
15. The location and a general description of all existing vegetation, and the location, type, and size of all proposed landscaping.
16. The location and nature of existing and proposed water supply and sewage disposal facilities, including any proposed connections to public or community sewer and/or water supply systems.
17. The location and size of all existing and proposed surface water drainage facilities.

18. Existing and proposed topographic contours.
  19. If site preparation or other site work for the proposed use will involve the excavation and removal from the site of 10,000 or more cubic yards of earth, soil or other mineral resource, the site plan shall include detailed information regarding the amount and location of such excavation and removal, the resulting contours of the land and a description of the proposed excavation and removal operations, proposed routes for the transporting of removed material and other information sufficient to evaluate the nature, scope, impact and results of such excavation and removal activity.
  20. Recreation areas, common use areas, and any areas to be established for public use.
  21. Existing and proposed lakes, streams and other bodies of water.
  22. Floodplain areas and basement and floor elevations of all buildings.
  23. Proposed deed restrictions or restrictive covenants.
  24. Typical elevation views of the front, side and rear of each building.
  25. A thorough narrative description of the development or improvements, including elements and features specific to the improvements or project, the uses and activities proposed for the property, the extent and type of impact of the land use on adjacent and nearby lands and streets and other material aspects of the improvements and site.
  26. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Heights and areas of buildings and structures shall be stated.
  27. The period of time within which the project will be completed.
  28. Proposed staging, if any, of the land use or project.
  29. Delineation of the 100-year floodplain and any proposed uses therein.
  30. Additional information which the Township may request and which is reasonably necessary to evaluate the site plan.
- C. The Planning Commission, or the Zoning Administrator in the case of administrative site plan review, in its discretion, may waive any element, component or other matters otherwise required to be included in a site plan or a site plan application, if such matters are not deemed necessary for review and consideration of the proposed land use. In its approval or other action with respect to the site plan, the Planning Commission or Zoning Administrator, as appropriate, shall state in writing the required parts of the site plan which it determines can be

waived, and shall include the same on the approved site plan or on an attachment thereto.

- D. An environmental impact study may be required.
- E. Proof of County Road Commission approval or Michigan Department of Transportation approval for street entrances may be required.
- F. The application for site plan review shall be accompanied by payment of the application fee established by the Township Board, together with any required zoning escrow deposit for reimbursement of Township expenses in the consideration of the site plan.
- G. If required by the Planning Commission, the Zoning Administrator, building official or other authorized Township representative, the applicant shall obtain and submit to the Township a professionally prepared, sealed drawing of the site plan, in compliance with the provisions of this section. Such drawing shall be sealed by a registered engineer, registered surveyor or similar licensed professional person.

**17.6 Standards for Review of Site Plans, Whether Full or Administrative Site Plans.** A site plan may be approved only if the site plan complies with the following standards:

- A. **Generally.** All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the land parcel, the character of adjoining property and the type and size of buildings.
- B. **Buildings and Structures.** Building and structures shall be located and arranged in compliance with zone district requirements and other applicable provisions of this Ordinance. Buildings and groups of buildings shall be located so as to comply with all minimum yard requirements and so as to permit adequate emergency vehicle access to all sides of buildings. Dwellings and other principal buildings shall have access to a public or private street by means of a permitted driveway, sidewalk or other permitted means of access.
- C. **Traffic Circulation.** The number, location and size of access and entry points, and internal traffic and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site.
  - 1. Site plans shall fully conform with the driveway and traffic safety standards of the Township and the County Road Commission. Private streets shall comply with Township private street requirements; public streets shall comply with County Road Commission or Michigan Department of Transportation requirements, as applicable.
  - 2. In its approval of a site plan, the Planning Commission or Zoning Administrator, as appropriate, may require the providing of sidewalks or other measures for pedestrian circulation.

- D. **Storm Water Drainage.** Storm water detention or retention and drainage systems shall be designed so that the removal of surface waters will not adversely affect the subject property, adjacent or nearby properties or public storm water drainage systems.
- E. **Landscaping.** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Grade changes shall be in keeping with the general appearance of neighboring developed areas. The site plan shall be prepared in compliance with the landscaping requirements of Section 4.37 of this Ordinance.
- F. **Screening.** Where commercial uses abut residential uses, appropriate screening consisting of attractively designed fencing or screening, or equivalent landscaping, shall be provided so as to shield residential properties from noise, headlights, and glare, and from the view of trash receptacles, dumpsters and similar outdoor, utilitarian uses common to commercial activities.
- G. **Lighting.** Outdoor lighting shall be designed to minimize glare on adjacent properties and public streets, and shall otherwise be designed, installed and operated in compliance with Section 4.25 of this Ordinance.
- H. **Exterior Uses.** Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located so as to have only a minimum negative effect on adjacent properties, and shall be screened to ensure compatibility with surrounding properties.
- I. **Utilities.** Water supply and sanitary sewage disposal facilities shall comply with Township, county and state requirements.
- J. **Signs.** Signs shall comply with Chapter 15 and other applicable sign regulations in this Ordinance.
- K. **Parking and Loading.** All loading and unloading areas and outside storage areas which face or are visible from residential districts or streets shall be screened by a sufficient fence or by means of landscaping. Off-street parking and loading facilities shall comply with Chapter 14 and other parking regulations in this Ordinance.
- L. **County Requirements.** Site plans shall comply with the requirements of the County Health Department and state and county requirements for soil erosion and sedimentation control.
- M. **Other Permits and Approvals.** In addition to compliance with all applicable Township ordinance requirements, site plans shall be prepared in compliance with applicable county and state law requirements. Site plan approval shall be conditioned upon the applicant receiving all applicable Township, county and state permits or other approvals, prior to issuance of building permits or within such

other deadline or time constraint determined by the Planning Commission, or by the Zoning Administrator in the case of administrative site plan review.

- 17.7 Conditions On Approval Of Site Plans.** The Planning Commission, or the Zoning Administrator in the case of administrative site plan review, may impose reasonable conditions on the approval of a site plan. Such conditions may include but need not be limited to conditions necessary to insure compatibility with adjacent land uses; to promote the use of land in a socially and economically desirable manner; to protect the natural environment and conserve natural resources; and to insure that public services and facilities affected by a proposed land use or activity will be capable of handling increased service and facility demands caused by the land use or activity. Such conditions shall be in writing and shall be included on the final site plan or an attachment thereto.
- 17.8 Construction In Accordance With Approved Site Plan.** Following the approval of a site plan, the applicant shall design, construct and install all site plan improvements and other features in full compliance with the plan as approved. Failure to do so shall be a violation of this Ordinance.
- 17.9 Performance Guarantees.** To assure compliance with the terms of this Ordinance and any conditions imposed upon the approval of a site plan, the Planning Commission, or Zoning Administrator in the case of administrative site plan review, may require that a cash deposit, irrevocable bank letter of credit or performance bond, with surety acceptable to the Township, be submitted to the Township, as a condition of approval of the site plan.
- A. The amount of the required performance guarantee may include but shall not be limited to such amount as is determined to assure the completion of streets, outdoor lighting, utilities, sidewalks, drainage systems, fencing and screening, landscaping and other elements of the proposed construction or project.
  - B. A bank letter of credit or performance bond shall be conditioned upon timely and faithful compliance with all conditions imposed upon approval of the site plan and in compliance with all applicable zoning ordinance and other requirements.
  - C. When a performance guarantee is required, the guarantee, whether in the form of a cash deposit or other permitted form of guarantee, shall be deposited with the Township Clerk prior to the issuance of a building permit or other permit necessary for the commencement of work on the land which is the subject of the site plan.
  - D. In the discretion of the Zoning Administrator, as phases or elements of the work or project depicted in the site plan are completed, portions of the cash deposit or the amount covered by a bank letter of credit or performance bond may be released.
  - E. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Township Clerk shall return to the applicant the cash deposit or the performance guarantee, as the case may be.

#### **17.10 Procedures for Full Site Plan Review.**

- A. One copy of a completed application form and 15 copies of a proposed site plan shall be submitted to the Zoning Administrator. The required application fee shall be paid at the time of submission of the application and the site plan, together with any required zoning escrow deposit for reimbursement of Township expenses in the consideration of the site plan.
- B. The application and the site plan shall be reviewed by the Zoning Administrator to determine whether the plan sufficiently complies with Section 17.5, and whether it is otherwise complete for consideration by the Planning Commission.

