

**HEATH TOWNSHIP
ALLEGAN COUNTY, MICHIGAN**

ORDINANCE NO. __

**AN AMENDMENT TO THE HEATH TOWNSHIP ZONING ORDINANCE
TO SUPERSEDE AND REPLACE SAID ORDINANCE IN ITS ENTIRETY**

Adopted: December 12, 2011

Effective: December 28, 2011

An Ordinance to amend the current Heath Township Zoning Ordinance and Zoning Map that was adopted on September 12, 1977 by adopting a new comprehensive Zoning Ordinance and Zoning Map which shall supersede and replace said current Zoning Ordinance in accordance with the Michigan Zoning Enabling Act of PA 110 of 2006, as amended.

**HEATH TOWNSHIP,
ALLEGAN COUNTY, MICHIGAN**

ORDAINS:

CHAPTER 1

TITLE

SECTION 1.01 TITLE. This Ordinance shall be known and may be cited as the “Heath Township Zoning Ordinance”.

CHAPTER 2

PURPOSE, SCOPE AND LEGAL BASIS

SECTION 2.01 PURPOSE. “An Ordinance to provide for the regulation of land development and land use and the establishment of districts in the portions of the Township outside of incorporated villages and to regulate the use of land and structures; to meet the needs of the citizens of the Township and others for food, fiber, energy, and other natural resources, places of residences, recreation, industry, trade, service and other uses of land; to provide that the use of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population, transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and to promote public health, safety, and welfare. For these purposes, zoning classifications are hereby created for the regulation of land development and the establishment of districts in which

only certain land areas allow specific activities and land uses so as to avert or solve specific land use problems, including the development of land. This ordinance provides regulations relating to the limitation or location of uses, the height, number of stories, size of dwellings, buildings and structures that may be erected or altered, and provide for the regulation of tents and trailer coaches (mobile homes) and the specific uses for which same may be erected or altered. The ordinance provides for the area of yards, courts, and other open spaces and sanitary and safety and other protective measures which are required for dwellings, buildings, and structures, including tents and trailer coaches (mobile homes); the ordinance provides for the maximum number of families which may be housed in buildings, dwellings, or structures, including tents and trailer coaches (mobile homes) which are erected or altered. The ordinance provides for permitted uses in the various zoning classifications, as well as special uses, subject to appropriate standards and regulations.”

SECTION 2.02 SCOPE AND INTERPRETATION. This Ordinance shall not repeal, abrogate, annul or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

SECTION 2.03 LEGAL BASIS. This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.

Tower. Any ground or roof mounted pole, spire, structure or combination thereof taller than fifteen feet, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, meteorological device, or similar device above grade.

Township Board. The Heath Township Board.

Township. Heath Township, Allegan County, Michigan.

Trailer Coach Park Act. Michigan Act 243 of 1959, as amended.

Travel Trailer. A transportable unit intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use.

Vehicle. Every device in, upon, or by which any person or property is or may be transported drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

Wetland. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is contiguous to an inland lake, a river or stream.

Wind Turbines/Wind Energy Systems. The following terms and their definitions pertain to the regulation of wind energy systems.

- (a) Anemometer. A wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices, that are used to monitor or transmit wind speed and characterize the wind resource at a given location.
- (b) Applicant. The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) to any approved Wind Energy System (WES). An applicant must have the legal authority to represent and bind the landowner(s) or lessee(s) who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be jointly and severally with the land owner(s), the owner(s) of the WES and the operator or lessee of the WES if different than the owner.
- (c) Building Mounted Wind Energy System (WES). A WES mounted or attached to an existing structure or building.
- (d) Cooperative Wind Energy System Site. A WES site created with the mutual consent of two or more adjacent property owners, comprised of an easement encompassing all or portions of two or more adjacent lots or parcels. A cooperative WES site meeting the standards of this section may support an on site WES or a WES for commercial purposes.
- (e) Nacelle. In a wind turbine, the nacelle refers to the structure which houses all of the generating components, gearbox, drive train and other components.
- (f) On Site Use Wind Energy System. A Wind Energy System (WES) with a main purpose of providing energy to the property where the WES structure is located, or to adjacent

properties under the same ownership or control as the property where the structure is located, or by the mutual consent of adjacent property owners.

- (g) Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.
- (h) Single Wind Energy System for Commercial Purposes. A single WES placed upon a lot or parcel with the main purpose of generating electricity for sale or otherwise, to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which the WES is placed.
- (i) Tower Mounted Wind Energy System. A WES mounted or attached to a tower, pole or similar structure which is not a building.
- (j) Utility Grid Wind Energy Systems. A WES interconnected with the electricity distribution system.
- (k) Wind Energy System (WES). Wind Energy System (WES) shall mean any combination of the following: (Note: For purposes of this section a windmill traditionally used to pump water shall not be considered a Wind Energy System.)
 - (1) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
 - (2) A surface area such as a blade, rotor or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
 - (3) A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;
 - (4) The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy; and any temporary anemometer constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site prior to the installation of a wind energy turbine.
 - (5) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted;
- (l) WES Height. The distance from the ground at normal grade and the highest point of the WES which is the tip of a rotor blade when the blade is in full vertical position.
- (m) WES Setback. The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.
- (n) Wind Farm. Clusters of two or more WES placed upon a parcel or parcels with a purpose of generating electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

Yard. A required open space other than a courtyard, on the same lot with a building or group of buildings unoccupied and unobstructed by any building or structure or portion thereof except as otherwise permitted in this ordinance. The minimum building setback is the

CHAPTER 4

MAPPED DISTRICTS

SECTION 4.01 ZONE DISTRICTS. The Township of Heath is hereby intended to be divided into the following zoning districts:

- (a) AG Agricultural District
- (b) R-1 Rural Estate District
- (c) R-Ia Rural Residential District
- (d) R-2 Single Family Residential District
- (e) R-3 Multiple Family Residential District
- (f) R-4 Manufactured Home Park District
- (f) C-1 General Business District
- (g) I-1 Industrial District
- (h) NR Natural River Overlay District
- (i) SGA State Game Area District

SECTION 4.02 ZONING MAP. The location and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled “The Zoning Map of Heath Township, Allegan County Michigan”, which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
- (d) Boundaries indicated as approximately following shorelines or lake stream beds shall be construed as following such shorelines or lake or stream beds, as in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
- (e) Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of two hundred (200) feet from the front lot line.
- (f) Boundaries indicated as approximately following property lines, section lines or other lines of government survey shall be construed as following such property lines, section

lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

SECTION 4.03 **AREA NOT INCLUDED WITHIN A DISTRICT.** In every case where land has not been included within a district on the zoning map, such land shall be in the AG Zoning District.

CHAPTER 5

AG AGRICULTURAL DISTRICT

SECTION 5.01 DESCRIPTION AND PURPOSE. This Zoning District is intended primarily for large tracts of land used for farming, animal husbandry, dairying, horticultural, or other agricultural activities.

SECTION 5.02 PERMITTED USES. No building or part of a building in this District shall hereafter be used, erected, altered or converted or land used in whole or in part except for:

- (a) General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs. In accordance with the standards of Section 5.05, any building or structure may be located thereon and used for the day to-day operation of the farm activities including;
 - (1) The storage or preservation of crops or animals and farm products.
 - (2) The collection and distribution of crops, animals and products.
 - (3) The processing of farm products into a value-added farm product and its storage and distribution provided not less than 50 percent of any value added product, must be produced by the farm operator.
 - (4) Farm markets/roadside stands provided that not less than 50 percent of any stored, processed, marketed or merchandised farm product must be produced by the farm operator. In this district, farm markets must be located on land under the same ownership or control (e.g. leased) as the farm operator, but the roadside stand, or market does not have to be located on the same property where their production occurs.
 - (5) Temporary housing for migratory workers provided such housing and it's sanitary facilities are in conformance with all requirements of the Allegan County Health Department and/or any other federal, state, and/or local regulating agency having jurisdiction.
- (c) Riding stables where horses are boarded and/or rented.
- (d) Portable/temporary sawmill operations when located and operated to process timber harvested on property under the same ownership and control as the property owner and not less than 50 percent of any timber processed is produced by the property owner.
- (e) Single family dwellings on parcels of land of five acres or more.
- (f) Publicly owned athletic grounds and parks.
- (g) Kennels and animal runs (private, non-commercial) as defined in Section 3.02 and subject to the provisions of Section 16.23.
- (h) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.
- (i) Signs as regulated in Chapter 24.

SECTION 5.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the AG district. Such uses are subject to the standards included in this Chapter, to the procedures and general standards of Chapter 17 and to any specific standards applicable to the use contained in Chapter 16.

- (a) Home occupations subject to the provisions of Section 16.26.
- (b) Family Business as defined in Section 3.02 and regulated in Section 16.27.
- (c) Earth removal, sand and gravel mining and related processing operations subject to the provisions of Chapter 27.
- (c) Commercial kennels, animal runs and dog training facilities as defined in Section 3.02 and subject to the provisions of Section 16.23.
- (e) Sawmills (fixed operations).
- (f) Farm equipment and farm supply dealers.
- (g) Grain elevators, processing and packaging of Agricultural products subject to the provisions also pertaining to grain elevators and farm service facilities contained in Section 16.31.
- (h) Golf Courses, archery and fire arm shooting ranges, motorized sports and outdoor recreational facilities subject to the provisions of Section 16.30.
- (i) Agricultural tourism activities, events or attractions as listed below and subject to the provisions of Section 16.30. Some “value added” activities and services carried out in conjunction or association with farm operations are intended to enhance the marketing of agricultural products, to attract tourists and/or provide entertainment or recreation. The following are examples of activities, individually or collectively, that may be permitted in the AG District as uses accessory to otherwise permitted farm and farm market operations:
 - (1) Bakeries
 - (2) Cider mill (hard and non-alcoholic)
 - (3) Cooking demonstrations and food retreats
 - (4) Corn mazes, bonfires, hay rides, haunted barns/trails, trail runs and similar offerings.
 - (5) Farm tours, farm education programs.
 - (6) Mud runs, motorized and non-motorized bike events.
 - (7) On-farm events (wedding/celebrations) facilities.
 - (8) On-farm distilleries.
 - (9) Petting farms.
 - (8) Wine tasting.
- (j) Churches and other places of religious assembly.

- (k) Cellular and other communications towers subject to the provisions of Section 16.25 and Chapter 17.
- (l) Wind Energy Systems exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 5.04 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty five (35) feet in height. Unless otherwise provided, all other buildings and structures shall not exceed their usual and customary heights.

SECTION 5.05 AREA AND DEVELOPMENT REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

- (a) Front Yard - There shall be a front yard of not less than forty (40) feet.
- (b) Side Yard - For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet. For all other buildings, there shall be two (2) side yards of not less than fifty (50) feet each.
- (c) Rear Yard - There shall be a rear yard of not less than fifty (50) feet.
- (d) Lot Area - The minimum lot area and width for all uses in this district, unless specified elsewhere, shall be five (5) acres and two hundred (200) feet, respectively.
- (e) Parking – Ref. Chapter 23. *Note:* For seasonal uses such as road side stands and u-pick operations and other farm uses permitted by right (Permitted Uses) in this district, parking facilities may be located on a grass or gravel area. All parking areas shall be defined by gravel, cut lawn or other visible marking and may not be located within the street right of way.
- (f) Accessory buildings - Ref. Section 16.09

SECTION 5.06 MINIMUM FLOOR AREA. Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred (900) square feet of usable floor area.

CHAPTER 6

R-1 RURAL ESTATE DISTRICT

SECTION 6.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for large rural residential estates and farming.

SECTION 6.02 PERMITTED USES. No building or part of a building in this District shall hereafter be used, erected, altered or converted or land used in whole or in part except for:

- (a) General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs. In accordance with the standards of Section 6.05, any building or structure may be located thereon and used for the day to-day operation of the farm activities including:
 - (1) The storage or preservation of crops or animals and farm products.
 - (2) The collection and distribution of crops, animals and products.
 - (3) The processing of farm products into a value-added farm product and its storage and distribution provided not less than 50 percent of any value added product, must be produced by the farm operator.
 - (4) Farm markets/roadside stands provided that not less than 50 percent of any stored, processed, marketed or merchandised farm product must be produced by the farm operator. In this district, farm markets must be located on land under the same ownership or control (e.g. leased) as the farm operator, but the roadside stand, or market does not have to be located on the same property where their production occurs.
- (b) Single family dwellings.
- (c) Publicly owned athletic grounds, parks and cemeteries.
- (d) Kennels and animal runs (private, non-commercial) as defined in Section 3.02 and subject to the provisions of Section 16.23.
- (e) Keeping of domesticated farm animals and pets subject to the provisions of Section 16.21.
- (f) Signs as regulated in Chapter 24.
- (g) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 6.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the R-1 District. Such uses are subject to the standards included in this Chapter, to the procedures and general standards of Chapter 17 and to any specific standards applicable to the use contained in Chapter 16.

- (a) Home occupations as regulated in Section 16.26.

- (b) Family Business as defined in Section 3.02 and regulated in Section 16.27.
- (c) Earth removal, sand and gravel mining and related processing operations subject to the provisions of Chapter 27
- (d) Churches and other places of religious assembly.
- (e) Commercial Kennels, animal runs and dog training facilities as defined in Section 3.02 and subject to the provisions of Section 16.23.
- (f) Cellular and other communications towers subject to the provisions of Section 16.25 and Chapter 17.
- (g) Wind Energy Systems exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 6.04 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35)feet in height. Unless otherwise provided, all other buildings and structures shall not exceed their usual and customary heights.

SECTION 6.05 AREA AND DEVELOPMENT REGULATIONS. No building or structure nor any enlargement there of shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

- (a) Front Yard - There shall be a front yard of not less than forty (40) feet.
- (b) Side Yard - For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet. For all other buildings, there shall be two (2) side yards of not less than fifty (50) feet each. Buildings or structures intended to be used for a family business shall have a side yard setback of not less than 25 feet.
- (c) Rear Yard - There shall be a rear yard of not less than forty (40) feet.
- (d) Lot Area - The minimum lot area and width for all uses shall be two (2) acres and two hundred (200) feet, respectively.
- (e) Parking – Ref. Chapter 23. *Note:* For seasonal uses such as road side stands and u-pick operations and other farm uses permitted by right (Permitted Uses) in this district, parking facilities may be located on a grass or gravel area for. All parking areas shall be defined by gravel, cut lawn or other visible marking and may not be located within the street right of way.
- (d) Accessory buildings - Ref. Section 16.09.

SECTION 6.06 MINIMUM FLOOR AREA. Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred (900) square feet of usable floor area.

CHAPTER 7

R-1a RURAL RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE. The intent of the R-1a District is to provide a transition zone between the planned agricultural uses on the east side of the Township and the more intensive uses in the Village of Hamilton. It is further intended to permit a limited range of residentially related uses and to prohibit multiple family, office, commercial, industrial and other uses that would interfere with the quality of residential life in this district. It is intended that development within this district will be designed to preserve significant natural areas and to preserve farmland wherever possible. Preservation of open space, protection of flood prone areas, protection of wetlands and woodlots, and preservation of other natural features is encouraged. To that end, the use of the open space provision of this Ordinance is recommended. Development in this district is not intended to be served by public water and sewer facilities.

SECTION 7.02 PERMITTED USES. In all areas zoned R-1a Rural Residential District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

- (a) Single-family detached dwellings.
- (b) Public and private recreation areas.
- (c) Essential public services.
- (d) Private and parochial elementary, intermediate or high schools
- (e) Accessory uses and buildings incidental to the above permitted uses.
- (f) Signs as regulated in Chapter 24.
- (g) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 7.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the R-1a District. Such uses are subject to the standards included in this Chapter, to the procedures and general standards of Chapter 17 and to any specific standards applicable to the use contained in Chapter 16.