If the applicant has not included any required elements or aspects of the site plan, because the applicant desires to request that the Planning Commission waive those matters, the site plan may nevertheless be deemed sufficiently complete for purposes of Planning Commission consideration, if the submitted materials include a written narrative on the part of the applicant, stating the matters that the applicant desires to be waived and indicating the reasons for such waiver.

- C. After review of the site plan and the application by the Zoning Administrator, and upon the Administrator's determination that the submitted materials are complete, the site plan shall be forwarded to the Planning Commission for inclusion on the agenda of a Planning Commission meeting.
- D. The site plan shall be considered by the Planning Commission at a public meeting. The Commission may continue its consideration of the site plan during subsequent meetings.
- E. The Planning Commission shall approve the site plan, disapprove the plan or approve the plan with conditions. The Commission's decision on a site plan shall be made by majority vote of the members present, a quorum being present.
- F. The decision by the Planning Commission may be included in a motion or in a separate resolution. In either event, the terms and conditions under which the site plan is approved shall be stated in the minutes of the meeting or in a resolution adopted by the Commission. If the site plan is disapproved, the reasons for the disapproval shall be stated in the minutes of the meeting or in a separate resolution.
- G. Upon approval of a site plan, all terms and conditions, and required revisions or modifications of the plan, shall be deemed a part of the approved site plan. The site plan shall be promptly redrawn or otherwise revised, to reflect any terms, conditions and modifications required by the Planning Commission, and the revised plan shall then be promptly submitted to the Zoning Administrator, and the Administrator shall then determine whether the Planning Commission requirements have been included in the revised plan.
- H. All subsequent actions relating to the land use shall be consistent with the approved site plan, unless subsequent changes therein are approved by the Planning

Commission or otherwise as permitted in this chapter. Any construction, land use or other activity carried out contrary to or not in conformity with an approved site plan shall be a violation of this Ordinance.

- I. Upon approval of the site plan, whether as originally submitted or as it may be revised to reflect conditions or modifications by the Planning Commission, the Zoning Administrator shall mark and date such approval on the Township's original copy of the plan. One copy each of the final site plan shall be forwarded to the building inspector, the Township clerk and the Zoning Administrator. One copy shall be returned to the applicant.
- J. In the event of construction work or other activity that does not comply with an approved site plan, the Township may issue a stop work order, whereupon all work in violation of or inconsistent with the approved site plan shall cease, or all work specified in the stop work order shall cease, until the order is withdrawn or cancelled by the Township.

#### **17.11 Procedures for Administrative Site Plan Review.**

- A. One copy of a completed application form and 15 copies of a proposed site plan shall be submitted to the Zoning Administrator. The required application fee shall be paid at the time of submission of the application and the site plan, together with any required zoning escrow deposit for reimbursement of Township expenses in the consideration of the site plan.
- B. If the application and site plan sufficiently comply with Section 17.6, the Zoning Administrator shall either consider the application and site plan and make a determination in writing, or refer the application and site plan to the Planning Commission for a determination under Section 17.10.

The applicant may submit with the application a written request for a waiver of certain requirements of Section 17.6. The Zoning Administrator may waive any requirements that he or she considers not necessary to a determination as to the site plan. By way of example and not of limitation, the Zoning Administrator may accept a dimensioned hand-drawn sketch, not to scale, if the administrator determines that a scaled drawing is not necessary to a determination.

- C. Unless the Zoning Administrator has referred the application and site plan to the Planning Commission, the Zoning Administrator shall either approve the site plan, disapprove the plan, or approve the plan with conditions. Such decision shall be in writing.
- D. If the site plan is approved, the Zoning Administrator shall mark and date his or her approval on the Township's original copy of the site plan and forward a copy to the Planning Commission, for its information. One copy shall be returned to the applicant.

- E. Upon approval of the site plan, all terms, conditions and required modifications of the site plan shall be deemed part of the final site plan. The applicant shall promptly revise the site plan to reflect the terms, conditions and modifications, and the revised plan shall be promptly submitted to the Zoning Administrator, for verification of compliance, before any permits are issued and before any work at the site has commenced.
- F. All subsequent actions relating to the land use shall be consistent with the approved site plan, unless subsequent changes are approved by the Zoning Administrator or by the Planning Commission, if it has been referred to the Commission for decision.
- G. Any construction, land use or other activity carried out contrary to or not in conformity with an approved site plan shall be a violation of this Ordinance.
- H. If construction work or other activity does not comply with an approved site plan, the Township may issue a stop work order, whereupon all work not in compliance with the approved site plan shall cease, or such lesser work specified in the stop work order shall cease, until the order is withdrawn or cancelled by the Township.

**17.12 Changes in Approved Site Plans. *[Amended by Ord. No. 2022-01, Eff. 3/27/2022]***

- A. An approved site plan may not be changed, and development in accordance with a changed site plan may not take place, unless the changes in the site plan have been reviewed and approved in accordance with this chapter.
- B. The holder of an approved site plan shall submit an application for approval of any proposed change in the approved site plan. The application shall be accompanied by the site plan, showing the change or changes for which approval is being requested. Any required application fee shall be paid at the time the application and proposed revised site plan are submitted, together with any required zoning escrow deposit for reimbursement of Township expenses in the consideration of the proposed change or changes in the site plan. An application fee shall not be required for minor changes as describe in subsection C. below.
- C. Minor changes in an approved site plan may be approved by the Zoning Administrator, upon a determination that the proposed minor change will not alter the basic design of the development or any of the specific terms and conditions imposed as a part of the original approval of the site plan. Minor changes shall consist only of only the following:
  - 1. Change in building size up to ten percent in total floor area.
  - 2. Change in location of buildings or other structures by no more than ten feet.
  - 3. Replacement of plant material specified in the landscape plan, with comparable material.
  - 4. Changes in building materials to a comparable or higher quality.

5. Changes in floor plans which do not alter the character of the use.
  6. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  7. Changes required or requested by the Township, the county or other governmental body or agency for safety reasons.
  8. Changes which will preserve the natural features of the site without changing the basic site layout.
  9. Other similar changes of a minor nature which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site, and which the Zoning Administrator determines would not have a significant adverse effect upon the subject lands, or upon adjacent or nearby lands or the public interest.
- D. Any requested minor changes that are submitted to the Zoning Administrator for approval may be referred to the Planning Commission for decision, regardless of whether the requested change qualifies as a minor change. In the case of such referral to the Planning Commission, the Commission shall make the decision on the requested change.
- E. If the change requested in an approved site plan is not a minor change under the terms of subsection C, then such change shall be deemed a major change. In that event, the site plan, showing the major change, shall be submitted to the Planning Commission for its review and consideration, and the procedures with respect thereto shall be the same as those required for full site plan review.
- F. In the approval of any changes in an approved site plan, whether by the Zoning Administrator or the Planning Commission, written terms and conditions may be imposed thereon, and the applicant shall comply with such terms and conditions.
- G. Upon approval of minor changes in an approved site plan, the Zoning Administrator shall notify the Planning Commission of the minor changes approved.
- H. Upon approval of changes in an approved site plan, the applicant shall promptly submit to the Zoning Administrator five copies of the site plan (or such other number as may be required), accurately showing the changes in the site plan as thus approved, before any permits are issued and before any work at the site has commenced. The Zoning Administrator shall review the revised plan for compliance with required changes.

### **17.13 Appeals of Decisions by Planning Commission.**

- A. Any applicant who disagrees with a site plan decision made by the Planning Commission may appeal that decision to the Zoning Board of Appeals, except that a decision made by the Planning Commission on appeal of a Zoning Administrator

decision under Section 17.14 shall not be appealable. The appeal shall be in writing and shall be filed with the Zoning Administrator not later than 14 days after the decision. The appeal shall state specifically the matters being appealed and the factual basis for each appeal. An appeal stays the issuance of any permits that otherwise might be issued for the construction of buildings or other development within the lands included in the approved site plan.

- B. Upon receiving the appeal, the Zoning Board of Appeals shall include the matter on the agenda of its next convenient meeting. Upon consideration of the appeal, the Board of Appeals shall review the record of action taken by the Planning Commission. Such record shall consist of the files, memoranda, correspondence, minutes and other material in the Township files with respect to the site plan. The party appealing may submit written materials bearing on the appeal; written material in support of the decision may also be submitted by or on behalf of the Planning Commission. However, no new evidence shall be presented, and the appeal shall be decided solely on the basis of the record developed by the Planning Commission.
- C. In considering the appeal, the Board of Appeals shall determine whether the record supports the action taken with respect to the matter being appealed. The Board may uphold the decision being appealed, it may reverse the decision or it may uphold the decision in part and reverse it in part. In making a decision on the appeal, the Board shall prepare and approve written findings in support of its decision. Such findings shall be included in the minutes of the proceedings, or they may be set forth in a resolution adopted by the Board.
- D. A decision that a proposed change in an approved site plan is a major change shall not be appealable.

#### **17.14 Appeals of Decisions by Zoning Administrator.**

- A. Any applicant who disagrees with a site plan decision made by the Zoning Administrator may appeal that decision to the Planning Commission. The appeal shall be in writing and shall be filed with the Zoning Administrator not later than 14 days after the decision. The appeal shall state specifically the matters being appealed and the factual basis for each. An appeal stays the issuance of any permits that otherwise might be issued for the construction of buildings or other development within the lands included in the approved site plan.
- B. Upon receiving the appeal, the Planning Commission shall include the matter on the agenda of its next convenient meeting. Upon consideration of the appeal, the Planning Commission shall review the record of action taken by the Zoning Administrator. Such record shall consist of the files, memoranda, correspondence, and other material in the Township files with respect to the site plan. The party appealing may submit written materials bearing on the appeal. Written material in support of the decision may also be submitted by or on behalf of the Zoning

Administrator. However, no new evidence shall be presented, and the appeal shall be decided solely on the basis of the record developed by the Zoning Administrator.

- C. In considering the appeal, the Planning Commission shall determine whether the record supports the action taken with respect to the matter being appealed. The Commission may uphold the decision being appealed, it may reverse the decision or it may uphold the decision in part and reverse it in part. In making a decision on the appeal, the Commission shall prepare and approve written findings in support of its decision. Such findings shall be included in the minutes of the proceedings, or they may be set forth in a resolution adopted by the Commission.
- D. If the Planning Commission's decision is to reverse or modify the decision of the Zoning Administrator, the applicant shall prepare a revised site plan, accurately including the changes or other matters resulting from the Planning Commission's decision on the appeal. The revised plan shall be subject to the approval of the Zoning Administrator, consistent with the terms of the decision on appeal. No permits shall be issued, nor shall work commence, until the revised plan has been approved.

**17.15 As-Built Site Plan.** If required by the Planning Commission, and on recommendation of the Township engineer, and after completion of all required improvements as shown on the approved site plan, the property owner or other interest holder shall submit to the Zoning and Planning Department three copies of an "as-built" site plan, certified by an engineer, surveyor or other professional, prior to the anticipated occupancy of any building within the area comprising the site plan. The as-built plan shall be reviewed by the Zoning Administrator or township engineer to determine whether the plan conforms with the approved site plan and other Township requirements and applicable county and state requirements. Occupancy permits shall not be issued until the building official has determined that the as-built site plan fully conforms with the approved site plan and the above-stated Township and other requirements.

**17.16 Approval Effective for One Year.** Approval of a site plan under the terms of this chapter shall be effective for a period of one year, but such effectiveness shall continue so long as the development and construction of the land use covered by the site plan commences within such period of one year and is diligently pursued thereafter. If construction or development of the use permitted by the approved site plan has not commenced during such one-year period, such period of time may, but is not required to, be extended by the Planning Commission, or by the Zoning Administrator in the case of administrative site plan review, for up to two additional periods of one year each, if such an extension is applied for during the current period of site plan approval.

*[Chapter 17 Eff. 2/8/2015]*

**CHAPTER 17A**  
**SITE CONDOMINIUMS**

**17A.1 Description, Purpose and Scope.**

- A. Tracts of land that are developed and sold as site condominium developments and condominium developments are not subject to regulation under the Michigan Land Division Act. The Township determines it is in the best interest of public health, safety, and welfare to regulate site condominium developments and condominium developments to assure that these developments will not adversely affect the occupants thereof, other properties or the Township.
- B. This chapter covers both site condominiums and condominiums, whether for residential use or non-residential use. The references herein to site condominiums shall also include condominiums; accordingly, the requirements of this chapter for submission of condominium plans and for Township consideration and approval thereof shall apply to condominium developments as well as to site condominium developments.

**17A.2 Definitions.** For purposes of this chapter, the following words and phrases are defined as follows:

- A. **“Building envelope”** means an area of land within which a condominium unit may be constructed and used and which complies with the minimum lot area and the minimum lot width requirement of the zoned district in which the condominium unit is located.
- B. **“Condominium unit”** means a condominium established in compliance with the Condominium Act which consists of a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the condominium master deed. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a condominium unit shall be deemed to be a dwelling, if for residential use, or shall be deemed to be a building or portion thereof, if for an approved nonresidential use.
  - 1. In the case of an attached condominium, the minimum requirements of this Ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building in which the attached condominium is located; provided, however, that a building envelope surrounding the attached condominium unit shall be established and described, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.

The building envelope surrounding a two-unit condominium building must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for two-

family dwellings in the zoned district in which the two-unit condominium is located. The building envelope for a building that contains more than two attached condominium units must comply with the minimum lot area requirement, the minimum lot width requirement and the minimum building setback requirements for multi-family dwelling units in the zoned district in which the building is located.

2. In the case of a detached condominium, the applicable provisions of this Ordinance, including without limitation, height, area, yard, and density requirements, shall be applied with respect to the building comprising the detached condominium; provided, however, that a building envelope or other equivalent space surrounding the detached condominium unit shall be established, so as to comply with the minimum area, yard, and density requirements of the zone district in which the condominium is located.
- C. **“Site condominium”** means a condominium development consisting of not less than two site condominium units established in compliance with the Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended.
- D. **“Site condominium plan”** means the plans, drawings and information prepared for a site condominium as required by of the Condominium Act and as required by this chapter for review by the Planning Commission and the Township Board.
- E. **“Site condominium unit”** means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the site condominium master deed, and within which a building or other improvements may be constructed by the condominium unit owner. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) and with other applicable laws, ordinances and regulations, a site condominium unit shall be considered to be the equivalent of a “lot.”
- F. Except as otherwise provided by this chapter, words or phrases shall have the meanings as defined in the Condominium Act.

### **17A.3 Condominium Approval Required.**

- A. No improvements for a site condominium may be commenced until approval has been given for the site condominium pursuant to this chapter. For purposes of this provision, improvements include removal of trees, earth grading, stripping of soil and other changes in the land that are undertaken in connection with or in furtherance of a pending, planned or proposed site condominium.
- B. In addition to compliance with this chapter and other applicable provisions of this Ordinance, site condominiums shall comply with applicable federal and state statutes and county ordinances and regulations.

- C. In the event site condominium approval is requested in connection with a request for approval of a planned unit development, the site condominium shall be reviewed in accordance with the applicable requirements, and the procedures for review, public hearing, and approval provided for planned unit developments, as well as the procedures for review, public hearing and approval specified in this chapter.

**17A.4 Application for Condominium Approval.** An application for site condominium approval shall include the following information:

- A. A condominium plan which includes the documents and information required by Section 66 of the Condominium Act, and which includes the following information to the extent not included in such plans:
- B. The information required for site plan review under Chapter 17 of this Ordinance.
- C. Layout and dimensions of each site condominium unit, and the building envelope for such unit.
- D. Approval or tentative approval of the proposed design and location of the entrance to the site condominium from the County Road Commission or Michigan Department of Transportation.
- E. The use and occupancy restrictions and maintenance provisions for all general and limited common elements, and the locations thereof, that will be included in the master deed.
- F. A storm water drainage plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- G. A utility plan showing the location of all water and sewer lines, if any, and easements for the installation, repair and maintenance of utilities.
- H. A narrative describing the overall objectives of the proposed site condominium.
- I. A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- J. A street construction, paving and maintenance plan for all streets within the proposed site condominium.
- K. A description and summary of all proposed phases of the site condominium development.
- L. Such other information as the Planning Commission or Township Board may reasonably request in their review of the proposed site condominium.

**17A.5 Procedures for Review of Preliminary Condominium Plans – Application and Hearing.**

- A. The application and 15 copies (or such other number as may be required) of the preliminary site condominium plan, together with the required application fee and zoning escrow deposit, shall be filed with the Zoning Administrator.
- B. Upon a determination that the preliminary plan is complete, based on a review thereof by the Zoning Administrator, the application and the plan shall be forwarded to the Planning Commission.
- C. In its review of the preliminary site condominium plan, the Planning Commission may refer the plan for review and comment to the township engineer, the fire chief, and other appropriate individuals or agencies.
- D. The Planning Commission shall consider the preliminary site condominium plan at a public meeting. The meeting may be combined with the public hearing, if any, with respect to the rezoning of the land within which the site condominium is proposed to be located.
- E. After reviewing the preliminary site condominium plan, the Planning Commission shall adopt a resolution stating the Commission's findings concerning the preliminary plan and stating its recommendations thereon.
- F. The Planning Commission shall recommend to the Township Board whether the site condominium shall be approved, denied, or approved with conditions.