- (a) Churches and other buildings and structures used for religious assembly.
- (b) Tourist home or bed and breakfast facilities with no more than six (6) rooms.
- (c) Private and parochial elementary, intermediate or high schools.
- (d) Home occupations subject to the standards of Section 16.26.
- (e) Family Business subject to the provisions of Section 16.27.
- (f) Farm markets/roadside stands provided that not less than 50 percent of any stored, processed, marketed or merchandised farm product must be produced by the farm

operator. In this district, farm markets must be located on land under the same ownership or control (e.g. leased) as the farm operator, but the roadside stand, or market does not have to be located on the same property where their production occurs.

SECTION 7.04 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet in height. All other buildings shall not exceed their usual and customary heights.

SECTION 7.05 AREA AND DEVELOPMENT REGULATIONS. No principal building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- (a) Front yard - There shall be a front yard of not less than forty (40) feet as measured from the edge of the R.O.W.
- (b) Side yard - For residential structures, there shall be a minimum side yard of fifteen (15) feet. Buildings or structures intended to be used for a family business shall have a side yard setback of not less than 25 feet.
- (c) Rear yard - There shall be no rear yard of less than twenty-five (25) feet.
- (d) Lot area and width - The minimum lot area and width for all residential uses shall be 40,000 square feet and have a minimum width of one hundred and fifty (150) feet.
- (e) Accessory buildings - Ref. Section 16.09.

SECTION 7.06 MINIMUM FLOOR AREA. Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred (900) square feet of usable floor area.

CHAPTER 8

R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 8.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for low density residential uses together with required recreational, religious and educational facilities.

SECTION 8.02 PERMITTED USES. In all areas zoned R--2, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

- (a) Single family dwellings.
- (b) Signs as regulated in Chapter 24.
- (c) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 8.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the R-2 district. Such uses are subject to the standards included in this Chapter, to the procedures and general standards of Chapter 17 and to any specific standards applicable to the use contained in Chapter 16.

- (a) Churches and other buildings and structures used for religious assembly.
- (b) Tourist home or bed and breakfast facilities with no more than six (6) rooms.
- (c) Private and parochial elementary, intermediate or high schools.
- (d) Libraries museums, art galleries and similar uses.
- (d) Home occupations subject to the standards of Section 16.26
- (e) Parks, playgrounds, community center, governmental, administration, or service buildings which are owned and operated by a governmental agency or a non-commercial organization.
- (e) Family Business subject to the provisions of Section 16.27.
- (f) Roadside stands.
- (g) State licensed group day care homes, foster family group homes and adult foster care small group homes.
- (h) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 8.04 HEIGHT REGULATIONS. No building or structure shall exceed thirty five (35) feet in height or two and one half (2 1/2) stories.

SECTION 8.05 AREA AND DEVELOPMENT REGULATIONS. No building or

structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- (a) Front Yard - There shall be a front yard of not less than forty (40) feet.
- (b) Side Yard - There shall be total side yards of not less than twenty (20) feet; provided, however, that no yard shall be less than seven (7) feet. Buildings or structures intended to be used for a family business shall have a side yard setback of not less than 25 feet.
- (c) Rear Yard - There shall be a rear yard of not less than twenty-five (25) feet; provided, however, that in the case of lakefront lots, the rear yard shall be not less than (50) feet.
- (d) Lot Area and Width (Single Family) - The minimum lot area and width for a single family dwelling shall be twelve thousand, (12,000) square feet and one hundred (100) feet, respectively.
- (e) Parking – Ref. Chapter 23.
- (d) Accessory buildings - Ref. Section 16.09.

SECTION 8.06 MINIMUM FLOOR AREA. Each dwelling unit shall have minimum usable floor area as follows:

- (a) Single and two family dwelling - nine hundred (900) square feet.

CHAPTER 9

R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT

SECTION 9.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for medium density one and two family and low density multi-family residential and related uses.

SECTION 9.02 PERMITTED USES. In all areas zoned R-3, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses:

- (a) Single Family Dwellings subject to the same conditions, restrictions and requirements as are provided in the R-2 Zoning District.
- (b) Two family dwellings.
- (c) Multi-family dwellings.
- (d) Nursing homes, senior citizen housing and similar group housing.
- (e) Signs as regulated by Chapter 24.
- (f) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.

SECTION 9.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the R-3 district. Such uses are subject to the standards included in this Chapter, to the procedures and general standards of Chapter 17 and to any applicable specific standards contained in Chapter 16.

- (a) Home occupations in single family dwellings when authorized as a special use by the Township Planning Commission utilizing the standards of Section 16.26.
- (b) Churches and other places of religious assembly.

SECTION 9.04 HEIGHT REGULATIONS, SINGLE AND TWO FAMILY. No residential building or structure shall exceed thirty-five (35) feet in height. Unless otherwise provided, all other buildings and structures shall not exceed their usual and customary heights.

SECTION 9.05 AREA REGULATIONS, SINGLE AND TWO FAMILY. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- (a) Front Yard, Single and Two Family. There shall be a front yard of not less than forty (40) feet.
- (b) Side Yard, Single and Two Family. There shall be a total side yard as follows:
 - (1) The total side yards shall be not less than twenty (20) feet; provided, however,
 - (2) no side yard shall be less than seven (7) feet.

- (c) Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet; in the case of lake front lots, the rear yard shall not be less than fifty (50) feet.
- (d) Lot Area and Width (Single Family). The minimum lot area and width for a single family dwelling shall be twelve thousand, (12,000) square feet and one hundred (100) feet, respectively.
- (e) Lot Area and Width (Two Family). The minimum lot area and width for a two family dwelling shall be twenty thousand (20,000) square feet and one hundred (100) feet, respectively.

SECTION 9.06 MINIMUM FLOOR AREA, SINGLE AND TWO FAMILY. Each single family and two family dwelling shall have minimum usable floor area as is required in the R-2 District

SECTION 9.07 MINIMUM LOT AREA AND WIDTH (Other Than One and Two Family). The minimum lot width shall be two hundred (200) feet. The minimum lot area for multi-family dwellings shall be ten thousand (10,000) square feet per dwelling unit. The minimum lot area and width for all other permitted uses shall be twenty thousand (20,000) square feet and one hundred (100) square feet, respectively.

SECTION 9.08 MULTI-FAMILY BUILDING AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS. Unless otherwise specified, area, height, bulk, and placement standards multi-family dwelling structure are as provided in the following table.

Table 9-1

Maximum lot coverage:	30%		
Maximum building height:	Lesser of 35 feet or 3 stories		
Minimum dwelling unit size:	Efficiency units:	500 square feet	
	One bedroom units:	600 square feet	
	Two bedroom units:	800 square feet	
	Three bedroom units:	1000 square feet	
	Four bedroom units:	1150 square feet	
	Semi detached single family, two family and duplex units:	960 square feet, ea. d.u.	
Minimum building setbacks from driveways, parking areas and street R.O.W.:	Distance from public and private street right of way or easement lines:	50 feet	
	Distance from internal parking areas and driveway edges:	20 feet	
Minimum building setbacks from non right of way property lines:	Side of building:	1 story	2 or 3 story
	Front or rear of building:	30 feet	40 feet
		40 feet	50 feet
Minimum building to building spacing:	Orientation	Feet	
	Side to side:	25	
	Front to front:	50	
	Rear to rear:	80	
	Front to side:	50	
	Corner to corner:	25	
	Front to rear:	60	
	Rear to side:	50	

SECTION 9.09 BUFFER YARD. With the exception of detached single family, two family and duplex dwellings and their associated permitted accessory buildings, every use permitted in the R-3 District shall provide abutting developed or vacant lots or parcels which are zoned for single family residential use and any lot which is occupied by a single family dwelling with a buffer yard that contains a green belt as defined in landscape provisions of Chapter 23.

SECTION 9.10 SITE DEVELOPMENT STANDARDS.

- (a) Parking and site lighting shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 24.
- (c) Site landscaping shall be installed and maintained in accordance with the provisions of Chapter 23.
- (d) Site Plan Review is required for multi-family buildings.
- (e) Site access shall be regulated under the provisions of Chapter 22.
- (f) Accessory buildings and structures may not be located in the front or side yard and shall otherwise be regulated in accordance with the requirements of Section 16.09 and 16.10

CHAPTER 10

R-4 MANUFACTURED HOME PARK DISTRICT

SECTION 10.01 DESCRIPTION AND PURPOSE. The MHP, Manufactured Home Park District is intended to provide for the location and regulation of Manufactured Housing Communities (a.k.a. mobile home parks). These districts should be located in areas where they will be compatible with adjacent land uses, any new R-4 Manufactured Home Park District not previously identified on the Heath Township Future Land Use Map or created after the effective date of this ordinance shall, accordingly be located in conformance with the following:

- (a) R-4 Districts should serve as a transition between developed residential areas and non-residential districts and where the potential impacts of the proposed development on traffic and the character of surrounding community can be minimized by on-site mitigation measures or the nature of the surrounding environment. Manufactured home parks should not be located where they would materially interrupt the continuity and pattern of local streets and conventional residential neighborhoods.
- (b) The District shall have direct access to a paved major thoroughfare or collector road.
- (c) The location of a manufactured housing park shall not have an adverse or disrupting impact on the capacity or proper functioning of public facilities and utility systems, including but not limited to roads, sanitary sewers, water, storm drainage, police and fire protection and schools.
- (d) If possible sanitary sewer and water supply with sufficient capacity to serve the residents and to provide fire protection shall be attainable (within 1000 feet of the district) at the time of its creation. If such systems are unavailable, the District shall be located and sized in such fashion that adequate private community water and/or wastewater facilities can be sited and developed in accordance with state regulations and with due consideration given to (a), (b) and (c) above.

The regulations established by state law, Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission Rules and the provisions of this Chapter shall govern all manufactured housing communities in the Township. The regulations in this Chapter are intended to insure that manufactured home communities meet the development standards of this ordinance and promote the health, safety and welfare of the Township's residents.

SECTION 10.02 PERMITTED USES. Land, buildings or structures in this zoning district may be used for the following purposes only:

- (a) Uses that are customarily incidental to a manufactured housing community, including:
 - (1) Recreational facilities for use of manufactured housing community residents.
 - (2) Solid waste collection and storage facilities for the manufactured housing community,
 - (3) Laundry and restroom facilities.
 - (4) Open space and recreational uses.

- (5) Meeting rooms, group kitchen and food service facilities when designed solely for the use of residents of the manufactured housing community.
- (6) Office, maintenance and storage buildings when designed solely for the operation and maintenance of the manufactured housing community.
- (7) Temporary buildings or trailer offices, but only when incidental to construction of a manufactured housing community.
- (b) Essential services provided there is no outdoor storage yard or human occupied building.
- (c) Wind Energy Systems not exceeding 65 feet in height subject to the provisions of Chapter 26.
- (d) Cellular and other communications towers subject

SECTION 10.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as special land uses within the R-4 District under the provisions of Chapter 17.

- (a) Storage warehouses for use by residents of a manufactured home community which are accessible by means of the internal roads of a manufactured home community.
- (b) Churches and other buildings and structures used for religious assembly
- (c) Home occupations subject to the standards of Section 16.26.
- (d) Cellular and other communications towers subject to the provisions of Section 16.25 and Chapter 17.

SECTION 10.04 HEIGHT REGULATIONS. Unless otherwise provided, no building or structure shall exceed thirty-five (35) feet in height or two and one half (2 ½) stories in height.

SECTION 10.05 DEVELOPMENT REVIEW AND MINIMUM REQUIREMENTS. Manufactured home communities are subject to all the rules and requirements as established and regulated by Michigan law which shall include by reference the following minimum requirements:

- (a) Preliminary Plan Review. Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall follow the procedures and requirements of this Ordinance and the requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules. The preliminary plan shall include the following information but shall not be required to include detailed construction plans.
 - (1) The date, north arrow and scale. The scale shall not be less than one inch equals fifty feet for property under three acres and at least one inch equals one hundred feet for those three acres or more.
 - (2) All site and/or property lines are to be shown in dimension.
 - (3) The location and height of all existing and proposed structures on and within the subject property, and existing within one hundred feet of the subject property.
 - (4) The location and typical dimensions of all existing and proposed internal drives,

sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of atypical parking space), unloading areas, community buildings, open space and recreation areas.

- (5) The location and the pavement and right-of-way width of all abutting roads, streets or alleys.
- (6) The name and firm address of the professional civil engineering, registered landscape architect, landscaping firm, or architectural firms responsible for the preparation of the site plan.
- (7) The name and address of the property owner and developer.
- (8) The location of all community rubbish receptacles and landscaping and the location, height, and type of fences and walls.
- (9) Location of all fire hydrants, if applicable.
- (10) The number of manufactured housing sites proposed.
- (11) The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of stormwater management facilities.
- (12) Utility and other easements.
- (13) Existing wetlands.
- (14) Proposed sign locations.
- (15) Demonstration that all required setbacks and separation distances will be met.

The Planning Commission shall take action on the preliminary plan within sixty days (60) days of the official receipt of the preliminary plan by the Planning Commission provided that no action on a preliminary plan shall be taken unless and until the subject property is zoned R-4 Manufactured Home Park District.

- (b) General Authority. Manufactured home communities shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured home parks. Application for permit to construct a Manufactured Housing Park shall be submitted to the Michigan Department of Consumer & Industry Services. Consumer & Industry Services, Construction Codes Bureau is the agency charged with licensing of manufactured home parks. Preparation of the application, support data and local agency review of the above referenced materials shall conform to the requirements of Act 96.
- (c) Codes. All structures and utilities to be constructed, altered, or repaired in a manufactured home park shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured home built prior to June 15, 1976 shall have been constructed to

the State of Michigan Standards in effect at that time. All structures and improvements to be constructed or made under the Township Building Code shall have a building permit issued therefore by the Township Building Inspector.

CHAPTER 11

C-1 GENERAL BUSINESS DISTRICT

SECTION 11.01 DESCRIPTION AND PURPOSE. This district is established to provide adequately sized and located areas in the Township where the principal uses of the land may be devoted to high activity commercial uses. Such uses provide retail-shopping opportunities and both personal and business services to the community and highway-oriented markets. The wide range of service and retail uses allowed are expected to have larger land area requirements, extended hours and higher traffic generation rates than similar businesses serving more localized and neighborhood markets.

SECTION 11.02 PERMITTED USES. Within the "C-1" General Business District, unless otherwise authorized under the provisions of this ordinance, no building or part thereof shall be erected, altered, or converted or the land used in whole or in part unless it is for the following or similar types of retail and service uses.

- (a) Hospitality and food service establishments including:
 - (1) Motels and hotels, bed and breakfast and other lodging establishments.
 - (2) Restaurants, and cafes including outdoor/patio seating and drive up or drive-through service, excluding drive-in restaurants (ref. Sec. 11.03).
 - (3) Delicatessens, food catering establishments.
- (b) Automobile related retail (except outdoor auto sales and rental, ref. Sec. 11.03(b)) and service establishments, including:
 - (1) Automobile/gasoline service stations for the sale of gasoline or accessories and the performance of incidental services such as tire changing, greasing, mechanical repairs, and car washing, provided all work is conducted wholly within a completely enclosed building.
 - (2) Enclosed car washes (automatic or manual).
 - (3) Automobile repair shops or garages and auto-body shops if all operations are conducted within a completely enclosed building.
 - (4) Automobile parts and accessory stores.
- (c) Retail and wholesale sales establishments including:
 - (1) General merchandise stores such as department and variety stores.
 - (2) Food and grocery stores such as butcher shops and fish markets, fruit and vegetable markets, dairy products stores, candy, nut and confectionery stores and retail bakeries.
 - (3) Apparel and accessory stores.
 - (4) Furniture and home furnishings, and home and office supply stores selling items such as floor coverings, drapery and upholstery, household appliances, radios,

televisions, and electronics, computers and software, videos, records, tapes and discs, musical instruments and office supplies.