**17A.6 Procedures for Review of Final Condominium Plans – Township Board Consideration.**

- A. After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Zoning Administrator a minimum of 10 copies (or such other number as may be required) of a final site condominium plan which complies with the requirements of this chapter and the recommendations of the Planning Commission.
- B. The Township Zoning Administrator shall review the final plan to determine its completeness and to provide any comments to the Township Board regarding the plan. The final site condominium plan shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If the plan is not complete, it shall be returned to the applicant with a written summary of any deficiencies.
- C. If the plan is complete, the Township Zoning Administrator shall forward it to the Township Board.
- D. After receiving the Planning Commission's recommendations on the preliminary plan and a final site condominium plan from the applicant, the Township Board

shall review and may by resolution approve, deny or approve with conditions, the final plan in accordance with the standards in Section 17A.7.

- E. The resolution of the Township Board approving, denying or approving with conditions the final site condominium plan may include conditions required to assure compliance with the requirements of this chapter and other conditions of approval specified for site development plans under the terms of the site plan review chapter. The resolution may also include terms and conditions required to assure compliance with other Township ordinances, state laws and regulations of other agencies.
- F. All terms and conditions included by the Planning Commission and Township Board in their respective approval of a site condominium shall be incorporated in the recorded Master Deed, or shall otherwise be reflected in the final site condominium plan, when recorded as a part of the Master Deed.

**17A.7 Standards for Approval of Condominiums.** A condominium shall comply with all of the following requirements:

- A. The plan shall satisfy the standards and requirements for site plan approval in Chapter 17 of this Ordinance.
- B. The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, shall comply with the Condominium Act and other applicable laws, ordinances or regulations.
- C. Each site condominium unit and each building envelope adjacent to a condominium unit or units shall comply with all applicable provisions of this Ordinance, including minimum lot area; minimum lot width; required front, side and rear yards; maximum building height; and other applicable land use requirements in this Ordinance.
- D. A residential condominium (not site condominium) development consisting of single family detached dwellings and/or two-family detached dwellings that is proposed to be established under the terms of this chapter, on a single parcel of land under unified ownership, may be developed on lands zoned in the Planned Unit Development District, under the standards of approval of the Planned Unit Development District; provided, however, that in reviewing and approving such a development, the Township Board may, upon recommendation of the Planning Commission, authorize modifications of or departures from the requirements of the Planned Unit Development District pertaining to minimum lot area, minimum lot width, required front, side and rear yards and sidewalks upon finding that the following standards would be satisfied:
  - 1. That the gross building density of the condominium will not exceed that permitted by the Planned Unit Development District. Two-family attached

dwelling shall count as two dwelling units for purposes of density calculations.

2. That the approval of such modifications or departures will (i) make possible the more creative, economical and efficient use of land; (ii) allow larger areas of open space to be preserved around and near the perimeter of the development; or (iii) otherwise more fully achieve the intents and purposes of the Planned Unit Development District, as set forth in Section 13.1.
  3. That development of the condominium on a single parcel of land under unified ownership will result in a higher quality and more generally beneficial use of land.
- E. If a site condominium is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the County Road Commission.
- F. Private streets may be permitted to provide access to and throughout a site condominium:
1. All private streets shall comply with Section 4.24 of this Ordinance.
  2. Provisions in the master deed and condominium bylaws shall obligate the developer and/or owner's association to assure that all the private streets are regularly maintained, repaired and snowplowed so as to assure that they are safe for travel at all times.
- G. The site condominium shall be connected to public water and sanitary sewer facilities, if available according to Township ordinances. If public water and sanitary sewer facilities are not available, the site condominium shall either be served by a private community system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within each site condominium unit. Water supply and sanitary sewer facilities shall be approved by the county health department and the Township in accordance with applicable standards.
- H. Street lights and sidewalks may be required in a site condominium, if required in the approval of the site condominium.

**17A.8 Construction in Compliance with Approved Plan.** No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property (including removal of trees, earth grading, stripping of soil and other changes in the land), in connection with or in furtherance of a pending, planned or proposed site condominium, except in compliance with the final site condominium plan as approved by the Township Board, including any conditions of approval.

**17A.9 Completion of Improvements.**

- A. No building or occupancy permit for a site condominium unit in an approved site condominium shall be issued until construction of all required improvements has been completed and approved by the Township, or acceptable security for completion of such improvements has been provided.
- B. Upon completion of all required improvements, four complete copies of as-built engineering plans for all required improvements shall be promptly filed with the Township Zoning and Planning Department.

**17A.10 Expandable or Convertible Condominium Projects.** Approval of a final site condominium plan shall not constitute approval of expandable or convertible portions of a site condominium unless the expandable or convertible areas are specifically reviewed and approved by the Planning Commission and Township Board in compliance with the procedures, standards and requirements of this chapter.

**17A.11 Revisions of Approved Final Site Condominium Plan.**

- A. Changes to a site condominium for which a site condominium plan has been approved are subject to this section.
- B. Any change which constitutes an exempt change shall not be subject to review by the Planning Commission under this chapter, but a copy of an exempt change shall be submitted to the Township Zoning Administrator; provided, however, that the Zoning Administrator shall determine whether the proposed change is an exempt change, and shall notify the applicant accordingly. An exempt change shall include only the following:
  - 1. A change in the name of the site condominium, in the name of a street within the site condominium or in the name of the developer.
  - 2. Any other change in the site condominium which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of the land, buildings or structures in or proposed for the site condominium.
- C. Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be referred for decision by the Planning Commission. A minor change means a minor change in the site configuration, design, layout or topography of a site condominium (or any portion thereof), including any change that will result in:
  - 1. A decrease in the number of site condominium units;

2. A reduction in the area of the building envelope for any site condominium unit, provided that the reduction does not result in the building envelope comprising less than the required minimum lot area or having yard sizes less than the minimum required yards specified for the zoned district in which the site condominium is located.
  3. A reduction of less than 10 percent in the total combined area of the general common elements of the site condominium, provided that such reduction, in the case of a site condominium in a planned unit development, does not result in less permanently preserved open space than required by the applicable planned unit development district under the terms of this Ordinance.
  4. A reduction in the total combined area of the limited common elements of the site condominium.
  5. Any other minor variation in the site configuration, design, layout, topography or other aspect of the site condominium and which, as determined by the Zoning Administrator, does not constitute a major change.
- D. Any change which constitutes a major change shall be reviewed by the Planning Commission and the Township Board, as provided in this chapter for the original review and approval of site condominiums. Major change means a major change in the site configuration, design, layout or topography of a site condominium (or any portion thereof), including any change that could result in:
1. An increase in the number of site condominium units.
  2. Any other change in the site configuration, design, layout, topography, or other aspect of the site condominium which is subject to regulation under this Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change in the site condominium.

**17A.12 Incorporation of Approved Provisions in Master Deed.** All provisions of an approved site condominium plan shall be incorporated by reference in the master deed for the site condominium. The Master Deed shall be reviewed by the Township attorney, prior to recording, and it shall be subject to the attorney's approval, consistent with this chapter and the Township's approval of the site condominium. A copy of the master deed as recorded with the county register of deeds shall be provided to the Township promptly after recording.

**17A.13 Approval Effective for One Year.** Approval of a final site condominium plan by the Township Board shall be effective for a period of one year, but such effectiveness shall continue so long as the development and construction of the site condominium

commences within such period of one year and is diligently pursued thereafter. If construction or development of the site condominium has not commenced during such one-year period, such period of time may be extended by the Township Board in its discretion, for up to two additional periods of one year each, if such an extension is applied for during a current period of approval.

*[Chapter 17A Eff. 2/8/2015]*



## CHAPTER 18

### NON-CONFORMING BUILDINGS, STRUCTURES, LANDS AND USES

**18.1 Intent and Purpose.** This chapter regulates lots, parcels of land, buildings and structures, and the uses thereof, which were lawful prior to the enactment of this Ordinance, or relevant amendments thereto, but which are now prohibited or more strictly regulated under the current provisions of this Ordinance.

The provisions of this chapter are intended to permit such lawfully non-conforming lots, parcels of land, buildings, structures and uses to continue, though not to encourage their non-conforming status on a long term basis. Because the continued existence of such non-conforming lots, parcels, buildings, structures and uses prevents the full realization of the goals and purposes of this Ordinance, a significant purpose of this chapter is to promote the reduction or elimination of such non-conformities. Therefore, alterations and repairs to existing lawfully non-conforming buildings and structures and changes to existing lawfully non-conforming uses are permitted only as specifically provided in this chapter.

Unless permitted by this chapter or permitted elsewhere in this Ordinance, non-conforming lots, parcels of land, buildings, structures, and uses shall be brought into immediate compliance with this Ordinance. Non-conforming signs are addressed in Chapter 15 of this Ordinance.

#### **18.2 Lawfully Non-Conforming Lots and Parcels of Land.**

A. **Use of Non-Conforming Lot of Record for Building Site.** If an existing lot or parcel of record was lawfully platted or created but now, because of the adoption of this Ordinance or an amendment thereto, is not in compliance with the requirements of this Ordinance relating to lot area, lot dimensional requirements or both, the lot or parcel may nevertheless be used as a building site if the lot satisfies the following requirements:

1. If a side yard building setback is less than the minimum setback required in the applicable zoning district, such non-conforming side yard setback shall be at least 10 percent of the lot width or five feet wide, whichever is greater. Other required building setbacks shall be fully satisfied, unless the Zoning Administrator determines that, because of the existing non-conformity, there is no practical way to fully comply with the setback requirement, in which case the setback requirement shall be satisfied to the maximum extent practical.
2. If the owner of the non-conforming lot or parcel of record owns land that is adjacent to the non-conforming lot or parcel, the adjacent land shall be combined with the non-conforming lot or parcel if combining will enable the owner to reduce or eliminate the non-conformity.

B. **Definition of Existing Lot of Record.** For purposes of this Section 18.2, an existing lot or parcel of record means a lot or parcel that is described in a deed or other conveyancing instrument recorded in the office of the register of deeds prior

to the effective date of this Ordinance or any relevant amendment thereof, or any recorded land contract, recorded memorandum of land contract or other recorded instrument, including a platted subdivision and a condominium and site condominium master deed, which has the effect of conveying the land or an interest therein. A recorded survey or the establishment of a separate tax identification number for a parcel of land shall not, by itself, have the effect of establishing the parcel of land as an existing lot or parcel of record.

**18.3 Lawfully Non-Conforming Buildings and Structures.** A building or structure which was existing and lawful on the effective date of this Ordinance or any relevant amendment thereto may be continued even though such building or structure does not comply with the provisions of this Ordinance or any relevant amendment thereto, subject to the following limitations:

**A. Expansions of Non-Conforming Buildings that Increase Non-Conformity.**

1. A lawful non-conforming building or structure shall not be enlarged, expanded or increased in a manner that will increase or enlarge the nature or extent of the non-conformity.
2. If a building or structure is lawfully non-conforming because it does not comply with one or more of the minimum required setback distances currently required by this Ordinance, but the current non-conforming setback is at least 50 percent of the minimum setback currently required, the building or structure may be expanded or extended at or behind the line that is non-conforming. Such an expansion or extension shall not be considered as increasing the nature or extent of the non-conformity; provided, however, that the non-conforming building setback shall not be further reduced, in whole or in part, nor shall the building or structure further reduce any other required or existing building setback.

**B. Expansions of Non-Conforming Buildings that Decrease or Do Not Affect Non-Conformity.** A non-conforming building or structure may be altered, modernized, restored or otherwise improved if such change will have no effect upon, or will reduce the non-conforming characteristics of the building or structure. Once a non-conforming building or structure has been altered or modified in a manner that eliminates, removes, or lessens any of its non-conforming characteristics, then such non-conforming characteristics shall not be subsequently re-established or increased.

**C. Maintenance of Non-Conforming Buildings.** A non-conforming building or structure may be maintained, repaired or restored to a safe condition, provided such action does not increase the extent of the non-conformity.

**D. Re-establishment of Non-Conformity.** A non-conforming building or structure shall not be re-established after it has been changed to a conforming building or structure.

- E. **Casualty or Damage to Non-Conforming Buildings.** If a lawfully non-conforming building or structure is damaged by wind, fire, or other casualty then such building or structure may be restored or reconstructed, but only to the extent of the size and location of the building as it existed prior to such damage or destruction, and its use may then be resumed or continued, provided that such restoration or reconstruction shall be commenced (by physical improvement on the site) not later than one year after the occurrence of the casualty and shall be diligently pursued to completion of the building or structure; provided, however, that in the case of a non-conforming building in the C-1 or C-2 District that is a single-family detached dwelling and which is damaged by wind, fire or other casualty, such restoration or reconstruction shall be commenced (by physical improvement on the site) not later than two years after the occurrence of the casualty, and shall be diligently pursued to completion thereafter.

**18.4 Lawfully Non-conforming Uses.** If, on the effective date of this Ordinance or any relevant amendment thereto, a lawful use of any lot or parcel, or the use of any building or structure located thereon existed, then such use may be continued, even though the use of such lot or parcel, or such building or structure located thereon does not comply with the provisions of this Ordinance or any relevant amendment thereto, subject to the following provisions:

- A. **Expansion of Non-Conforming Use.** The lawfully non-conforming use may be expanded or extended throughout any parts of a building or structure which were manifestly arranged or designed for such use at the effective date of this Ordinance or any relevant amendment thereto, but the non-conforming use shall not be further expanded or extended within the building or structure, nor shall it be expanded or extended to occupy any portion of the land outside the building or structure.
- B. **Expansion of Building Containing a Non-Conforming Use.** An existing building or structure devoted to a non-conforming use shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered, except by reason of changing the use of the building or structure to a use that is permitted in the zoning district in which the building or structure is located; provided, however, that an existing building devoted to a non-conforming single-family detached dwelling use may be restored or reconstructed in the event of casualty damage to the building in accordance with the provisions of subsection C of this Section 18.4.
- C. **Casualty Damage to Building containing Non-Conforming Use.** If a building or structure which conforms with the provisions of this Ordinance, but which is used for or occupied by a non-conforming use, is damaged by fire, wind, or other casualty, then notwithstanding the other provisions of this section, the building or structure may be restored or reconstructed to the extent of the size and location existing prior to such damage or destruction, and the non-conforming use may then be resumed or continued, provided that such restoration or reconstruction shall be commenced (by physical improvement on the site) not later than one year after the occurrence of the casualty and shall be diligently pursued to completion; provided, however, that a building in the C-1 or C-2 District that is devoted to a non-conforming single-family detached dwelling use and which is damaged by fire,

wind or other casualty, may be restored or reconstructed if such work is commenced (by physical improvements on the site) not later than two years after the occurrence of the casualty, and shall then be diligently pursued to completion.

- D. **Maintenance of Building Containing Non-Conforming Use.** No provision in this Ordinance shall be deemed to prevent the maintenance, repair, strengthening or restoring to a safe condition of any building or structure or any part thereof that is declared to be unsafe by any Township official having jurisdiction over the safety or condition of any building or structure.
- E. **Re-establishing a Non-Conforming Use.** If a non-conforming use of any lot, parcel, building or structure is terminated and replaced by a permitted use, the non-conforming use shall not be later re-established.
- F. **Discontinuance of a Non-Conforming Use.**
1. If a non-conforming use of a lot, parcel, building or structure is discontinued or abandoned for at least 12 consecutive months, the building or structure or the building or structure and land in combination, shall not thereafter be used except in compliance with the provisions of the zoning district in which the building or structure or building or structure and land in combination are located. This subpart F shall not apply in cases of damage by casualty if timely restoration is undertaken as provided in subpart C.
  2. A non-conforming use shall be determined by the Zoning Administrator to be abandoned if, after a period of at least 12 consecutive months, there is evidence of intent to abandon, including disconnection of utilities, disrepair of the buildings and grounds, removal of equipment or other items necessary for the use, failure to occupy the premises and other actions or conditions which in the opinion of the Zoning Administrator demonstrate an intent to abandon the non-conforming use.
- G. **Removal of Building Containing Non-Conforming Use.** If lawfully non-conforming use status applies to a building or structure or a building or structure and land in combination, except as provided in subpart C, the removal or destruction of the building or structure shall terminate the lawful non-conforming use status of the building or structure or the building or structure and land in combination, as the case may be.
- H. **Changing to Another Non-Conforming Use.** The non-conforming use of a building or a structure may not be changed to another non-conforming use, in whole or in part.