- (5) Miscellaneous retail stores for items such as used merchandise, hunting and sporting goods, bicycles, books, stationery, jewelry, art, hobbies, crafts, toys, and games, cameras and photographic supplies, gifts, novelties, and souvenirs, luggage and leather goods, sewing, needlework, catalog and mail-order, tobacco products and accessories, and news dealers.
 - (6) Pet shops, not including boarding.
 - (7) Flower shops with or without accessory green houses.
 - (8) Drug stores including drive up and drive through service.
 - (9) Resale shops, pawn shops and auction houses (except livestock), excluding outdoor storage and display.
 - (10) Lumber and other building materials stores such as paint, glass, wallpaper, hardware stores, electrical and plumbing supplies, excluding outdoor storage.
- (d) Personal service establishments including:
- (1) Beauty and barbers shops, travel agencies, fitness, tanning and manicure salons, tailor and dress making shops, shoe-repair shops, taxidermy shops.
 - (2) Funeral parlor or Mortuary without residential living quarters.
 - (3) Laundry/Dry Cleaning including pickup and drop-off.
 - (4) Dance, art, music and other professional studios.
 - (5) Fitness centers.
 - (6) Medical clinics.
 - (7) Commercial kennels, animal hospitals, veterinary clinics including boarding provided that all animal runs shall be totally enclosed unless authorized as a Special Land Use.
 - (8) Taxidermist
- (e) Business and miscellaneous services including:
- (1) Advertising agencies, adjustment and collection services, credit reporting services, direct mail services, photocopying and duplicating services, commercial art and graphic design, secretarial and court reporting, disinfecting and pest control services, building maintenance services, employment agencies, computer programming services, data processing, messenger/telegraph-service stations and parcel-delivery stations.
 - (2) Repair services such as for radios, television, computers and similar electronics, household and business appliances and furniture, watches, clocks and jewelry, tools and gauges.
 - (3) Sign painting and repair services, locksmiths, vending machine service.
 - (4) Packaging services, frozen food lockers, self-service storage facilities.

- (f) Offices including but not limited to:
 - (1) Banks, credit unions and other financial institutions including drive thru and ATM facilities.
 - (2) Real estate, insurance and title offices.
 - (3) Professional offices of doctors, dentists, lawyers, architects, engineers, or other professionals, and corporate, executive, administrative or sales offices of any business.
 - (4) Laboratories and clinics (dental, chiropractic and medical)
 - (5) Base of operations offices and showrooms for plumbers, heating, cooling contractors, electricians, decorators and similar trades provided that operations are conducted within a completely enclosed building.
- (g) Amusement, recreational and institutional uses including but not limited to:
 - (1) Bowling alleys, pool and billiard halls, arcades.
 - (2) Theaters and cinemas except drive-in.
 - (3) Indoor archery and firearm practice ranges.
- (h) Governmental and institutional uses including:
 - (1) Post offices.
 - (2) Cemeteries.
 - (3) Churches and other places of religious assembly.
 - (4) Public parks, athletic grounds, libraries, museums, community centers, service organizations and similar institutional uses.
 - (5) Government administration offices and social service buildings.
 - (6) Fire stations, police offices.
 - (7) Business, trade and technical schools.
 - (8) Lodges, fraternal organizations.
- (i) Outdoor display or sales of merchandise not exceeding a total of 500 square feet of area when under the canopy or roof eave of the building and when accessory to a principle business conducted indoors subject to the provisions of Section 11.03 below.
- (j) Multiple tenant retail, office and personal service building containing less than 20,000 square feet of gross floor area.
- (k) Wind energy systems in accordance with the standards of Chapter 26.
- (l) Cellular Towers and other Communication Facilities in accordance with the provisions of Section 16.25.
- (m) Other similar businesses or service establishments that generally provide commodities or services not listed in this Section that are judged by the Zoning Administrator to be similar in character to those enumerated in this section.

SECTION 11.03 AUTHORIZED SPECIAL LAND USES. The uses of land and structures listed in this Section may be permitted as Special Land Uses within the C-1 General Business District if approved by the Planning Commission as provided under the procedures Chapter 17 and subject to all general and specific standards applicable to the use contained in this ordinance.

- (a) Adult entertainment use uses subject to the standards and regulations in Section 16.24.
- (b) Automobile, truck, farm equipment, recreation vehicle and boat sales, new or used.
- (c) Drive-in restaurants
- (d) Outdoor display or sales of merchandise or bulk commodities exceeding a total of 500 square feet of area or outdoor display and sales area beyond a canopy or roof eave of the principal use building or canopy. All goods or materials stored outside which are visible from a public road, or which are located less than 100 feet from a residential zoning district shall be screened from view by an approved landscaped screen, wall or solid fence. No such storage shall constitute a fire hazard, obstruct on-site vehicle circulation or fire fighting capabilities.
- (e) Hospitals and state-licensed residential care and tenant facilities.
- (f) Essential services buildings, municipal garages and storage yards and essential service structures such as electrical sub-stations, water treatment and storage structures.
- (g) Private elementary and secondary schools.
- (h) Colleges and universities.
- (i) Child day-care centers, adult day-care centers.
- (j) Amusement parks, go cart rides and miniature golf.
- (k) Multiple tenant retail offices and personal services buildings or shopping centers containing more than 20,000 square feet.
- (l) Outdoor animal runs.
- (m) Outdoor archery and firearm practice ranges.
- (n) Public and private correction facilities.
- (o) Wind Energy Systems subject to the provisions of Chapter 26.
- (p) Other similar businesses or service establishments that generally provide commodities or services not listed in this Section that are judged by the Zoning Administrator to be similar in character to those enumerated in this Section.

SECTION 11.04 OPERATIONAL STANDARDS.

- (a) Outdoor Uses and Activities: Unless specifically authorized under the terms and provisions of this Chapter, all outdoor uses and activities, other than parking and loading, shall be conducted wholly within enclosed buildings.
- (c) Fire Apparatus Accessibility: Each use shall be provided with fire lanes capable of enabling fire apparatus accessibility to within 200 feet of all exterior points of a building. Rear service drives, allies and fire lanes located on adjacent property may be considered

as meeting this standard when there is a reciprocal provision for such with respect to each of the properties.

- (d) Odor, Fumes, Dust, Glare, Vibration or Heat: No activity shall emit or produce odor, fumes, smoke, particulates, dust, glare, vibration or heat that will adversely affect permitted uses on an adjacent property.
- (e) Noise: No permitted activity shall emit noise that is readily discernable to the average person in any adjacent residential zone district providing that air handling equipment in proper working conditions shall be deemed to comply with this provision if located on a roof with intervening noise reduction baffles or if located on the side of a building facing away from the residential zone.
- (f) Electromagnetic Radiation: No permitted use shall emit electromagnetic radiation which would adversely affect the operation of equipment beyond the confines of the building producing the effect.
- (g) Hazardous Material Management Plan: Any permitted activity that may present danger of fire, explosion or other catastrophe shall have a current Hazardous Material Management Plan, shall be reviewed and approved by the Fire Department and the Township Engineer and shall not represent any danger to property or persons beyond the property lines.
- (h) Other Requirements: All uses shall conform to all other Township, County, State and Federal regulations pertaining to its operations.

SECTION 11.05 HEIGHT REGULATIONS. Unless otherwise provided for in this ordinance, no building or structure shall exceed three (3) stories or thirty five (35) feet, whichever is the lesser height. Ref. Section 16.03 for exceptions.

SECTION 11.06 AREA REGULATIONS. Unless otherwise stipulated in this ordinance, no building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure or enlargement.

- (a) Front Yards:
 - (1) M-40 and County Primary Streets - There shall be a front yard setback of not less than seventy five (75) feet. Along M-40 the first 20 feet of such yard area as measured from the street right of way line shall be devoted to greenbelt. Along county primary streets the first 10 feet of yard area as measured from the street right of way line shall be devoted to greenbelt.
 - (2) Minor/Local Streets - There shall be a front yard setback of not less than fifty (50) feet. The first 10 feet of such yard area as measured from the street right of way line shall be devoted to greenbelt.
- (b) Side Yard
 - (1) Where the side of the lot in a C-1 Zoning District abuts upon a lot in any R or AG Zoning District, the side yard shall be not less than twenty-five (25) feet.
 - (2) No side yard setback is required on any side of a building directly abutting other commercial uses or land included in a C District if access from the rear is

available through an alley, service drive or other improved and perpetual means enabling fire apparatus accessibility to within 200 feet of all exterior points of a building. If a building is not constructed to the lot line there shall be a side yard setback of not less than 10 feet.

- (3) A lot directly abutting other commercial uses or land included in a C District but not having fire apparatus access from the rear through an alley or other improved means shall have one side yard of not less than 10 feet and one unobstructed second side yard of not less than 25 feet or 1.5 times the height of the adjacent exterior building wall, whichever is the greater distance. (ref. 11.04 (c)).

(c) Rear Yard

- (1) Where the rear of a lot in a C-1 Zoning District abuts upon the side yard of a lot in any R Zoning District or AG Zoning District, there shall be a rear yard of not less than twenty-five (25) feet.
- (2) In all other cases, there shall be a rear yard of not less than ten (10) feet.
- (3) No accessory building shall be allowed closer than five (5) feet from the rear lot line.

(d) Lot Area and Width-

- (1) Existing Lots of record. The minimum lot area for lots created prior to the effective date of this ordinance shall be ten thousand (10,000) square feet; provided, however, that all private sewage disposal systems not connected to a public sewer must be approved by the Allegan County Health Department. The minimum lot width shall be seventy-five (75) feet.
- (2) The minimum lot area for lots created subsequent to the effective date of this ordinance shall be twenty thousand (20,000) square feet; provided, however, that all private sewage disposal systems not connected to a public sewer must be approved by the Allegan County Health Department. The minimum lot width shall be one hundred (100) feet.

SECTION 11.07 SITE DEVELOPMENT STANDARDS.

- (a) Parking and site lighting shall be provided in accordance with the requirements of Chapter 23.
- (b) Signs shall be regulated in accordance with the requirements of Chapter 24.
- (c) Site landscaping shall be installed and maintained in accordance with the provisions of Chapter 23.
- (d) Site Plan Review is required for Uses Permitted by Right and for all Special Land Uses.
- (e) Site access shall be regulated under the provisions of Chapter 22.
- (f) Accessory buildings and structures may not be located in the front or side yard and shall otherwise be regulated in accordance with the requirements of Section 16.10.

SECTION 11.08 BUILDING MATERIALS STANDARDS. The first floor wall area of all office facades facing a street shall be constructed of brick, stone, fluted block, glass or similar decorative material. At least 25 percent of the surface of balance of any first floor (or its equivalent height of 12 feet) facing a street, other than an office facade, shall be constructed of brick, stone, fluted block, glass or similar decorative material. Wood may be utilized for decorative and non-structural porticos, canopies and other attachments. All building exteriors shall be adequately protected from damage by vehicles and internal operations.

In recognition of developing technologies in building materials, the Planning Commission may approve other materials in consideration of the following standards:

- (a) Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
- (b) The relative scale of the building in terms of height and area.
- (c) The extent to which the building is setback from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
- (d) Appeals of facade determinations may be made to the Zoning Board of Appeals.

CHAPTER 12

I-I INDUSTRIAL DISTRICT

SECTION 12.01 DESCRIPTION AND PURPOSE. It is the intent of this Chapter to provide for the development of a variety of warehousing, industrial and manufacturing uses. Regulations contained in this district are designed to encourage the development of industrial areas which will be compatible with one another and with adjacent or surrounding districts. These regulations are also designed to protect existing industrial uses located in the district and to discourage the establishment of consumer retail sales uses that are more suitably provided for in other districts.

SECTION 12.02 PERMITTED USES. Land and/or buildings may be utilized for the following uses by right in the I-1 Industrial district, subject to the site plan approval and adherence to the standards contained or referenced in this chapter:

- (a) The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The manufacture, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semiprecious metals or stone, shell, rubber, tin, iron, steel, tobacco, wood, yarn, synthetics and fabrics.
- (c) The manufacture, only by electricity or gas, of pottery and figurines or other ceramic products, using only previously pulverized clay.
- (d) Auction houses, auto auctions, automobile and RV sales, equipment sales and similar businesses, if the operation is wholly conducted within an enclosed building. When such use involves the outdoor storage, display, staging or parking of goods, materials, equipment or vehicles, such outdoor activity and use must be authorized by the Planning Commission as a Special Land Use.
- (f) Auto repair shops.
- (g) Auto and truck wash.
- (h) Bottling plants and dairies.
- (i) Construction contractors offices, excluding outdoor yard areas unless authorized as a Special Land Use.
- (j) Crating and packing service.
- (k) Cellular and Other Communications Towers subject to the standards contained in Chapter 16.
- (l) Central dry cleaning and laundry.
- (m) Lumber yards and builder supply.
- (n) Machine, tool and die shops.

- (o) Mini- storage/self storage facilities.
- (p) Newspaper and book printing and publishing.
- (q) Retail sales and showrooms incidental to a warehouse or distribution facility or a construction contractor's establishment which requires a retail outlet
- (r) Sign painting and servicing shops.
- (s) Truck terminals including maintenance and service facilities.
- (t) Warehouse, storage and transfer buildings, excluding the storage and transfer of garbage or rubbish.
- (u) Wholesale sales or distribution establishments for non-farm products including but not limited to automotive equipment, drugs, petroleum, liquid petroleum, chemicals, dry goods, apparel, packaged and/or prepared food, factory and mill supplies, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
- (v) Billboards.

SECTION 12.03 AUTHORIZED SPECIAL LAND USES. The following uses may be permitted when authorized as Special Land Uses subject to the provisions and requirements of Chapter 17.

- (a) Asphalt, concrete and ready mix concrete production plants.
- (b) Bulk storage, processing, and wholesale and retail sale of landscape materials, such as bark, mulches, wood chips, stones, topsoil, and other materials.
- (c) Contractor yards.
- (d) Electrical generating plants and related facilities.
- (e) Essential service structures such as electrical sub-stations, water treatment and storage structures.
- (f) Grain Elevators And Farm Service Facilities and Uses involving the storage, processing and shipping of grain, silage, feed, fertilizer, agronomy products and associated commodities such as fuel, lumber or masonry products subject to the standards contained in Section 16.30
- (g) Drive-in theaters.
- (h) Landing and take-off areas for roto-craft and airports.
- (i) Parking lots, commercial free standing.
- (j) Solid waste transfer, composting and recycling stations located at least five hundred (500) feet from residentially-zoned property.
- (k) Sawmills.
- (l) Truck and equipment sales, rental and leasing of new and used trucks, truck trailers, cranes, excavators, backhoes, forklifts, loaders and construction equipment, tractors and agricultural equipment, and other similar heavy vehicles.

- (m) Wind Energy Systems subject to the provisions of Chapter 26.
- (n) Junk yards/auto salvage yards.
- (o) Any other light industrial use similar to those which is determined by the Planning Commission to be of the same general character as those listed as permitted uses in this Section 12.03.

In considering the authorization of any special use in the I-1 District the Planning Commission shall in addition to consideration of the General Standards of Section 17.03, make written findings certifying that satisfactory provision and arrangement has been made concerning the following where applicable:

- (1) Ingress and egress to the lot and the proposed buildings and structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required with particular attention to the items in subparagraph (1) above and the economic, noise, glare, or odor effects of the use on adjoining properties and the surrounding neighborhood;
- (3) Refuse and service areas with particular reference to the items in subparagraphs (1) and (2) above;
- (4) Utilities with reference to locations, availability and compatibility;
- (5) Screening and buffering with reference to type, dimensions and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with adjoining and surrounding neighborhood properties;
- (7) Required yards and other open spaces; and
- (8) General compatibility with adjacent properties and the surrounding neighborhood

SECTION 12.04 OPERATIONAL STANDARDS. The following standards are applicable to all uses in the I-1 District

- (a) Outdoor Activities: Unless otherwise specifically stated in the above Sections, all business activity, other than parking, loading and storage shall be conducted wholly within enclosed buildings unless specifically authorized by the Planning Commission as a Special Land Use.
- (b) Outdoor Storage: The outdoor storage of fuel, raw materials, product freighting and packaging material or equipment shall not be located in any yard abutting a street and shall only be permitted in areas approved in advance as part of the site plan approval. All goods or materials stored outside which are visible from a public road, or which are located less than 100 feet from another zoning district shall be screened from view by an approved landscaped screen, wall or solid fence. No such storage shall constitute a fire hazard, obstruct on-site vehicle circulation or fire fighting capabilities.
- (c) Fire Apparatus Accessibility: Each use shall be provided with fire lanes capable of enabling fire apparatus accessibility to within 200 feet of all exterior points of a building. Rear service drives, allies and fire lanes located on adjacent property may be considered

as meeting this standard when there is a reciprocal provision for such with respect to each of the properties.