*[Chapter 18 Eff. 2/8/2015]*

## CHAPTER 19 ZONING BOARD OF APPEALS

- 19.1 Creation of Zoning Board of Appeals.** The Zoning Board of Appeals (the “Board of Appeals”) is hereby created. The Board of Appeals shall have the authority and responsibilities conferred by law and this Ordinance.
- 19.2 Membership.** The Board of Appeals shall consist of five members. The members shall be appointed by affirmative majority vote of the total number of members of the Township Board.
- A. One member of the Board of Appeals shall be a member of the Township Planning Commission.
  - B. One member of the Board of Appeals shall be a member of the Township Board. Such Township Board member shall not be a member of the Township Planning Commission.
  - C. The members of the Board of Appeals shall be electors of the Township residing within its zoning jurisdiction.
  - D. There may be not more than two alternate members of the Board of Appeals, appointed in the same manner as regular members of the Board of Appeals. They shall be electors of the Township residing within its zoning jurisdiction. They shall have the authority and duties stated in Section 19.13.
  - E. An employee or contractor of the Township shall not serve as a member of the Board of Appeals.
- 19.3 Terms of Office.** A member of the Board of Appeals shall have a term of office of three years and until the member’s successor is appointed and qualifies; provided, however, that the terms of the members first appointed shall be for varying numbers of years, none of them exceeding three, so as to provide for differing expiration dates of members’ terms.
- A. The terms of the Board of Appeals members who are a Township Board member and a Planning Commission member shall coincide with their respective terms as members of those bodies.
  - B. A member of the Board of Appeals may be reappointed.
  - C. A vacancy in the office of a member of the Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as an original appointment is made.
- 19.4 Jurisdiction.** The Board of Appeals shall act upon all questions arising in the administration of the zoning ordinance, including interpretation of the Zoning Map and the text of the zoning ordinance.

- A. The Board of Appeals shall hear and decide all appeals from any order, decision or determination made by the Zoning Administrator or other person authorized to enforce the provisions of this Ordinance.
- B. The Board of Appeals shall hear and decide all matters assigned to it for decision under the terms of this Ordinance.
- C. The Board of Appeals shall have no jurisdiction or authority over or with regard to the following:
  - 1. Any aspect or part of an application for approval of a special land use or planned unit development.
  - 2. An appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development.
- D. An appeal to the Board of Appeals stays all proceedings in furtherance of the action appealed from; provided, however, that if the body or officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in such certification, a stay would in the opinion of the body or officer cause imminent peril to life or property, then such proceedings may be stayed only by a restraining order issued by the Board of Appeals or the circuit court.

**19.5 Types of Available Relief.** The Board of Appeals shall have authority to hear and decide appeals and other applications for relief as follows:

- A. Cases in which it is alleged that there is error or misinterpretation in any order, decision or determination made by the Zoning Administrator or any other person authorized to enforce the provisions of this Ordinance.
- B. Cases in which it is alleged that there are practical difficulties in carrying out the literal requirements of this Ordinance by reason of (i) the exceptional narrowness, shallowness or shape of a lot or parcel of land; (ii) exceptional topographic conditions or (iii) extraordinary dimensional conditions of land, buildings or structures.
- C. Cases in which it is alleged that there is unnecessary hardship if the land use requirements of this Ordinance are enforced against a parcel of land and if there are other grounds for such relief, as stated in Section 19.7.

**19.6 Dimensional Variances.** If an applicant seeks a dimensional variance from the provisions or requirements of this Ordinance because of dimensional characteristics of a lot or parcel of land, or because of exceptional topographic or similar conditions of the land, buildings or structures, the applicant shall demonstrate through competent, material and substantial evidence on the record that all of the following requirements are satisfied:

- A. That the enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- B. That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- C. That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- D. That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance.

In approving a dimensional variance, the Board of Appeals may include such terms and conditions that the Board deems reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection and advancement of the public interest.

**19.7 Use Variances.** If an applicant seeks a use variance from the provisions or requirements of this Ordinance, the applicant shall demonstrate, and the Board of Appeals shall make findings based upon competent, material and substantial evidence on the whole record that all of the following requirements are satisfied:

- A. That the enforcement of the literal requirements of this Ordinance would cause unnecessary hardship.
- B. That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- C. That literal interpretation of the provisions of this Ordinance would deprive the applicant of a substantial property right commonly enjoyed by other properties in the same zoning district.
- D. That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance.

A use variance shall be approved only by an affirmative majority vote of at least two-thirds of the members of the Board of Appeals.

In approving a use variance, the Board of Appeals may include such terms and conditions that the Board deems reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection and advancement of the public interest.

### **19.8 Time Limitations on Variances.**

- A. Within one year after the granting of a variance, the applicant shall obtain all required permits and commence the construction or other work authorized by the variance, and shall proceed diligently toward the completion thereof.
- B. If an applicant has not obtained all required permits and has not commenced the construction or other work authorized by the variance, within one year after the granting of a variance, the Board of Appeals may grant an extension of up to one additional year, upon request by the applicant and if the Board finds that extenuating circumstances have prevented the commencement of the authorized work, or diligent progress toward completion of the authorized work, or if the Board determines that an extension is otherwise justified. Any request for such an extension shall be considered at a public meeting of the Board of Appeals, but a public hearing shall not be required.

### **19.9 Appeals and Other Applications for Relief.**

- A. An appeal from an order, decision or determination by the Zoning Administrator or other person authorized to enforce or administer this Ordinance may be taken by any person aggrieved by such order, decision or determination.
- B. An application for an appeal, a variance or other authorized relief shall be accompanied by payment of the required application fee.
- C. An application or appeal shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
- D. An applicant seeking relief within the jurisdiction of the Board of Appeals shall apply for such relief by means of an application form provided by the Township and shall pay the required application fee and deposit any required sum into any Township escrow account which has been established for the purpose of any required reimbursement of Township expenses incurred in the consideration of the application.

### **19.10 Decisions of the Board of Appeals.**

- A. The Board of Appeals shall decide all applications and appeals within a reasonable time.
- B. The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be deemed to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.
- C. In cases of alleged practical difficulties or unnecessary hardship, the Board shall, if relief is warranted, grant only such relief as is necessary to relieve the practical

difficulties or unnecessary hardship. Such decision shall be binding upon the Zoning Administrator, or other Township officials having authority in the circumstances. The Township building official shall incorporate the terms and conditions of the Board of Appeals' decision in any permit issued to the applicant pursuant to the decision.

- D. A decision of the Board of Appeals on an appeal from a Township officer or body shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court, within the time, to the extent and in the manner permitted by law.
- E. The members of the Board of Appeals who are members of the Township Board and of the Planning Commission, respectively, shall not participate in or vote on matters that the members previously voted on in their respective capacities as Township Board member or Planning Commission member.

#### **19.11 Officers.**

- A. The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary.
- B. The Board of Appeals member who is a Township Board member may not serve as chairperson of the Board of Appeals.
- C. An officer of the Board of Appeals shall have a term of one year and until the officer's successor is elected and qualifies. An officer may be reelected.
- D. An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board, but an alternate member who is called upon to serve as a member of the Board in the absence of a regular member who is an officer of the Board may, while serving, carry out the duties of the officer in whose absence the alternate member is serving.

#### **19.12 Meetings and Procedures.**

- A. The Board of Appeals shall adopt bylaws and rules of procedure for the conduct of its meetings and related purposes.
- B. The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate member serving in the absence of a regular member in accordance with Section 19.13. Three members shall constitute a quorum.
- C. At the last meeting of each calendar year, or at another convenient meeting, the Board of Appeals shall adopt a schedule of its regular meetings for the ensuing year; provided, however, that a meeting need not be held if pending matters do not warrant a meeting.

- D. The Board of Appeals may convene special meetings at such times as it shall determine.
- E. The Board of Appeals shall conduct a public hearing on an appeal of an administrative order, decision or determination, or on an application for an interpretation of this Ordinance or the Zoning Map.
- F. Notice of any public hearing by the Board of Appeals shall be given as stated in this subsection F.
  - 1. The notice of hearing shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
  - 2. The notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
    - a. The applicant; the owner of the subject property, if different from the applicant.
    - b. All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application.
    - c. One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property.
    - d. The owner or manager of a building containing more than four dwelling units, within 300 feet of the subject property, who shall be requested in writing to post the notice at the primary entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.
    - e. If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.
  - 3. The notice of public hearing shall include the following information:
    - a. Description of the application or request for relief.
    - b. An identification of the property that is the subject of the application or request, including legal description or other specific identification. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses need not be created or listed if 11 or more adjacent parcels

of land are included within the property as to which relief is being requested.