- (d) Odor, Fumes, Dust, Glare, Vibration or Heat: No activity shall emit or produce odor, fumes, smoke, particulates, dust, glare, vibration or heat that will adversely affect permitted uses on an adjacent property.
- (e) Noise: No permitted activity shall emit noise that is readily discernable to the average person in any adjacent residential zone district providing that air handling equipment in proper working conditions shall be deemed to comply with this provision if located on a roof with intervening noise reduction baffles or if located on the side of a building facing away from the residential zone.
- (f) Electromagnetic Radiation: No permitted use shall emit electromagnetic radiation which would adversely affect the operation of equipment beyond the confines of the building producing the effect.
- (g) Hazardous Material Management Plan: Any permitted activity that may present danger of fire, explosion or other catastrophe shall have a current Hazardous Material Management Plan, shall be reviewed and approved by the Fire Department and the Township Engineer and shall not represent any danger to property or persons beyond the property lines.
- (h) Other Requirements: All uses shall conform to all other Township, County, State and Federal regulations pertaining to its operations.

SECTION 12.05 HEIGHT REGULATIONS. Three (3) stories or forty-five (45) feet, whichever is lesser. (Reference Section 16.03 for exceptions)

SECTION 12.06 AREA AND SITE DEVELOPMENT REGULATIONS. No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure or enlargement.

- (a) Front Yard.
 - (1) M-40 and County Primary Streets - There shall be a front yard setback of not less than seventy (75) feet. Along M-40 the first 20 feet of such yard area as measured from the street right of way line shall be devoted to greenbelt. Along county primary streets the first 10 feet of yard area shall be devoted to greenbelt.
 - (2) Minor/Local Streets - There shall be a front yard setback of not less than fifty (50) feet. The first 10 feet of such yard area as measured from the street right of way line shall be devoted to greenbelt.
- (b) Side Yards.
 - (1) Where the side yard of a lot abuts the side of a lot in the Industrial Zone, there shall be a side yard of not less than ten (10) feet.
 - (2) In all other cases, there shall be a side yard of not less than fifty (50) feet.
- (c) Rear Yard - There shall be a rear yard of not less than fifty (50) feet.
- (d) Lot Area and Width (ref. Section 16.15). The minimum lot area shall be forty thousand (40,000) square feet and the minimum lot width shall be two hundred (200) feet.

- (e) Site Access shall be provided in accordance with the requirements of Chapter 22
- (f) Parking shall be provided in accordance with the requirements of Chapter 23.
- (g) Signs shall be regulated in accordance with the requirements of Chapter 24.
- (h) Site lighting and landscaping shall be installed and maintained in accordance with the provisions of Chapter 23.
- (i) Fences and Walls shall be installed as regulated under Section 16.28.
- (j) Site Plan Review is required for Uses Permitted by Right and for all Special Land Uses.
- (k) Accessory buildings and structures may not be located in the front yard and shall otherwise be regulated in accordance with the requirements of Section 16.10.

SECTION 12.07 BUILDING MATERIALS STANDARDS. The first floor wall area of all office facades facing a street shall be constructed of brick, stone, fluted block, glass or similar decorative material. At least 25 percent of the surface of balance of any first floor (or its equivalent height of 12 feet) facing a street, other than an office facade, shall be constructed of brick, stone, fluted block, glass or similar decorative material. Wood may be utilized for decorative and non-structural porticos, canopies and other attachments. All building exteriors shall be adequately protected from damage by vehicles and internal operations.

In recognition of developing technologies in building materials, other materials may be approved after consideration of the following:

- (a) Whether or not the finished treatment is compatible with surrounding properties in terms of color and overall image.
- (b) The relative scale of the building in terms of height and area.
- (c) The extent to which the building is setback from the street frontage(s) and the amount and quality of landscaping on the street frontage(s) and along the building.
- (d) Appeals of facade determinations may be made to the Zoning Board of Appeals.

CHAPTER 13 RESERVED FOR FUTURE USE

CHAPTER 14

NATURAL RIVER (NR) OVERLAY DISTRICT

SECTION 14.01 DESCRIPTION AND PURPOSE. The standards contained in this Chapter are intended to govern the use and alteration of land in accordance with the Lower Kalamazoo River Natural River Plan adopted June 11, 1981 by the Michigan Natural Resources Commission and in order to accomplish the following objectives:

- (a) To protect water quality and the habitat quality of the rivers and streams in Heath Township thereby protecting the public health, safety and general welfare.
- (b) To maintain the integrity and stability of stream banks by providing for effective vegetative buffers adjacent to stream corridors and by prohibiting excavation and building activities within a specified distance from stream banks and the contiguous to streams wetlands.
- (c) Protect the natural character and appearance of streams, stream corridors and their contiguous wetlands, which contribute to the valued natural character of the community, its quality of life and its property values.
- (d) Permit and encourage property owners to enhance native vegetation along riparian corridors in the Township.

SECTION 14.02 APPLICABILITY. The standards contained in this Chapter shall be applicable to land located within the specified distances measured from the specified water courses as follows:

- (a) Land within 300 feet of each side of the Kalamazoo River and Rabbit River as measured from the ordinary high water mark.
- (b) Land within 200 feet of each side of the, Bear, Sand and Silver Creeks.

SECTION 14.03 PERMITTED USES.

- (a) Mining, new industrial or commercial uses and buildings, and expansion of existing industrial or commercial uses and buildings is prohibited, except as permitted on appeal by the Township Zoning Board of Appeals.
- (b) Private boat docks of a reasonable size and configuration that does not impede flow or navigability of the stream are permitted, if designed, constructed and maintained with indigenous natural material.
- (c) Septic tanks and absorption fields shall be installed in accordance with Allegan County Health Department regulations.
- (d) Existing agricultural practices are permitted within the natural vegetation strip provided they do not contribute to the river's degradation. Cattle crossings and watering areas shall be constructed according to accepted methods after consulting with the Soil

Conservation Department, County Extension Service and/or Department of Natural Resources.

SECTION 14.04 DEVELOPMENT STANDARDS. Land regulated within this Chapter shall be subject to the following development standards and restrictions.

- (a) New lots and parcels created within the Natural River District must be created in accordance with other provisions within this zoning ordinance and those provisions applicable to the underlying zoning district
- (b) Building Setbacks.
 - (1) For land within 300 feet of each side of the Kalamazoo River and Rabbit River the building setback (as measured from the ordinary high water mark at the river's edge) for new structures including accessory buildings, shall be a minimum of 200 feet from the ordinary high water mark, except that the setback may be decreased three feet for every foot of vertical bank height above the ordinary high water mark, to a minimum of 75 feet. No building shall take place on lands subject to flooding.
 - (2) For land within 200 feet of each side of Bear, Sand and Silver Creeks the building setback (as measured from the ordinary high water mark at the river's edge) for new principle building structures shall be a minimum of 100 feet and the minimum building setback for new accessory buildings shall be 50 feet. These setbacks may be decreased three feet for every foot of vertical bank height above the ordinary high water mark, to a minimum of 60 feet for principal buildings. Accessory buildings may not extend into the 50 foot natural vegetation strip. No building shall take place on lands subject to flooding
- (c) A natural vegetation strip of 50 feet shall be maintained on each side of the river as measured from the ordinary high water mark.
 - (1) Dead, diseased, unsafe or fallen trees and noxious plants and shrubs may be removed.
 - (2) Trees and shrubs may be pruned for a view of the river upon approval by the local zoning administration.
 - (3) Clear cutting is not allowed in the natural vegetation strip.

SECTION 14.05 EXISTING LOTS OF RECORD. If a lot of record within the Natural Rivers District is too small to comply with the setback requirements, then such lot may be used only if authorized by the Township Zoning Board of Appeals by granting a variance. In considering such a variance the Zoning Board of Appeals shall determine the following:

- (a) Granting the variance is not contrary to public interest.
- (b) The variance applies to circumstances unique to the property in question.
- (c) Granting of the variance will not result in damage to any other property due to altering the flood plain.

- (d) Whether a practical or physical hardship exists to the owner if a variance is not granted.

SECTION 14.06 REZONING NOTIFICATION. The Natural Rivers Section of the Michigan Department of Natural Resources and Environment shall be notified of all requests for rezoning, variances and special land uses within the Natural River (NR) Overlay District. Notice shall be made to the MDNRE by mail not less than twenty-one (21) days before the scheduled public hearing.

CHAPTER 16

GENERAL PROVISIONS

AND

DESIGN STANDARDS APPLICABLE TO SPECIFIC LAND USES

Unless specifically noted, these general provisions shall apply to all Zoning District.

SECTION 16.01 THE EFFECT OF ZONING. Zoning applies to every building, structure or use. No building structure of land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

SECTION 16.02 RESTORATION OF UNSAFE BUILDING. Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

SECTION 16.03 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS.

(a) Required Area or Space. A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase it's noncompliance with such minimum requirements.

(b) Existing Lots of Record .

(1) In any AG, R-1, R-1a, R-2, R-3, R-4 or other residential zoned district, if a lot in any which is platted or a legal parcel otherwise of record as of the effective date of this Ordinance, does not comply with the area and/or width requirements of it's zoning district, then such lot may be used, or an authorized use expanded, if the lot contains a minimum of seventy five percent (75%) of the district requirement for lot area, seventy five percent (75%) of the district requirements lot width and if all structures and uses meet all applicable minimum setback and yard area requirements. Lots and uses not capable of meeting these requirements may only be used if authorized by the Board of Appeals by the granting of a variance. In considering such variance request, the Zoning Board or Appeals shall determine whether practical difficulties and unnecessary hardship exists in meeting the other wise required dimensional standards of the district and shall decide the matter under the provisions contained in Chapter 32.

- (2) In any C-1 or I -1 District zoned district, if a lot which is platted or a legal parcel otherwise of record as of September 12, 1977 (the effective date of the preceding Heath Township Zoning Ordinance as amended and as replaced and superseded by this ordinance) does not comply with the area and/or width requirements of it's zoning district, then such lot may only be used if authorized by the Board of Appeals by the granting of a variance. Prior to considering such variance request, the Board of Appeals shall require the submittal of a preliminary site plan meeting the requirements of Chapter 19 and shall refer the matter to the Planning Commission for review and recommendation. The Planning Commission shall consider the following in its review:
- a. The size, character, and the nature of the building and accessory buildings to be erected and constructed on the lot;
 - b. The effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - c. The effect of the proposed use on light and air circulation of adjoining properties;
 - e. The effect of any increased density of the intended use on the surrounding neighborhood;
 - d. Traffic circulation available parking for the intended use; and
 - f. Potential mitigating site plan modifications such as driveway consolidation, landscape screening and alternative building layouts and designs.

After the receipt of the report of the Planning Commission the Zoning Board of Appeals shall determine whether practical difficulties and unnecessary hardship exists in meeting the other wise required dimensional standards of the district and shall decide the matter under the provisions contained in Chapter 32.

- (3) Consolidation of Non-conforming Lots. In any zoning district, where two (2) or more non-conforming lots are adjacent to each other and in common ownership, such lots shall be combined so that the lot or lots created by this combination comply or are in greater compliance with the minimum requirements of this Ordinance
- (c) Exceptions. The following buildings and structures shall be exempt from height regulations in all zoning districts:
- (1) Parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkhead, fire towers, grain elevator, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, and spires.
 - (2) Penthouses housing necessary mechanical appurtenances
 - (3) Television and radio reception and transmission antennas and other telecommunications towers and antennae which do not exceed fifty (50) feet in height.

- (4) Existing legal non-conforming buildings and structures which are non-conforming solely because they exceed the height limitations of their zoning district may be expanded with additions having the up to the height of the existing building or structure on the same lot , provided that the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.
- (d) Setbacks from Private Roads and Driveway Easements. - Ref. Section 16.14

SECTION 16.04 ESSENTIAL SERVICE. The erection, construction, alteration or maintenance by public utilities or Township departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary for the furnishing of adequate service by such public utilities or Township departments or commissions, or for the public health, safety or general welfare. This definition does not include towers or other buildings or structures intended specifically to service wind or solar energy systems, commercial wireless telecommunications such as cellular, personal communications services, specialized mobilized radio, enhanced specialized mobile radio, paging and similar services.

SECTION 16.05 REQUIRED YARD OR LOT. All lots, yards, parking areas or other spaces created after the effective date of this Ordinance or applicable amendment shall comply with the minimum requirements of the Zoning District in which they are located.

SECTION 16.06 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS. Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise and vibration beyond the lot on which the use is located.

SECTION 16.07 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION (also reference Section 16.19 Temporary Mobile Homes).

- (a) Upon application, the Zoning Administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application, the Zoning Administrator shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6)

calendar months or less at the same location if such office is still incidental and necessary for the sale or rental or real property in a new subdivision or housing project.

SECTION 16.08 ACCESSORY USES. In any Zoning District, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; provided, however, that in any agricultural or residential district such accessory uses shall not involve the conduct of any business, trade or industry, unless specifically authorized under the use provisions of the district in question.

SECTION 16.09 ACCESSORY BUILDINGS, ACCESSORY TO SINGLE FAMILY RESIDENTIAL USES.

- (a) In any Zoning District supporting single family residential uses, accessory buildings may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- (b) Detached accessory buildings having a building foot print exceeding 200 square feet of ground floor area must comply with all setback requirements of the particular zoning classification and may not be closer than forty (40) feet to the waters edge of a water front lot.
- (c) Detached accessory buildings having a building foot print of 200 square feet or less shall be set back from a side lot line not less than seven (7) feet and not less than ten (10) feet from the rear lot line. Boat houses and pump houses may be located at or near the waters edge if they do not exceed five (5) feet in height.
- (d) An accessory building or buildings shall not occupy more than 30% of any required rear yard space.
- (e) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings are considered attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- (f) An attached or detached accessory building may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this ordinance if it is located not less than ten (10) feet from the street right of way line.
- (g) Unless exempted under sub paragraph (f) above, in any R-1a, R-2 or R-3 District a detached accessory building may not be located between the front lot line and the front line of the principal building.
- (h) In addition to the exemption allowed under sub paragraph (f) above, in the AG and R-1 Zoning Districts, detached accessory buildings may be permitted between the street right-of-way and the principal use building as Special Land Uses when authorized by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following:

- (1) The proximity of the building or garage to adjoining properties, specifically including proximity to occupied dwellings.
 - (2) Potential traffic hazards at the driveway and street intersection.
 - (3) Existing or proposed landscaping to screen the building or garage from adjoining properties.
 - (4) The building or garage shall be located to meet or exceed the minimum front and side yard setback requirements for principal use buildings allowed in the district.
- (i) No accessory building or structure shall include residential or living quarters.
 - (j) The issuance of a building permit for any building that is intended to serve as an accessory building may not precede the issuance of a building or zoning permit for a permitted principal use building.

SECTION 16.10 ACCESSORY BUILDINGS AND STRUCTURES, ACCESSORY TO TWO FAMILY, MULTIPLE FAMILY AND NON-RESIDENTIAL USES.

- (a) No accessory building or structure shall exceed the permitted height for main buildings in the district in which it is located.
- (b) Location Requirements.
 - (1) Except for canopy roofs, as regulated herein, accessory buildings or structures are not allowed in any front yard.
 - (2) Accessory buildings are allowed in the side or rear yard provided that the total floor area of all accessory buildings on the lot or parcel does not exceed twenty-five percent (25%) of the applicable required rear yard.
- (c) Setbacks. The following setback requirements must be met.
 - (1) Accessory buildings and structures shall meet all setback requirements for the zone district in which they are located.
 - (2) A detached accessory building shall not be located closer than twenty-five (25) feet to any main building or closer than eighteen (18) feet to another accessory building.
- (d) Canopy roofs. Canopy roofs for commercial, industrial and multi-family uses shall be limited as follows:
 - (1) Canopy roofs such as those for gas pump islands accessory to automobile service stations, drive-in restaurants, banks, and other similar uses shall be permitted to encroach into any required yard, provided that a minimum setback of fifteen (15) feet is maintained from any property line.
 - (2) The canopy roof clearance shall not exceed fourteen (14) feet and the canopy shall be open on all sides.
 - (3) The colors and design of the canopy shall be compatible with the main building on the parcel or lot.
 - (4) Lighting on, or within the canopy shall comply with the requirements of Chapter 23.