- c. The date and time when the application or request will be considered; the location of the public hearing.
- d. The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

### **19.13 Alternate Members.**

- A. The Township Board may appoint not more than two alternate members of the Board of Appeals, in the same manner as regular members are appointed.
- B. An alternate member may serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings.
- C. An alternate member may also serve as a member of the Board for the purpose of reaching a decision in a case in which a regular member has abstained because of conflict of interest.
- D. An alternate member who is called to serve in a case before the Board shall serve in the case until a final decision is made, whether at one or more meetings.
- E. An alternate member of the Board of Appeals has the same voting rights as a regular member of the Board.

### **19.14 Removal of Members; Conflicts of Interest.**

- A. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.
- B. A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

### **19.15 Appeals from Decisions of the Board of Appeals.**

- A. Any party aggrieved by a decision of the Board of Appeals may appeal to the circuit court. As provided by law, the circuit court shall review the record in the case and the decision of the Board of Appeals for the purpose of ensuring that the decision complies with all of the following requirements:

1. That it complies with the Constitution and laws of the state.
  2. That it is based upon proper procedures.
  3. That it is supported by competent, material and substantial evidence on the record of the Board of Appeals.
  4. That it represents the reasonable exercise of discretion as granted by law to the Board of Appeals.
- B. If, as provided by law, the circuit court finds the record inadequate to accomplish the required review, or if the court determines that additional material exists that with good reason was not presented, the circuit court is authorized by law to order further Township proceedings in the matter. In such further proceedings, the Board of Appeals may modify its findings and decision as a result of the additional proceedings, or the Board may affirm its original decision. The record and decision in such further proceedings shall be filed with the circuit court. As provided by law, the court may affirm, reverse or modify the decision of the Board of Appeals.
- C. An appeal from a decision of the Board of Appeals shall be filed within 30 days after the Board of Appeals issues its decision in writing signed by the chairperson, if there is then a chairperson, or signed by another member of the Board of Appeals, if there is then no chairperson, or within 21 days after the Board of Appeals approves the minutes of the meeting at which its decision was taken.

***[Ch. 19 amended in its entirety 4/12/2010, Eff. 5/9/2010]***

## CHAPTER 20 ADMINISTRATION AND ENFORCEMENT

- 20.1 Administration.** It shall be the duty of the Zoning Administrator, appointed by, and on such terms determined by the Township Board, to administer this zoning ordinance and to enforce the provisions contained herein.
- 20.2 Land Use Permits.** The Township Planning Commission is responsible for approving land use permits as set forth in this Ordinance. A Zoning Administrator may be empowered to issue permits for conforming land uses, act as inspector to determine compliance with this zoning ordinance, maintain regular office hours, keep a file record of all permits, and prepare summary reports for the Township Board and Planning Commission at reasonable times or when requested. No land use permit will be issued until a plot plan is presented and approved. No construction or authorized use shall commence until the Zoning Administrator issues a land use permit.
- A. It shall be unlawful to change the type of use of land, or to change the type of use, or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use until the Zoning Administrator has issued a land use permit.
  - B. All land use permit applications shall be made in writing to the Zoning Administrator on forms provided for that purpose. A record of all such applications shall be kept on file by the Zoning Administrator. Any land use permit issued under the provisions of this zoning ordinance shall be valid only for a period of one year following the date of issuance thereof and shall be posted during said time on any existing building or lot and in such a manner as to be visible from the highway for inspection.
  - C. When the Zoning Administrator receives an application for a land use permit which requires action by the Zoning Board of Appeals or Planning Commission, such application, along with all supporting information, shall be conveyed by the Zoning Administrator to the Zoning Board of Appeals or the Planning Commission.
  - D. If any application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval and deliver a copy to the applicant.
  - E. The Zoning Administrator may prior to or after issuance of a land use permit require:
    - 1. Applicant to provide proof of ownership, including an abstract, deed or title insurance commitment or a title history search.
    - 2. A registered survey, if the proposed structure could violate the terms of this zoning ordinance, including staking for side lot, high water mark and of the proposed site for the building or addition.
  - F. The applicant shall bear the entire responsibility to provide the Zoning Administrator with all necessary supporting documentation required pursuant to

this zoning ordinance including the applicants' and owners' address and telephone number, the address of the property proposed for development, a legal description of the property to be developed and the parcel's Township tax number.

- G. Fees for land use permits and inspections shall be established by the Township Board.

**20.3 Plot Plans.** As used in this section, a plot plan includes the documents and drawings required by this zoning ordinance to insure that a proposed land use or activity is in compliance with this zoning ordinance, and state and federal statutes. A plot plan is only required for single family and duplexes (two family), if permitted. All other uses require site plans as set forth in Chapter 17.

- A. A plot plan must be submitted to the Zoning Administrator before authorization for a land use or activity regulated by this zoning ordinance can be approved.
- B. The plot plan, as approved, shall become part of the record of approval; and subsequent actions relating to the activity authorized shall be consistent with the approved plot plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the Zoning Administrator.
- C. Work on land use projects shall be started within one year following date of approved permit, or substantial work, such as building foundations, shall be completed. Otherwise, the permit shall expire and a new permit shall be required. The Administrator may grant a reasonable extension.
- D. A site plan submittal, review and approval by the Planning Commission under Sections 17.3 and 17.5 may be substituted for a plot plan approval under this Section 20.3.
- E. The procedures and requirements for the submission and approval of plot plans shall include all applicable standards that may apply to land use, activity, new construction or improvements; including the following:
  - 1. Land and building measurements.
  - 2. General topographical information.
  - 3. Map of land areas.
  - 4. Building plans.
  - 5. Septic system location and capacity.
  - 6. Water well location.
  - 7. Setback from front, sides and back lot lines.
  - 8. General type of construction.

9. Location of accessory buildings.
10. Number of families to be housed.
11. Ingress and egress.

**20.4 Additional Permits Required.** The following permits must be secured before land use development is started:

- A. Muskegon County Health Department permit.
- B. Muskegon County Road Commission Driveway permit.
- C. Muskegon County Soil Erosion Permit. If a proposed earth change is to be located within 500 feet of a lake, or if the land area is over one acre in size.
- D. A Township Construction Code permit.
- E. Any other permits as legally required by the Township, county, state, and/or federal governments.

**20.5 Township Planning Commission.**

- A. The Township Board shall maintain a Planning Commission composed of not less than five nor more than nine members under provisions of the Michigan Planning Enabling Act of 2008.
- B. The Township Board, by resolution, has transferred all powers and duties of the former Zoning Board to the Planning Commission.

**20.6 Fees and Escrow Accounts.** Upon the filing of an application for a land use permit, site plan, special land use permit, planned unit development, Zoning Board of Appeals review, variance or rezoning, an administrative fee, as determined by the Township Board, shall accompany said application.

- A. A schedule of fees as established by the Township Board shall be maintained at the office of the Zoning Administrator.
- B. Fees shall be paid to the Zoning Administrator prior to the processing of any application required under this zoning ordinance.
- C. For any application for site plan approval, a special land use permit, planned unit development, variance, rezoning or other use or activity requiring a permit under this zoning ordinance, the Land Division Act or other statute, the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten dwelling units, or more than 10,000 square feet of enclosed space, or which requires more than 20 parking spaces. An escrow fee may be requested for any other project which may, at the discretion of the Zoning Administrator or Planning Commission,

create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

1. The escrow shall be used to pay professional review expenses of engineers, community planners, attorneys and any other professionals whose expertise the Township values to review the proposed application and/or site plan of an applicant. Professional review will result in a report to the Township indicating the extent of conformance or nonconformance with this zoning ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the Township and a copy of the statement of expenses for the professional services rendered.
2. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the Township Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant shall be entitled to a refund of any unused escrow fees at such time as all outstanding questions and issues with respect to the application have been resolved.
3. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning or other permit issued by the Township in response to the applicant's request.

**20.7 Publication and Delivery of Notice of Public Hearing.** Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.

- A. The notice shall be published once, at least 15 days before to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel of land; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
  1. The applicant; the owner of the subject property, if different from the applicant.
  2. All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application.