- (5) Signs on the canopy shall comply with the wall sign provisions of Chapter 24.
- (e) No accessory building or structure shall include residential or living quarters.
- (f) The issuance of a building permit for any building that is intended to serve as an accessory building may not precede the issuance of a building or zoning permit for a permitted principal use building.

SECTION 16.11 PRINCIPAL BUILDING ON A LOT. In the AG, R-1 R-1a and R-2 Residence Zoning Districts, no more than one (1) principal building shall be placed on a lot. This provision shall not preclude the construction of a farm dwelling on a parcel where farm buildings are considered accessory buildings to a bona fide farm operation, nor shall it preclude the development of individual building sites under the condominium form of ownership (ref. Chapter 18).

SECTION 16.12 DOUBLE FRONTAGE LOTS. Buildings on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both streets.

SECTION 16.13 BED AND BREAKFAST ESTABLISHMENTS. Bed and Breakfast establishments may be permitted in all zoning districts except the I-1 Industrial District, subject to the following standards.

- (a) The structure shall be erected or retained as a single-family structure and the premises shall be the principal residence of the operation's owner/operator when the establishment is active.
- (b) The use shall be subordinate to the principle use of a single-family dwelling unit. Transient quarters shall therefore be limited to not more than fifty (50) percent of the dwelling structure.
- (c) Meal services shall only be offered during normal and customary breakfast hours and shall be provided only to lodgers registered at the establishment.
- (e) Two (2) off-street parking spaces for the owner/operator and one (1) off-street parking space per room to be rented shall be provided.
- (f) Signs shall be subject to the regulations applicable to signs in the district in which the use is located.

SECTION 16.14 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO MAJOR STREETS. Unless a greater setback is required by a zoning district provision and notwithstanding any other provision of this ordinance, no building or structure shall be hereafter constructed, erected or enlarged on a lot abutting a State Highway or County Primary road or any other street or highway designated as a major thoroughfare on the "Heath Township Master Plan", as the same shall be amended from time to time, unless a minimum building setback of one hundred (100) feet is maintained, measured from the street centerline.

SECTION 16.15 SETBACKS FROM PRIVATE ROADS AND DRIVEWAY EASEMENTS. The setback requirements for buildings and structures located on lots having access by private streets shall be the same as the setbacks applied to public roads and streets

within each zoning district. The setback from a private street or driveway easements as defined and regulated herein shall be measured from the easement line if the width of the easement is recorded. If the width is not recorded, the setback shall be measured from a line which is thirty three feet from the centerline of the street or driveway easement.

SECTION 16.16 MINIMUM STREET FRONTAGE AND LOT WIDTH.

After the effective date of this amendment, every lot or parcel supporting a building or non-farm principal use shall have direct, continuous frontage on a public street or an approved private street. Street frontage and minimum lot width shall be provided along the public street right-of-way line or private street easement.

Minimum street frontage may be reduced only in the following instances:

- (a) If the lot has frontage on a cul-de-sac, or a curved street segment having an arc with a radius of less than one hundred fifty (150) feet, the minimum lot frontage at the street right-of-way or easement line may be reduced to forty (40) percent of the minimum frontage otherwise required in the zoning district. The measurement may be made along the chord of the arc running between the side property lines at the easement line.

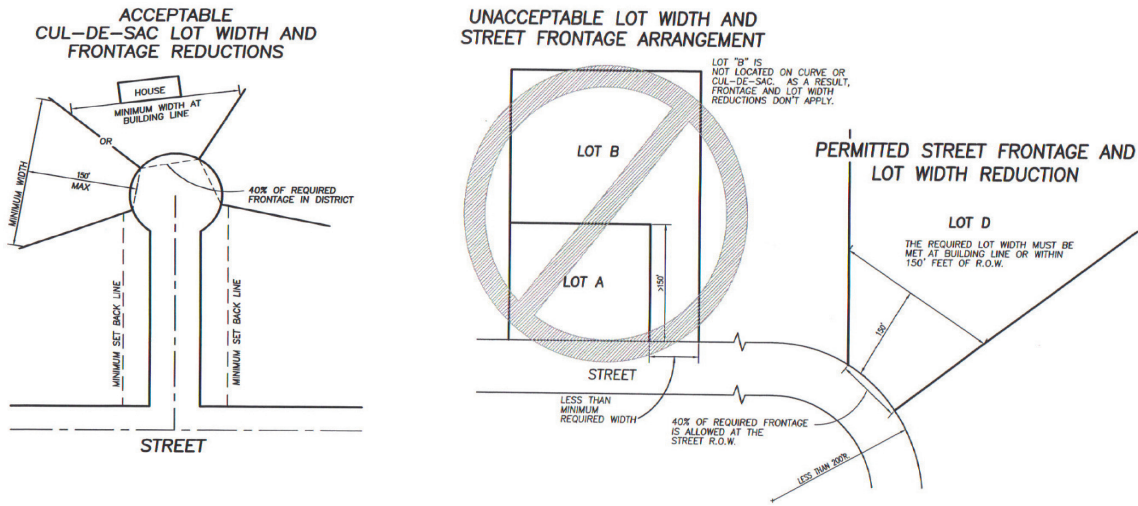


Figure 16-1

- (b) When a lot has frontage at the terminal end line of a 25 foot wide joint driveway easement serving three or fewer lots or sixty six foot wide private street easement serving four or fewer lots, the minimum length of frontage on the terminal end line of the easement shall be twenty five (25) feet. Reference Chapter 22.05 and 22.06 for standards relating to private street ends.
- (c) Notwithstanding the definition of lot width contained in Chapter 3 whereby lot width is measured at the building line, where a lot frontage reduction has been allowed under (a) or (b) above, minimum lot width shall be met at the front building line of the principal building or within 150 feet of the street right-of-way or easement line, whichever is the lesser distance. Beyond that point the required minimum width of the lot must extend a

distance at least equal to one half of the number of feet required for minimum lot width.

SECTION 16.17 GOVERNMENTAL IMPROVEMENTS. The provisions of this ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state or local.

SECTION 16.18 HEALTH DEPARTMENT APPROVAL. No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if it's water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations governing waste and sewage disposal of Allegan County.

SECTION 16.19 TEMPORARY MOBILE HOMES. In addition to any other provisions contained in this ordinance concerning the location of mobile homes within this Township, mobile homes shall be permitted outside of mobile home parks in the AG, R-1, R-1a, R-2 and R-3 Districts on a temporary basis as provided herein. Upon application the Township Zoning Administrator shall issue a temporary mobile home permit for a period of one (1) year provided the conditions set forth below are met:

- (a) The mobile home shall be limited to single-family occupancy and shall only be used in connection with one or more of the following purposes:
 - (1) The mobile home is associated with a farm enterprise operating on ten (10) acres or more of land;
 - (2) The mobile home is used as temporary housing for an aged or handicapped parent or parents of the owner of the parcel on which the mobile home is located. A temporary mobile home falling under this category shall not be limited as to the number of one-year extensions which may be granted it.
 - (3) The mobile home is being used either as a temporary residence in connection with the construction of a permanent residence or building being constructed on the same parcel. Before a temporary mobile home permit may be issued for a mobile home falling under this category, the applicant shall submit plans for a permanent allowable building upon the property and a valid building permit for the construction of the permanent allowable building shall be obtained.
- (b) The mobile home shall meet the setback requirements of the district in which it is located.
- (c) No more than one (1) mobile home shall be located on a parcel.
- (d) The mobile home shall be owner-occupied except in the case of farm enterprises or aged parents.
- (e) The applicant for the temporary mobile home permit shall supply a signed septic tank permit from the Allegan County Health Department.

An extension of the permit for one (1) additional year may be obtained from the Zoning Administrator if the applicant continues to meet all of the above conditions.

SECTION 16.20 GROUP CHILD OR ADULT DAY CARE HOMES, FOSTER CARE GROUP HOMES. A group child or adult day care home, or a foster care group home as defined in Chapter 3 may be permitted in the AG, R-1, R-1A, R-2 and R-3 Districts and in any Planned Unit Development where single family homes are a permitted principal use as a special land use subject to the minimum conditions of this section and the general standards and provisions of Chapter 17.

- (a) The Facility shall be located not closer than fifteen hundred (1,500) feet to any of the following facilities, as measured along a street, road or other public thoroughfare, excluding an alley:
 - (1) Another licensed group day care home.
 - (2) An adult foster care small group home or large group licensed by the State of Michigan.
 - (3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
 - (4) A community correction center, residence home, half-way house or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

SECTION 16.21 KEEPING OF DOMESTICATED FARM ANIMALS AND PETS. The keeping of domesticated farm animals for pleasure or enjoyment on residential parcels (parcels that are not part of or in support of a commercial farming operation) is permitted only within the AG and R-1 Zoning Districts and is subject to the provisions of this Section. These provisions do not apply to the keeping of ordinary household pets which is allowed in all zoning districts and do not apply to private or commercial kennels animal runs or dog training facilities (ref. Sec. 16.23), to the keeping of wild animals (ref. Sec. 16.22) or to the keeping of homing pigeons which are exempted from local regulation by the Michigan Zoning Enabling Act.

- (a) A structure or fence must be used to enclose and confine the animals to the premise.
- (b) All enclosed areas must be located and managed to avoid adverse environmental, health and nuisance affects (both on and off the premises), associated with the animals and animal waste. In particular any building or structures in which the animals are housed and all feeding and waste handling emplacements whether temporary or permanent, shall be at least 50 feet from property lines and street rights-of-way and must be located at least 100 feet from all residential dwellings located on adjacent property, all streams, stream courses, wetlands, lakes and other water bodies.
- (c) Area Requirements:
 - (1) Cattle, horses, elk and bison. A minimum lot area of two acres is required and there shall be no more than one animal for the first two (2) acres and one additional animal for each additional acre.
 - (2) Deer, llamas, goats, sheep and hogs. A minimum lot area of one acre is required and there shall be no more than two animals for the first two (2) acres and one additional animal for each additional one half acre.
 - (3) Rodents, poultry and fowl. A minimum lot area of one acre is required and there

shall be no more than 20 animals for the first acre and 50 animals for each additional acre.

- (d) Within any Open Space Community or other development containing common or preserved open space that is authorized by the Township and located in an AG, or R-1 District, the keeping of domestic animals shall be governed by the standards of this Section unless at the time of the project's approval, alternative terms or conditions are specified relative to the use of common or preserved open space.

SECTION 16.22 WILD ANIMALS, KEEPING OF. The term "wild animals" as used herein shall include but not necessarily be limited to lions, tigers, lynx, bobcats, bears, poisonous fish, poisonous insects, poisonous arachnids, large or poisonous reptiles and any other life form whether born in captivity or caught in the wild that is incapable of being completely domesticated because the breed has not been genetically controlled over a very long period of time and has not been specifically adapted to live in close proximity to humans.

The keeping, selling, boarding, housing, possession and maintenance of wild animals within the Township, either temporarily or permanently is prohibited except under one or more of the conditions enumerated below.

- (a) The keeping of the wild animal or animals is carried out by a veterinarian licensed in the State of Michigan for the treatment of injuries or to temporarily harbor an animal until permanent quarters are found.
- (b) The keeping of the wild animals is within a commercial game breeding operation, public or private wildlife park or preserve, or a hunting preserve as may be licensed or authorized by the Michigan Department of Natural Resources and as authorized under the provisions of this zoning ordinance.
- (c) The keeping of the animals is a part of a special event such as a circus or carnival as appropriately licensed by the State of Michigan

SECTION 16.23 KENNELS, ANIMAL RUNS, DOG TRAINING FACILITIES, PRIVATE AND COMMERCIAL

- (a) The minimum lot area for private, non-commercial kennels and animal runs shall be one acre.
- (b) The minimum lot area for commercial kennels and animal runs dog training facilities as may be permitted as special land uses in the AG and R-1 District shall be three (3) acres.
- (c) Buildings where the animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential dwelling located on adjacent property or any building used by the public.
- (d) All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed main building.
- (e) Noise shall be minimized through the combined use of screening, site isolation and sound dampening materials.

- (f) All kennels shall make environmentally sound provisions for the handling and management of liquid and solid animal wastes and shall be operated in conformance with all applicable County and State regulations

SECTION 16.24 ADULT ENTERTAINMENT REGULATION. This Section has been adopted to regulate certain uses which, because of their nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, church or house of religious worship, school, park, and/or a playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within the Ordinance are for the purpose of preventing a concentration of these uses within any one area, and to prevent deterioration or blighting of a nearby residential neighborhood. Notwithstanding any other provision to the contrary, the following regulated uses are permitted only in the C-1 General Business District as Special Land Uses under the procedures and general standards of Chapter 17 and subject further to the following controls:

(a) Activities:

- (1) Adult bookstore or adult video or videocassette store: An establishment having more than 10% of its stock in trade books, magazines, other periodicals, and/or video cassettes, videodiscs, or videotapes for sale, rent, or viewing which are distinguished or characterized by the emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein.
- (2) Adult cabaret. An establishment including, but not limited to, cafes, restaurants, or bars where patrons are entertained by live performances featuring go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers where said performances depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” as defined herein.
- (3) Adult mini motion picture theater. An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas, as hereinafter defined for observation by patrons therein.
- (4) Adult motion picture theater. Any establishment used for presenting material, including, but not limited to, live performances as defined in Section I, motion pictures, slides or similar photographs or laser reproductions, shown on a regular basis which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons.
- (5) Adult personal service businesses. Any commercial business or private business having as a principal activity a person, while nude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services:

- a. Modeling studios.
 - b. Body painting studios.
 - c. Wrestling studios.
 - d. Individual theatrical performances or dance performances.
 - c. Barber shops or hair salons.
 - f. Car washes.
 - g. Convenience stores or other commercial business establishments where food or goods are sold.
 - h. Massage parlors
 - i. Tattoo parlors.
- (6) Adult smoking or sexual paraphernalia store. An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.
- (7) Host or hostess establishment. Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess, or for an admission or membership fee.
- (8) Massage establishment. An establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, health clubs, health spas, sauna baths, and steam baths. This definition shall not be construed to include any hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan; a certified masseuse holding a Michigan Certification; or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
- (b) Definitions: In reference to the above activities the following definitions shall apply:
- (1) Specified anatomical areas.
- a. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.
 - b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.
- (2) Specified sexual activities.
- a. Human genitals in a state of sexual stimulation or arousal.
 - b. Acts of human masturbation, sexual intercourse, or sodomy.

- c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (c) Restrictions and Waiver. No use or activity listed in Section 11.23.1 shall be:
 - (1) Located within a one thousand (1,000) foot radius of any residence, church or house of religious worship, school, park, playground or public recreational area unless a petition requesting waiver of this requirement is received and verified by the Township Clerk, signed by fifty-one (51%) percent of those adult persons residing within or owning property within a one thousand (1,000) foot radius of the proposed location, in which case the Planning Commission may waive this requirement.
 - (2) Located within a one thousand (1,000) foot radius of any other such regulated use except that such restriction may be waived by the Planning Commission if the following findings are made:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and the spirit and intent of this Ordinance is observed.
 - b. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area or its immediate surroundings.
 - c. That all applicable state laws and local ordinances will be observed.
- (d) Design Standards. All building openings, entries, windows, and doorways for adult bookstores, adult personal service businesses, adult videocassette or video stores, adult cabarets, adult motion picture theaters, and massage establishments shall be located, covered or screened in such a manner as to prevent a view into the interior from any public area.
- (e) Conditions and Limitations.
 - (1) Prior to the granting of any waiver as provided in Section 11.23.3 , the Planning Commission may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
 - (2) The Planning Commission shall have the authority to impose additional conditions and restrictions for a particular use where it deems it necessary to protect adjoining property, the traveling public, and the health, safety and welfare of the area.
- (f) Limit on Reapplication. No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except upon the grounds of new evidence not previously available or proof of changed conditions.