3. One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property.
  4. The owner or manager of a building containing more than four dwelling units, within 300 feet of the subject property, who shall be requested in writing to post the notice at the primary entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.
  5. If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.
- C. The notice of public hearing shall include the following information:
1. A description of the application or request.
  2. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if 11 or more adjacent properties are being proposed for rezoning.
  3. The date and time when the application or request will be considered; the location of the public hearing.
  4. The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

*[Section 20.7 amended 4/12/2010, Eff. 5/9/2010]*

## **20.8 Penalties.**

- A. **Penalties for Violation.** Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se as defined in this Ordinance, or who violates or fails to comply with any provision of this Ordinance, any permit or approval issued pursuant to this Ordinance, or any condition or requirement of such a permit, or who knowingly submits false information in an application or other request for permit or other approval under the ordinance shall be responsible for a municipal civil infraction. A violation of this Ordinance does not include the failure of a Township Officer or Township Employee to perform an official duty.
- B. **Fines for Violation.** The fine for violation of this Ordinance shall be not less than \$50 and no more than \$500 for the first offense, and not less than \$250 and no more

than \$500 for a subsequent offense, in addition to all of the costs, damages and expenses incurred by the Township with respect to the violation. The term “subsequent offense” means a violation of the same provision committed by the same person within two years of a previous violation, for which such person admitted responsibility or was adjudicated to be responsible.

- C. **Act or Failure to Act.** A violation of this Ordinance includes any act which is prohibited or declared to be unlawful or an offense by the terms of this Ordinance, or which is contrary to any condition upon any permit or approval granted under this Ordinance; a violation also includes any omission or failure to act if the act is required by any provision of this Ordinance, or condition of any permit or approval given under this Ordinance.
- D. **Separate Offense.** Each day that a violation continues may constitute a separate offense, if so determined by the court, which shall then be subject to the penalties prescribed herein as a separate offense.
- E. **Responsibility.** The owner and lessee of lands upon which a violation of this Ordinance has or is occurring shall be jointly and severally responsible for such violation along with the person, partnership, limited liability company, corporation or association which commits or has committed such violation.
- F. **Form and Service of Civil Infraction Citations.**
  - 1. Civil infraction citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator’s Office.
  - 2. The authorized Township official or other authorized official shall personally serve the citation upon the alleged violator; provided, however, that if the municipal civil infraction involves the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting a copy of the citation on the land or attaching a copy of the citation to the building or structure. In addition, in such a case, a copy of the citation shall be sent by first class U.S. mail to the owner and occupant of the land, building or structure at the owner’s and occupant’s last known address.
- G. **Officials Authorized to Issue Municipal Civil Infraction Citations.**
  - 1. The following Township officials and law enforcement personnel are authorized to issue citations for violation of any provision of this Ordinance if such person has reasonable cause to believe that an infraction has occurred based upon personal observation or the report of a person who allegedly witnessed the violation:
    - a. The Township Supervisor.

- b. The Township Zoning Administrator.
  - c. The Township Enforcement Officer.
  - d. A deputy of the Muskegon County Sheriff's Department.
2. If a citation is based solely upon the complaint of a person who allegedly witnessed the violation, and is not based upon the personal observation of the authorized official, then the citation may nevertheless be issued if the official has reasonable cause to believe that the violation has occurred and if the Township Attorney approves in writing the issuance of the citation, if such approval by the Township Attorney is required by law.

**H. Procedures Following Issuance of Municipal Civil Infraction Citations.**

- 1. A municipal civil infraction citation shall require that the alleged violator appear at the district court within a reasonable time after the citation has been issued, or within such period of time as is stated in the citation.
- 2. The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all other matters related to processing of citations for municipal civil infractions shall be as provided by law.

**I. Additional Remedies.** In addition to the municipal civil infraction penalties provided in this section and other penalties provided elsewhere in this code, the Township shall have all other remedies, causes of action and other authority by law to sanction, restrain, prevent or abate any violation of this Ordinance, including proceedings for abstract of a nuisance per se, injunction, damages, restitution, revocation of approvals and other relief or causes of action available by law.

**J. Compliance Required.** Nothing in this section shall excuse the offender from compliance with the provisions of this Ordinance.

**K. Collection of Fines and Penalties.** The civil fines, costs, assessments, damages and/or expenses imposed against a person found responsible for violating a Township ordinance shall be paid to the Township immediately upon entry of the court order. If any such fines, costs, assessments, damages and/or expenses remain unpaid or unsatisfied after the time permitted for such payment or satisfaction, the Township may impose and record a lien upon the real property involved, to the extent permitted by law, and may enforce the lien to the extent and in the same manner as is provided by law for the enforcement of unpaid ad valorem real property taxes, including the inclusion of monetary amount of such lien upon the ad valorem property tax roll, and the collection thereof in the same manner as ad valorem real property taxes are collected.

*[Section 20.8 amended 9/9/2013, Eff. 9/29/2013]*



## CHAPTER 21 AMENDMENTS AND ADOPTION

**21.1 Amendments to the Zoning Ordinance.** For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this zoning ordinance shall not be amended except to correct an error in the zoning ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing district or to change the regulations and restrictions thereof. Such amendment to this zoning ordinance may be initiated by any person, firm, or corporation by filing an application with the zoning official; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure.

### **21.2 Amendment Procedure.**

A. **Application.** Applications for amendments to this zoning ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this zoning ordinance, without limiting the right to file additional material, shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm, or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area effected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in the municipality that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

- B. **Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the zoning ordinance, shall review the application for completeness and refer the same to the Planning Commission for study and report.
- C. **Public Hearing.** The Planning Commission shall determine the date, time and place for a public hearing on a proposed amendment to this zoning ordinance; provided, however, that the Planning Commission, after consideration at a public meeting, may determine not to convene a public hearing and thereby not consider further a proposed amendment in the text of this zoning ordinance. With respect to an amendment as to which the Planning Commission determines to convene a public hearing, the Planning Commission shall arrange for notice of the public hearing to be given in accordance with Section 20.7.
- D. The Planning Commission may make non-material changes in a proposed amendment at any time prior to its submission to the Township Board, and the Commission may freely correct typographical or other non-substantive errors. If the Commission desires to make material changes in the text of the proposed amendment, it shall first establish a date, time and place for a new or supplemental public hearing on the amendment as it is proposed to be materially changed.
- E. **Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.
- F. **Township Board Action.** Upon receipt of a zoning ordinance amendment recommendation from the Planning Commission, the Township Board shall consider the proposed amending ordinance at a public meeting. The Township Board may hold a public hearing on the amending ordinance if it determines to do so, but such a hearing is not required. If such a public hearing is held by the Township Board, notice thereof shall be given in accordance with Section 20.7. If it desires, the Township Board may refer any proposed amending ordinance to the Planning Commission for further consideration and comment within a time specified by the Township Board, but the Board is not required to do so.
- G. If an interested property owner requests a hearing by the Township Board on a proposed zoning ordinance amendment, and if such request is in writing and is sent by certified U.S. mail, addressed to the Township Clerk, the Township Board shall convene such a hearing. In that case, written notice of the date, time, place and purpose of the hearing shall be given to the requesting property owner in the same manner and to the same extent that notice of a Planning Commission public hearing is given to an applicant, but no other notice of the Township Board hearing need be given by publication, U.S. mail or otherwise.
- H. The Township Board may adopt the amending ordinance at any regular or special meeting, by affirmative majority vote of the members of the Township Board.

*[Section 21.2.B, C, D, F, G & H amended 4/12/2010, Eff. 5/9/2010]*

**21.3 Notice of Adoption.** Except as otherwise provided by law, an ordinance to amend the zoning ordinance shall take effect upon the expiration of seven days after publication of the amending ordinance or seven days after publication of a summary of its provisions in a newspaper of general circulation in the Township, or at such later date after publication as may be specified in the amending ordinance.

The above-stated notice of adoption shall include the following information:

- A. A summary of the regulatory effect of the amending ordinance, or the entire text of the amending ordinance; if the ordinance includes an amendment of the Zoning Map, the notice shall indicate the lands affected.
- B. The effective date of the amending ordinance.
- C. The location where and the time when a copy of the amending ordinance may be inspected or purchased.

*[Section 21.3 amended 4/12/2010, Eff. 5/9/2010]*

**21.4 Effectiveness of this Ordinance.**

- A. This Ordinance replaces and entirely supersedes all previous Township zoning ordinances.
- B. Portions of this Ordinance were adopted and became effective in 2010 and earlier, and other portions were adopted and became effective in the period commencing in 2013 and ending in 2015.
- C. This text of the ordinance includes all amendments that became effective on or before July 26, 2015.

*[Section 21.4 Eff. 7/26/2015]*