SECTION 16.25 CELLULAR AND OTHER COMMUNICATIONS TOWERS.
Transmitting Towers for Commercial Radio and Television, Commercial Wireless

Telecommunications, and for Public Utility Microwave or Television, may be permitted as special land uses subject to the general standards of Chapter 17 and following conditions:

- (a) Communications towers sites within in the “State Game Area (SGA)” and the “AG”, “C-1” and “I-1” Districts. Communications tower sites within in the “state game area” , and the “AG”, “C-1” and “I-1” districts shall be considered preferred locations within the Township, subject to the compliance with the general standards of Chapter 17 and the specific standards of this Section (Sections 16.25.(c) through (l).
- (b) Location of communications towers outside of the “SGA” and the “AG”, “C-1” and “I-1” Districts. If it is demonstrated by an applicant that a communications tower may not reasonably be established within the “state game area” AG, C-1 or I-1 Zoning Districts, a communications tower may be permitted as a Special Land Use elsewhere in the Township subject to the following additional standards and conditions.
 - (1) At the time of the submittal, the applicant shall demonstrate that a location within the “state game area”, AG, C-1 or I-1 Zoning Districts, cannot meet the needed required for operation of a system.
 - (2) The tower shall be of a design or form which, at the discretion of the Planning Commission, is found to be most compatible with the existing character of the proposed site, neighborhood and general area.
 - (3) The applicant must give the following sites preferred consideration as tower locations, subject to application of all other standards contained in this section:
 - a. Religious or other institutional site.
 - b. Municipally owned sites.
 - c. Other governmentally owned sites.
 - d. Public or private school sites.
- (c) Co-location. To minimize the proliferation of towers within the Township, the following shall apply:
 - (1) Towers shall not be established unless the antenna cannot be accommodated on an existing or approved tower because the structural capacity would cause interference; existing towers could not accommodate the planned equipment at the height necessary, or for other unforeseen reasons.
 - (2) Towers shall be designed and constructed to accommodate both the applicant’s equipment and that of a minimum of two other users.
 - (3) Antennas to be placed on roofs, walls, and existing towers must meet the requirements of this Section to include a Site Plan which shall include elevations and screening on any shelter or cabinet and a report by a qualified professional engineer.
 - (4) In a situation in which the entity desires to co-locate on an existing tower, then a permit is obtained from the zoning administrator and a review from the planning commission is not required. Information on the antenna including elevations, screening on a shelter or a cabinet shall be submitted to the zoning administrator for review and in order to receive a permit. However, if the co-location were to

expand the compound, then this would require planning commission review.

- (b) **Design Standards:** All steel towers and antenna supporting structures shall be designed to meet the current structural standards of the Telecommunications Industry Association and Electronic Industries Association known as TIA/EIA-222, or its successor. Said towers are exempt from ordinance height restrictions.
- (c) **Minimum Setback Distances:**
 - (1) Towers shall be setback from all property lines and street rights-of-way a minimum of the total height of the structure, to include any antennae projecting above the top of the tower. The planning commission may reduce the set back distance based on the design (supported by a letter from an engineer) and at their discretion. Required setback shall be measured from the outer perimeter of the base of the tower, not its center point, to property lines or rights of way. When a tower is to be mounted on another structure, the total height shall be the combined heights of the structure, tower and projecting antennas.
 - (2) Anchorages for guyed towers must be on the same parcel of land as the tower and setback from property lines a minimum of 20 feet.
 - (3) Accessory buildings shall be compatible in appearance with the surrounding area and buildings and set backs from the tower shall be at the discretion of the planning commission.
- (d) **Security Fencing:** The tower base and any accessory buildings shall be enclosed by a security fence of an anti-climbing design or a fence consisting of a six-foot tall chain link fence topped with three strands of barbed wire, or an eight-foot tall chain link fence.
- (e) **Obscuring Screen:** At the discretion of the planning commission, a seven-foot tall obscuring screen of evergreens and shrubs shall be established to screen the tower base and associated accessory buildings from any residential district or public property located within 500 feet of the tower. Further, at the discretion of the planning commission, the base and screening may be required near the road frontage or at the property line.
- (f) **Lighting:** Towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lights unless specifically required by the Federal Aviation Administration, or other federal or state having authority over a particular tower. Any lights on a shelter shall be of a sharp cutoff type.
- (g) **Signs:** The use of any portion of the tower for signs other than the minimum required for warning or equipment information is prohibited.
- (h) **Removal of Unused or Abandoned Towers:** Towers or portions of towers and associated facilities that are no longer used or have been abandoned shall be removed within 12 months of the cessation of the operations unless an extension of the 12 month period has been approved by the Township planning commission. At the time an application for construction of a tower is made, a copy of an agreement requiring the applicant to remove the tower and associated facilities upon cessation of operations shall be submitted along with other relative documents, such as a signed lease, deed, or land contract. Before construction can begin a "removal bond" shall be filed with the township. In the event a tower is not removed within the time period stated above (or as extended by the ZBA), the township may execute on the removal bond and the tower and associated facilities

shall be removed by the Township and any other cost of removal assessed against the real property.

- (i) Lot size. Property that is purchased or leased for purposes of locating a commercial tower shall not be subject to the lot size requirements in the respective zoning classifications.
- (j) Additional Requirements. In addition to the information required for Site Plan Review (Chapter 19) and Special Land Use (Chapter 17) applications for towers shall include the following supplementary information:
 - (1) Tower plans and sealed drawings from a qualified licensed professional engineer which provide tower height and design, including cross sections and elevations; capacity of the tower; steps taken by the applicant to avoid interference; a professional engineer's stamp and registration number certifying compliance with FCC and FAA regulations, Building and Electrical Codes and other applicable Township Ordinances, if any; and other information necessary to evaluate the request.
 - (2) A letter of intent committing the tower owner and his or her successors to allow the shared use of the tower with reasonable terms and conditions.
 - (3) The applicant shall also submit a search area map and a promulgation map.
 - (4) The applicant shall also submit a map showing other sites within the township; other sites within a 7 mile radius and future "to build sites".

SECTION 16.26 HOME OCCUPATIONS. A home occupation as defined in Chapter 3 may be permitted in the AG, R-1, R-1a, R-2 and R-3 Districts and in any Planned Unit Development where single family homes are a permitted principal use as special land uses subject to the minimum conditions of this section and the provisions and general standards of Chapter 17.

- (a) A home occupation shall be conducted entirely within a residential dwelling and the space that is devoted to the occupation cannot exceed 300 square feet in area. No retail sales shall be allowed other than the incidental sale of items related to the permissible services being performed.
- (b) Allowable home occupations may include the following and substantially similar types of operations:
 - (1) Architecture, engineering and interior design.
 - (2) Beauty salons and barber shops.
 - (3) Secretarial services, book keeping, accounting and financial planning.
 - (4) Computer programming and software development.
 - (5) Consulting and counseling services, private tutoring.
 - (6) Drafting and illustration services.
 - (7) Dressmaking, sewing and tailoring.
 - (8) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making.

- (9) Musical instrument instruction, except that no instrument may be electronically amplified so as to be audible beyond the parcel of land where the use occurs
 - (10) Office attorneys, insurance underwriters, members of the clergy.
 - (11) Office of building contractor or building trades persons.
 - (12) Office of a sales person, sales representative or manufacturer's representative.
 - (13) Photographic services, taxidermy, painting, sculpturing and writing.
 - (14) Television, computer and other small appliance repair.
 - (15) Telephone answering service and telephone solicitation work.
 - (16) Travel agent and booking service.
 - (17) Watch repair, gun repair service.
 - (18) Medical Marijuana Use by a Primary Care Giver (ref. Sec. 11.26 (d)).
- (c) Minimum Conditions for Home Occupations. The following minimum conditions shall apply to all home occupations:
- (1) It shall be carried out only by the residents of the dwelling and not more than one other person.
 - (2) The use shall be clearly incidental, subordinate and secondary to the use of the dwelling and premises for residential purposes and the appearance of the structures shall not be altered. The occupation must not be conducted in a manner that will cause the premise to take on a non-residential character either by the use of colors, materials, construction, lighting or by the emission of sounds, vibrations or light.
 - (4) One identification or on premise advertising sign, not exceeding eight square feet may be used to identify home occupation therein.
 - (5) There shall be no overt marketing of goods, merchandise or supplies on site. Orders that have been previously made by computer, telephone or at a sales event off the premises may, however, be filled on the premises.
 - (7) No storage or display shall be visible from outside the dwelling.
 - (8) No combustible, toxic or hazardous material may be used or stored on the premises, except in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
 - (9) There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any significant offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
 - (10) Motor vehicle and pedestrian traffic generated by the home occupation shall in terms of volume, frequency or type or type of traffic, not be found to be inconsistent with that which prevails within the zoning district in which the use is located.

- (11) There shall be adequate off-street parking spaces. On street parking, or parking within the street right of way is prohibited.
- (12) Deliveries and shipments by commercial vehicles shall be on an occasional or incidental basis.

SECTION 16.27 FAMILY BUSINESS. A Family Business as defined in Section 3.02 may be permitted in the AG, R-1, R-1a, R-2 and R-3 Districts as special land uses subject to the minimum conditions of this section and the general standards and provisions of Chapter 17.

- (a) The business must be operated solely within a building or structure.
- (b) No outdoor storage shall be allowed unless same cannot be reasonably stored within a building or structure. Such outdoor storage area shall be located to the rear of the business and shall be adequately screened to effectively block all view from adjoining roads and properties.
- (c) The business shall be located on the same parcel with the family's residence and shall remain subsidiary to the primary residential use of the property.
- (d) The family business shall be carried out only by the residents of the single family dwelling located on the premises and not more than one other person unless additional workers or employees are specifically authorized by the Planning Commission using the following criteria:
 - (1) The activities of the additional workers or employees (who do not reside within the dwelling) will not cause conflicts due to a general increase in vehicle traffic or conflicting traffic movements.
 - (2) That the onsite accommodations made for the additional employees such as for parking and safety will not change or impair the residential character of the surroundings
 - (3) If the business is one that involves the performance of off-site services, additional employees or assistants reporting to the site may only be permitted if such reporting does not involve the regular daily arrival or departure of heavy equipment, delivery or service vehicles rated in excess of one ton of gross vehicle weight.
- (e) There shall be no expansion of the business without approval of the Planning Commission.
- (f) No service shall be sold or conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.
- (g) There shall be a minimum distance of 25 feet between any adjoining property line and any building, storage area or parking area used in connection with the business.
- (h) In approving any such special land use permit for a family business, the Planning Commission may impose restrictions and limitations upon the use, relating but not limited to consideration of the following:

- (1) The type of business
- (2) The floor area of the use.
- (3) The area, height, bulk and location of any principal or accessory building.
- (4) The ownership or sale of the business to others
- (5) The length or duration of business operations.
- (6) The storage or display of goods, inventory or equipment that will be visible from outside the dwelling or an accessory building and the screening thereof.
- (7) The storage or use of combustible toxic or hazardous materials on the premises.
- (8) Machinery or electrical activity that will interfere with nearby radio or television reception or create noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (9) Motor vehicle and/or pedestrian traffic and its circulation on and off site.
- (10) The amount of off-street parking provided, and the location and surfacing and drainage thereof. If the family business involves vehicles such as vans or trucks, these shall be stored at the rear of the property. All other vehicles shall be in the side or rear yard but not parked or stored in the front yard area.
- (11) Water usage and the adequacy of the water supply.
- (12) Solid and human waste generation and the proposed means and adequacy of treatment, storage and disposal.

SECTION 16.28 FENCES, WALLS AND SCREENS. For purposes of this Section the terms fence, wall or screen shall mean any artificially constructed barrier of any non-vegetative material or combination of materials erected to serve as a physical barrier, marker, screen or enclosure.

(a) General Construction- Standards Applicable to all Zoning Districts.

- (1) All fences and walls shall be of sound construction and shall be properly maintained.
- (2) The use of razor/concertina wire is prohibited in all zoning districts unless specifically authorized by the Planning Commission as an accessory use on a site plan authorizing a principal business, industrial, public or institutional use.
- (3) Where barbed wire or electrically charged wire is permitted, and when not used to enclose animals, the strands of barbed wire or electrically charged fence may not extend out ward from the base or vertical line of the main portion of the fence. Barbed wire, spire tips, sharp objects and electrically charged strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet.
- (4) Fences or walls or any portion thereof, greater than six feet in height, as measured from the grade at the base of the fence, may not be of a solid or opaque construction.

- (5) A fence or wall shall be erected so that the finished side of the fence or wall faces adjacent properties with any posts or supports located on the inside of the fence or wall.
- (6) Any fence constructed on the front or side of a lot fronted by a sidewalk shall be erected on the lot, at least eighteen (18) inches from the inside edge of the sidewalk.
- (7) Private fences or barriers are prohibited within a public right of way.

(b) Standards Specific to Certain Districts and Locations.

- (1) Standards for the R-1a, R-2, R-3 and R-4 Residential Districts (in association with land uses permitted by right).
 - a. Only decorative or ornamental fences not exceeding thirty (30) inches in height may be permitted in front yards. A fence of this height may be permitted from the front building line of a residence to within eighteen (18) inches of the sidewalk provided that the fence may not interfere with clear vision of and for vehicles at intersections or driveways.
 - b. Barbed wire, spire tips, sharp objects, or above ground electrically charged fences up to a maximum of seven (7) feet of height may be erected in the R-1A, R-2, R-3 or R-4 District when used for protection of public utility facilities or as animal enclosure on a farm, as defined in Chapter 3 provided that the fence location is not within three hundred feet of a dwelling structure located in an area where three or more homes exist and the average distance between the residential dwelling structures is three hundred feet or less.
- (2) Standards for the AG, R-1, C-1 and I-1 districts and special land uses in all other districts.
 - a. All fences or walls shall be limited to a maximum height of ten feet.
 - b. Subject to adherence to above sub-section (a) (3), the use of barbed wire, spire tips, sharp objects or above ground electrically charged fences may be permitted provided the strands are restricted to the uppermost portion of the fence and shall not extend lower than a height of six feet from the average grade unless the fence is used as an animal closure.
 - c. Subject to a determination of the Zoning Administrator, within the C-1, C-I-1 Districts and for any special land use in any other zoning district, fence and wall construction may be subject to site plan approval as a major or minor site plan change, if it is determined that the fence or wall will interfere with or alter any physical feature previously approved as part of an official site plan.

SECTION 16.29 STANDARDS PERTAINING TO DWELLINGS OUTSIDE OF MOBILE HOME PARKS. It is the intent of this Section to provide specific conditions and standards, which must be met by single and two family dwellings located outside of manufactured home parks or other developments regulated by the Manufactured Home

Commission of the State of Michigan. These standards are considered necessary to assure compliance with minimum structural standards and the reasonable compatibility of a dwellings exterior appearance with other dwellings in the same vicinity, whether constructed on or off site.

- (a) All of the requirements of the zone district within which the lot is located shall be met and no dwelling shall be erected, installed or located upon any lot or parcel of land unless it meets all specifications of the adopted Township Building Code pertaining both to the structure itself and to the manner in which it is affixed upon the lot or parcel of land.
- (b) Exterior Dimensions. The minimum width of any dwelling shall be twenty four (24) feet which shall extend at least two thirds (2/3) of the length of the dwelling.
- (c) There shall be a minimum habitable floor to ceiling height of seven one-half feet.
- (d) All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code adopted by the Township and any space between the grade elevation of the lot and structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a mobile home the dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall contain a perimeter skirting wall as required in subsection.
- (e) The dwelling shall have no fewer than two exterior doors to provide a means of ingress and egress from the dwelling.
- (f) All dwellings shall be provided steps designed to enable safe, convenient access to each exterior door shall be provided to the door area, or to porches accessible to the door area, when required by a difference in elevation between the door sill and the surrounding grade. All steps and/or porches shall be securely attached to a permanent foundation and shall be constructed in conformance with the Township Building Code.
- (g) If the dwelling is a mobile home, each mobile home shall be installed with the wheels removed. No dwelling shall be sited having any exposed towing mechanisms, undercarriage or chassis.
- (h) If the dwelling is a mobile home, each mobile home shall contain skirting along the entire perimeter of the main frame between the ground and the bottom edge of the mobile home body. The skirting shall compliment the appearance of the main walls of the mobile home and consist of the same material or materials of equal or greater durability as those customarily used on the exterior walls of mobile homes. Brick or concrete block wall construction shall be permitted as skirting. The skirting shall be securely attached and sealed to the mobile home body and shall contain a rat proof wall or slab to prevent the entrance of rodents and other animals underneath the mobile home. A minimum of one (1) access door shall be required in the skirting and adequate screening vents shall be required in the skirting around the entire perimeter at intervals of not more than twenty (20) feet so as to provide adequate cross-ventilation. All skirting shall be maintained in good condition at all times. Unprotected flammable materials including hay bales or newspaper shall not be allowed as skirting for mobile homes.
- (i) All dwellings shall meet or exceed all applicable roof snow load and strength

requirements shall otherwise comply with all pertinent building and fire codes adopted by the Township. In the case of a mobile home, all construction and all plumbing, electrical and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development.

- (j) Building additions attached to the dwelling shall meet all the requirements of this ordinance and the applicable building, health, electrical and mechanical codes.
- (k) All dwellings shall be connected to a public sewer system and public water supply system as required by the Township or to such private sewer and water facilities as approved by the Allegan County Health Department.
- (l) A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure approved by the Building Inspector.
- (m) Prior to issuance of a building permit for any dwelling unit, construction plans at a scale of no less than one quarter inch (1/4") to one foot (1'), including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (n) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within seven hundred fifty (750) feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

SECTION 16.30 GOLF COURSES, AGRICULTURAL TOURISM ACTIVITIES, EVENTS OR ATTRACTIONS, ARCHERY AND FIRE ARM SHOOTING RANGES, MOTORIZED SPORTS AND OTHER OUTDOOR RECREATIONAL FACILITIES.

- (a) Unless specifically waived by the Planning Commission, the proposed site shall front upon a paved county road and primary ingress and egress shall be from said road.
- (b) A minimum lot size of five (5) acres, and minimum lot frontage of three hundred thirty (330) feet shall be required. This requirement may be waived if the use is to be located within an existing building or structure situated on a lot that otherwise conforms to the standards for commercial uses within the district in which it is located.
- (c) Spectator areas, principal and accessory buildings, structures and event areas for non-motorized events, including but not limited to trails, runs, obstacle courses, pathways,

and athletic fields shall be located at least one-hundred (100) feet of any property line and shall otherwise be screened and located so as to minimize any adverse effects upon adjoining property properties and the occupants there of. In the case of any fire arm and archery shooting ranges, or any motorized recreation activity, the setbacks for event areas shall be at least two hundred (200) feet from a lot line and at least 1000 feet from an adjacent residential district or residential use.

- (d) Concession stands, pro-shops, clubhouses, and other incidental commercial type uses may be permitted provided they are and are operated for the purpose of serving patrons of the principal use and not the adjoining community or transient motorists.
- (e) No overnight accommodations other than a single-family dwelling for the owner or manager of the facility shall be allowed.
- (f) Adequate public restrooms and other facilities shall be constructed and properly maintained, commensurate with the anticipated popularity of the particular use involved.
- (g) Rubbish disposal shall be handled in such a manner as will avoid any littering upon adjoining properties and will minimize any adverse effects from noise, odor or dust to adjoining properties.
- (h) Off-street parking shall be required on the site located in areas which will minimize any adverse effects upon adjoining property owners and shall be separated from adjacent residential uses and zoning districts by a minimum of 75 feet. The number of parking spaces provided shall be sufficient to satisfy peak periods of use.
- (i) Fencing may be required where deemed necessary to prevent trespass onto adjoining residences or residentially zoned property.
- (k) All outdoor lighting shall be directed away from and otherwise arranged so the source of the light (the lumen) is not visible from adjacent residences, public roads or highways and that no light trespass onto adjacent parcels will occur.
- (l) The Planning Commission shall have the right and authority to impose additional restrictions and conditions as may be necessary for the protection of the health, safety and welfare of the adjoining residential property owners and to insure that any noise, odors, traffic or other activities incident thereto have a minimum impact upon the neighborhood in which the same is located.

SECTION 16.31 GRAIN ELEVATORS AND FARM SERVICE FACILITIES. Uses involving the storage, processing and shipping of grain, silage, feed, fertilizer, agronomy products and associated commodities such as fuel, lumber or masonry products may be permitted as special land uses in the I-1 and AG Districts subject to general standards of Chapter 17 and the following

- (a) All operations and activities, other than parking, loading and bulk storage, shall be conducted wholly within enclosed buildings and structures.
- (b) Outdoor storage of materials or equipment shall only be permitted in areas approved in advance as part of the site plan approval. Outdoor storage areas shall be screened from the view of neighboring properties and streets through the use of an approved landscape screen, buffer, wall or solid fence. Materials or equipment shall not be visible above the

screening. Outdoor storage is not permitted in any minimum setback area or in any area within 100 feet of an adjacent to a residential use or an, R-1, R-1a, R-2, R-3 R-4 district or residential PUD.

- (c) No activity shall emit or produce odor, fumes, smoke, particulates, dust, glare, vibration, electromagnetic radiation or heat that will adversely affect permitted uses on neighboring properties
- (d) Unless specifically exempted by the Planning Commission, no activity shall emit noise that exceeds the standards of the Heath Township Noise Ordinance.

SECTION 16.32 OUTDOOR WOOD FURNACES

- (a) Purpose and Findings. The purpose of this section is to establish and impose restrictions upon the construction and operation of outdoor furnaces within the Heath Township so as to secure and promote the public health, safety and welfare of the Township and its inhabitants. Outdoor furnaces can create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles and other products of combustion, particularly when restricted airflow and low operating temperatures are present. These products can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property. These regulations are intended to eliminate noxious and hazardous conditions caused by outdoor furnaces.
- (b) Outdoor Furnaces Defined. The term "outdoor furnace" shall mean a furnace, stove or boiler that located within a building or structure that is not designed for or capable of or being occupied, inhabited or containing the presence of humans or domestic animals, but that provides heat or hot water for such building or structure.
- (c) Where permitted. Outdoor furnaces may be permitted in any residential or agricultural district except they may not be installed or used on any parcel used to support a two family or multi-family residential structure. Outdoor furnaces shall not be installed and used in any Commercial or Industrial District or in support of any business or institutional use located in any other district.
- (d) Furnace Setback and Perimeter.
 - (1) Outdoor furnaces must be installed not less than 100 feet from an existing residence or occupied structure which is not on the same property as the outdoor furnace and not less than 75 feet from any front property line.
 - (2) Outdoor furnaces shall only be located in the rear yard area as defined in Chapter 3 and shall be positioned at least 20 feet from a side or rear property line and forty feet from the waters edge of any stream or body of water.
 - (3) An outdoor furnace shall not be located within any yard fronting on a street.
 - (4) The area around an outdoor wood furnace shall be free of vegetation or other combustible materials.
- (e) Chimney Height. The chimney shall be not less than 15 feet above the ground elevation. If there are residences or occupied structures on adjoining property within 150 feet of the furnace, the chimney shall extend at least as high above the ground surface as the height of the roof peak of all such residences.

- (f) Fuel. No fuel other than natural wood without additives, wood pellets without additives, and agricultural seeds in their natural state may be burned or stored on the site in association with the wood furnace. The following materials are specifically prohibited:
- (1) Rubbish or garbage, including but not limited to food waste, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
 - (2) Waste oil or other oily wastes.
 - (3) Asphalt and products containing asphalt.
 - (4) Treated or painted wood including, but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
 - (5) Plastic material including, but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - (6) Rubber, including tires and synthetic rubber-like products.
 - (7) Newspapers, corrugated cardboard, container board or office paper.

SECTION 16.33 MEDICAL MARIHUANA USE AND PROHIBITION. Medical marihuana use by patients and primary caregivers and the lawful cultivation and distribution of medical marihuana shall be in compliance with the Michigan Medical Marihuana Act, PA 208, Initiated Law, MCL 333.26421 and the Administrative Rules of the Michigan Department of Community Health as both may be amended from time to time. No medical marihuana dispensaries, collectives or cooperatives, smokehouses or the like shall be conducted, commenced, operated or utilized in any zoning district or on or from any property within the Township.

CHAPTER 17

SPECIAL LAND USES

SECTION 17.01 DESCRIPTION AND PURPOSE. The purpose of this Chapter is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties. The special land use permit procedure established herein is designed to provide the Planning Commission with an opportunity to review and act upon any application for a conditional use permit.

SECTION 17.02 PROCEDURE FOR ALL SPECIAL LAND USES. Any special use shall meet and continuously follow and adhere to the approved site development plan conditions placed upon the use and the requirements for approval and the requirements of the district in which they are located.

- (a) Applications: The applicant shall submit to the Planning Commission, Township Board, or Zoning Administrator, as the case may be, through the Township Clerk, an application which shall include a site plan per the requirements of Chapter 19 and written evidence and drawings showing that all the requirements for the applicable special use are met.
- (b) Public Hearing and Notices: All special land use applications and required supporting documentation shall be promptly transmitted to the Planning Commission. The Planning Commission shall hold at least one public hearing on all special land use requests it receives and shall provide notice for said hearing in the manner provided in Section 31.01 of the zoning ordinance.
- (c) Decisions: The Planning Commission shall, within a reasonable time after review or after the public hearing, deny, approve or approve with conditions the request. In rendering a decision on whether to deny, approve or approve with conditions a Special Land Use permit, the approving body shall incorporate in their decision a statement containing the conclusions relative to the Special Land Use which specifies the basis for the decision and all additional conditions, limitations and requirements upon which the Special Land Use Permit is granted. The statement shall be recorded in a record of the approval action and be filed together with the Special Land Use application and site plan with the Zoning Administrator
- (d) Conditions: Reasonable conditions may be required with the approval of a special land use, by the Planning Commission. 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 landowners 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 re 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.
- (e) Record Of Conditions: The conditions imposed with respect to the approval of a special land use 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 changed.

SECTION 17.03 GENERAL DISCRETIONARY STANDARDS. The following discretionary standards shall serve as the basis for decisions by the Planning Commission involving special land use permits. The Commission shall find that in addition to any specific standards such as the minimum or maximum height and area regulations of the applicable zoning district and other applicable standards contained in the various chapters of this ordinance, (ref. Chapter 16 General Provisions and Design Standards Applicable to Specific Uses, Chapter 22 Access and Private Road and Driveway standards, Chapter 23, Parking and Loading, Lighting and Chapter 19 Site Plan Review), the proposed use shall:

- (a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- (b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, water and sewage facilities and schools.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (d) Not involve uses, activities, processes, materials and equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located and not set precedents for development which could adversely affect the long term plans and policies of the Township.
- (f) Be compatible and consistent with the Heath Township Master Plan.

SECTION 17.04 ISSUANCE OF A SPECIAL LAND USE PERMIT. The Planning Commission shall grant a Special Land Use permit upon the finding that all of the requirements of this Ordinance pertaining to such Special Land Use are fulfilled in each case.

SECTION 17.05 PERFORMANCE GUARANTEE. The Planning Commission may require as a condition of its approval that the applicant file surety in the form of a performance bond, letter of credit, or certified check in a form satisfactory to the Township and in an amount established by the decision making body conditioned upon the prompt and complete compliance with all the provisions of this Ordinance and the requirements upon which the approval has been conditioned. The Planning Commission shall, in establishing the form and amount of the surety, consider the type and scale of the use and its operations, the prevailing cost to complete required improvements, safety measures and/or to rehabilitate the property upon default of the operator, court costs and other reasonable expenses. If the owner of the property and the operator of the proposed use shall be separate, each of them shall be required to execute the bond as principal.

SECTION 17.06 TIME LIMITS AND EXPIRATION OF PERMIT. A Special Land Use permit and the conditions imposed shall run with the land, regardless of land ownership. The Planning Commission may reserve the right of annual review of compliance with conditions and limitations imposed upon such use and may limit the duration of the Special Land Use permit where the use is of a temporary nature. A Special Land Use permit will remain in effect unless or until one or more of the following occurs:

- (a) An activity or use authorized by the Special Land Use permit has not commenced within two years of the date of issuance and the conditions of authorization do not specify a greater period of time before commencement.
- (b) The use ceases for a consecutive period of one year and a longer period of inactivity was not specified in the conditions of approval contained in the permit.
- (c) The use as authorized by the Special Land Use permit is of a temporary or terminal nature and has been terminated in compliance with the conditions of the Special Land Use permit.
- (d) The Special Land Use permit is revoked for reasons of non-compliance or violation as outlined in Section 17.07.

A Special Land Use permit which is expired, terminated or revoked as a result of one of the above circumstances shall be considered null and void and a new Special Land Use permit will be required for the activity to recommence.

SECTION 17.07 COMPLIANCE, VIOLATION, REVOCATION OF PERMIT.

- (a) The Planning Commission shall be the decision making body pertaining to Special Land Use permit violations and revocation questions.
- (b) Construction in Compliance with Final Site Plan: Any building permit issued for construction pursuant to an approved Special Land Use shall be valid only so long as there is compliance with the approved site plan and any other conditions of approval as set forth by the approving body. Any deviation from the approved site plan or conditions shall operate to automatically invalidate the building permit and shall be a violation of this Ordinance.
- (c) If a violation of any condition of approval or applicable regulation is found to exist subsequent to construction or commencement of the authorized Special Land Use the Zoning Administrator shall notify the permit holder/land owner and the Planning

Commission that a violation exists. The notice shall describe the violation and further state and that the Special Land Use permit may be revoked if the violation is not remedied within 45 days or less (as specified by the Zoning Administrator in the letter of notification). If the violation is not corrected within the specified time, the Zoning Administrator shall suspend the permit and place the matter on the next agenda of the Planning Commission for consideration of formal revocation action. Prior to formal action on the revocation question a public hearing shall be held upon notice in accordance with the procedures specified in Section 31.01

SECTION 17.08 APPEALS AND VARIANCES. Unless appealed through the courts, the Planning Commission shall have final authority with respect to approval, approval with conditions, denial or revocation of a special land use permit. Furthermore, once a special land use permit has been approved by the Planning Commission, the Zoning Board of Appeals may not accept an application to waive or modify any written standard or imposed condition pertaining to the approved special land use.

Prior to a decision by the Planning Commission to approve or deny a special use permit, an application for a variance from any written standard other than the discretionary standards of Section 17.03 may be made to, and decided upon by the Zoning Board of Appeals. If the Zoning Board of Appeals waives or modifies a standard, the Planning Commission may accept the waiver or it may modify to a lesser degree, or uphold the standard as originally specified in the Zoning Ordinance, if in its discretion, compliance is deemed necessary to satisfy the discretionary standards of Section 17.03.

CHAPTER 18

SITE CONDOMINIUM SUBDIVISIONS

SECTION 18.01 PURPOSE AND SCOPE.

Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "Lot" for purposes of determining compliance with the requirements of the Zoning Ordinance and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Heath Township Zoning Ordinance may be permitted in a site condominium project.

The purpose of this Chapter is to ensure that plans for developments within Heath Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, shall be reviewed with the objective and intent of achieving the same or comparable essential characteristics as if the development and improvements therein were being proposed pursuant to the Land Division Act, Act 288 of the Public Acts of 1967, as amended. It is also the intent of this Chapter to ensure that such development is in conformance with the requirements of this Zoning Ordinance, as amended, and other applicable Township Ordinances and state and federal regulations.

SECTION 18.02 SITE CONDOMINIUM REVIEW AND APPROVAL PROCEDURES. Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

- (a) Step I - Preliminary Review. Prior to the formal application for a Site Condominium Subdivision, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Township Clerk (or appropriate designee) who shall distribute it to the Zoning Administrator, all Planning Commissioners, the Township Supervisor, Township Planner, and Township Engineer:
 - (1) A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
 - (2) A statement regarding the provision of sewer service and water supply.
 - (3) Appropriate fees as required by Township Board resolution

During the preliminary discussion meeting, the Planning Commission and applicant shall discuss the following, as applicable:

- (4) General requirements of this Section and other applicable provisions of the Zoning Ordinance.
- (5) Planned or anticipated sites of parks and recreation areas and other public uses.
- (6) Utility system capabilities.
- (7) Planned or anticipated public improvements, including streets, utility extensions, and the like.
- (8) Street plans and potential problems relative to the natural features of the area including, but not limited to, floodplains, soil conditions, topography, and groundwater tables.
- (9) Additional information which may assist the applicant in proceeding in a reasonable and sound manner toward final approval of the site condominium project.

Step I Review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

- (b) Agency Review. Following Step I preliminary review the applicant shall submit the site condominium subdivision plans to the following agencies for their review and comment and, if required, their approval:

- (1) Allegan County Health Department
- (2) Allegan County Road Commission
- (3) Allegan County Drain Commission
- (4) Michigan Department of Natural Resources and Environment
- (5) Michigan Department of Transportation
- (6) Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
- (7) Gas and electrical utility corporations serving the area.
- (8) The applicable Intermediate School District and the individual School District affected by the project.

- (c) Step II Preliminary Review By Planning Commission.

- (1) **Submission Requirements.** An application for preliminary review of a site condominium subdivision project shall be made to the Township Clerk along with

the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:

- a. The applicant's name, address and phone number.
 - b. Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
 - c. The name, address and phone number(s) of the owner(s) of record if different than the applicant.
 - d. The legal description, address and tax parcel number(s) of the property.
 - e. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing etc.
 - f. Gross and net size of the parcel in acres.
 - g. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - h. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - i. A copy of any preliminary agreements which may be required before Final Plan approval is granted.
 - j. A copy of the proposed Master Deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.
- (2) The applicant shall provide at least fifteen (15) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Clerk. The plans shall contain the information required for preliminary site condominium plans as required by this Section.
 - (3) The application and plans shall be submitted at least twenty (20) days before the next regularly scheduled meeting of the Planning Commission.
 - (4) Upon receipt of the preliminary site condominium project plans, the Clerk shall forward one copy to each member of the Planning Commission, Township Planner and Township Engineer, for consideration at the next regularly scheduled meeting of the Planning Commission.
 - (5) **Planning Commission Step II Review.**

The Township Clerk shall notify by mail all the members of the Planning Commission that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of the public hearing shall be made as set forth in Section 31.02 of this Ordinance.

In reviewing the Preliminary Plan, the Planning Commission shall give particular attention to the requirements of this Chapter. The Planning Commission shall also review all deed restrictions and covenants for the site condominium project

and find that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the Preliminary Plan meets the requirements of this Ordinance and all other applicable local, county, state and federal regulations, the Planning Commission shall grant its Preliminary Approval. The Planning Commission shall forward one (1) copy of the Preliminary Plan along with a notation indicating Preliminary Approval and any recommendations to the Township Board for Step II review and approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- (a) Recommend denial of the Preliminary Plan, setting forth the reasons in writing, or
- (b) Recommend granting of Preliminary Plan approval contingent upon completion of the revisions as noted.

The Planning Commission shall forward the Planning Commission's recommendations to the Township Board.

- (d) Township Board Step II Review, and Approval of Preliminary Plan. After receipt of the Preliminary Plan and recommendations from the Planning Commission, the Township Board shall consider the Preliminary Plan at its next meeting, or within thirty (30) days from the date of receipt from the Planning Commission.
 - (1) The Township Board shall consider the Preliminary Plan along with the recommendations of the Planning Commission. If the plan meets the Preliminary Plan requirements of this Ordinance, the Board shall grant Step II Preliminary Plan approval. The Township Clerk shall sign the plan with the notation that it has received Step II approval and the applicant shall be so notified. Step II approval shall give the applicant the following rights for a two (2) year period from the date of approval:
 - (a) That the general terms and conditions under which Step II approval was granted will not be changed by the Township.
 - (b) That the building site sizes, number and orientation and street layout have been approved.
 - (2) If the Preliminary Plan substantially meets the requirements of this Ordinance, the Township Board may grant tentative approval of Step II. This approval shall be conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such changes, revisions, or additional material to the Township Board, the Preliminary Plan shall be granted unconditional Step II approval and the applicant shall be so notified.
 - (3) If the Preliminary Plan cannot meet the requirements of this Ordinance, the Township Board shall deny Step II approval and shall notify the applicant along with the reasons for denial.

- (e) Effect of Step II Approval. Approval of a Step II Preliminary Site Condominium Subdivision project by the Township Board shall serve as conditional authorization to proceed with the project, including the sale of individual building sites on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved project plans. Step II Preliminary Site Condominium Subdivision approval shall not serve as the direct authorization for construction of buildings on individual building sites within the subdivision. Prior to building construction, individual uses shall be subject to the customary zoning provisions and any general or special regulations applicable to the individual structure or use as outlined or referenced in the applicable District regulations of this Ordinance.
- (f) Final Plan Review and Approval
- (1) Within two (2) years from the date of Step II approval of the Preliminary Plan, the applicant shall prepare and submit the necessary copies of the Final Site Condominium Plan to the Township Clerk along with a completed application form and any fee established by the Township Board at least two (2) weeks prior to the next regularly scheduled Board meeting. The applicant shall also submit the following:
 - (a) Two (2) copies of as-built plans of all required public improvements which shall be reviewed by the Township Engineer for compliance with applicable Township ordinances.
 - (b) A copy of all final agreements and the Master Deed which is to be recorded with the Allegan County Register of Deeds.
 - (c) Letters of approval from all applicable agencies or utilities listed in Subsection (2) stating that improvements have been properly installed and inspected, and inspection fees paid, or that performance guarantees or other similar surety have been submitted for uncompleted improvements.
 - (2) If all submissions are found acceptable, the Clerk shall submit the same to the Township Board at its next regular meeting for approval.
 - (3) The Board shall approve or reject said Final Plan based upon the Plans and other material submitted and the recommendation of the Township Engineer and notify the applicant in writing.
 - (4) If the Final Plan is rejected, the Clerk shall notify the applicant stating the reasons for denial.
 - (5) All provisions of the Site Condominium Subdivision Project Plans which are approved by the Township Board must be incorporated, as approved, in the Master Deed for the condominium project. A copy of the Master Deed as filed with the Allegan County Register of Deeds for recording must be provided to the Township Clerk within ten (10) days after such filing with the County.

SECTION 18.03 FINANCIAL GUARANTEE. In lieu of completion of all required public or private improvements prior to approval of the final plan, the Township Board may permit the developer to provide a financial guarantee of performance in one or a combination of the

following arrangements for those requirements which are over and beyond the requirements of any public agency other than the Township responsible for the administration, operation, and maintenance of the applicable public improvement. Completion of improvements shall be required prior to the issuance of occupancy permits for any dwelling or business establishment.

(a) Cash Deposit, Certified Check, Irrevocable Letter of Credit

- (1) A cash deposit, certified check, or irrevocable letter of credit shall accrue to the respective public agency responsible for administering the construction, operation, or maintenance of the specific public improvement. These deposits shall be made with the treasurer of the respective unit of government of which the public agency is a part, or deposited with a responsible escrow agent, or trust company, subject to the approval of the respective governmental body.
- (2) The dollar value of the cash deposit, certified check, or irrevocable letter of credit shall be equal to the total estimated cost of construction of the specified public improvement.
- (3) The escrow time for the cash deposit, certified check, or irrevocable letter of credit shall be for a period to be specified by the respective public agency responsible for administering the construction, operation or maintenance of the specific public improvement.
- (4) In the case of either cash deposits or certified check, an agreement between the respective public agency and the developer may provide for progressive payments out of the cash deposit or reduction of the certified check to the extent of the estimated cost of the completed portion of the public improvement in accordance with the standard practices of the public agency responsible for administering the specific public improvement.

- (b) Penalty for Failure to Complete the Construction of a Public Improvement. In the event the developer shall, in any case, fail to satisfactorily complete the required construction of a public improvement within such period of time as required by the conditions of the guarantee for the completion of public improvements, the Township Board may declare the developer to be in default and require that all the improvement(s) be installed regardless of the extent of the building development at the time the bond is declared to be in default. The Township Board may obtain sums necessary for the cost and expense of such installation by appropriating the amounts necessary to complete the project from the cash deposit, certified check, or irrevocable letter of credit. Nothing contained herein shall prohibit the Township from the pursuit of any other remedies which may be available for breach of agreement and/or for damages including requests for actual attorney fees and costs.

SECTION 18.04 SITE CONDOMINIUM SUBDIVISION PLANS.

- (a) Required Content - Preliminary Plan. Site plans submitted for a Site Condominium Subdivision shall be prepared in accordance with the following requirements.

The Preliminary Plan shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include or be accompanied by the following information:

- (1) The name of the project; the name and address of the developer; the name, address and seal of a registered surveyor or engineer preparing the Plan; and a description of the property to be subdivided.
- (2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.
- (3) North arrow, scale, contour interval, and legend when appropriate.
- (4) Contour elevations adjusted to USGS datum at not more than five (5) foot intervals.
- (5) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.
- (6) The location of all existing streets, driveways, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property within 200 feet of the subject property.
- (7) The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:
 - (a) Street and stub street right-of-way -- location, width and curve radii.
 - (b) Proposed street names.
 - (c) Building site lines, site line dimensions to the nearest foot, site and block numbers, and building site areas to the nearest ten (10) square feet.
- (8) The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
- (9) The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.
- (10) Statements regarding:
 - a. Intent to utilize public or private water or sewage facilities.
 - b. Zoning and lot size requirements.
 - c. Zoning requirements for front, side and rear yards.
 - d. Size and type of street in accord with Allegan County Road Commission standards or any adopted Heath Township private street regulations (ref. Chapter 22).
 - e. Intent to install gas, sidewalks, street lights, and shade trees.
 - f. Use of waterways, rivers, streams, creeks, lakes or ponds.
 - g. The location of all general and limited common elements.
 - h. The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the Master Deed.

- (b) Required Content-Final Plan. The Final Plan for a Site Condominium Subdivision shall include:
- (1) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Township.
 - (2) One (1) copy of the final Master Deed intended for recording.
 - (3) Performance or installation agreements for any improvements not controlled or regulated by other agencies, such as sidewalks, streetlights, or shade trees.
 - (4) One (1) copy of any financing arrangements between the Township and the proprietor for the installation of required improvements, if any.

SECTION 18.05 SITE CONDOMINIUM SUBDIVISION LAYOUT, DESIGN, AND REQUIRED IMPROVEMENTS.

- (a) Conformance With Zoning. All land uses and building sites within a site condominium subdivision project shall be subject to the requirements of the Heath Township Zoning Ordinance for that zoning district in which it is located.
- (b) Streets. All site condominium subdivision lots shall be served by a public road system constructed in accordance with the regulations of the Allegan County Road Commission or, with private streets constructed under the standards of Heath Township.
- (c) Water, Sanitary Sewer, Storm Drainage and Private Utilities.
- (1) Site condominium subdivisions which cannot reasonably be required to connect to public water and sewer services may at the discretion of the Township Board be allowed to utilize private well and septic systems. Such systems, if allowed, shall adhere to the requirements of the Allegan County Health Department. Private community well and sewage systems, if allowed, shall be constructed to standards for public systems for eventual dedication to the public.
 - (2) All telephone, electric, gas and cable television utilities, when provided, shall be installed underground within easements dedicated for such use.
 - (3) Storm drainage collection, retention, and detention facilities shall be constructed to Allegan County Drain Commission standards and recommendations.
 - (4) Unless specifically waived by the Township, streetlights shall be required at all street intersection and appropriate legal and financial mechanisms for the installation and operation of the street light system by the residents shall be established by the proprietor.
- (d) Other Required Improvements.
- (1) Monuments shall be located in the ground at all angles along the boundaries of the site condominium subdivision. These monuments shall be made of solid iron or steel bars at least 1/2 inch in diameter and 36 inches long and completely encased in concrete at least four (4) inches in diameter.

- (2) All corners of lots within a site condominium subdivision shall be staked in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2 inch in diameter or other markers as approved by the Township Building Inspector.
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- (e) Law. The requirements, procedures, regulations, and powers set forth in the Condominium Act, Act 59 of 1978, as amended, shall apply except as provided by this Ordinance.
- (f) Inspection and Specifications. The Township Board may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installation of improvements called for shall be subject to the approval of the Township or its agent, or such other competent persons as designated by the Township. All inspection fees shall be paid by the applicant before the Final Plan is signed by the Township Supervisor, unless adequate sureties or deposits to cover such expenses are provided to the Township prior to Final Plan approval.

SECTION 18.06 VARIANCES.

- (a) Building Site Area, Width, and Depth Regulations. Variances with respect to individual building site width, depth, and area regulations governed by the District regulations of the Zoning District in which the site condominium project is located shall be made to the Zoning Board of Appeals pursuant to the procedures, rules, and conditions contained in this Ordinance.
- (b) Applications. Applications for any variance or planned development shall be made in writing by the petitioner prior to the time when the Step II Preliminary Plan is filed for the consideration of the Planning Commission. The application shall state fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans, or other additional data which may aid the Planning Commission or Zoning Board of Appeals in the analysis of the proposed variance.

CHAPTER 19

SITE PLAN REVIEW

SECTION 19.01 PURPOSE. The purposes of Site Plan Review are to determine compliance with the provisions of this Ordinance, to promote the orderly development of the Township, to prevent the depreciation of land values through uses or structures which do not give proper attention to site design and layout and to provide consultation and cooperation between the applicant and Township Zoning Officials so that applicants may accomplish their objectives in the utilization of their land within the regulations of this Zoning Ordinance.

SECTION 19.02 SCOPE. A site plan as defined in Chapter 3 and described herein shall be submitted for review according to the standards and procedures of this chapter for all proposed land uses except the following:

- (a) Single family and two family dwelling units on individual lots, unless regulated as a Special Land Use.
- (b) Residential and agricultural accessory buildings, not classified as Special Land Uses.
- (c) Construction on or remodeling of an existing permitted use or structure that does not involve a site change or an exterior structural modification or a new driveway access.
- (d) A detached commercial or industrial accessory building or structure which does not exceed 768 square feet of gross floor area and which does not require or involve a principal use approved as a Special Land Use.
- (e) New parking lots with fewer than six (6) car spaces or 1,800 square feet of surface and no additional curb cuts.

SECTION 19.03 REVIEW PROCEDURE AND AUTHORIZATION. All site plans required under this Chapter shall be subject to review as follows:

- (a) Site Plan Review Authority: The Zoning Administrator shall have the power to approve, deny, modify or approve with conditions all site plans submitted to it under this Ordinance. A building permit shall not be permitted until a site plan has been approved as required herein.
- (b) Review Period: The Zoning Administrator shall render a decision on a site plan within sixty five (65) days of initial review of the site plan, unless an extension of time is agreed to by the applicant.
- (d) Review Criteria: The Zoning Administrator shall review each site plan according to the standards for site plan review as contained in Section 19.07 of this chapter and any other applicable regulations of this Ordinance. In addition, the Zoning administrator is empowered to seek the review and recommendation of appropriate county, state or federal agencies, the Township Planner, consulting engineer or other professionals, consultants, or agencies as deemed necessary to assist it in its review.

- (e) Approval: Upon approval of a site plan, three copies of the plan shall be signed and dated by the Zoning Administrator. One copy of the plan shall be retained by the applicant, one by the Zoning Administrator and one shall be forwarded by the Zoning Administrator to the building official as part of the building permit review process.
- (f) Effect of Approval: Approval of a final site plan represents an official determination of zoning compliance and authorizes the commencement of all permitted activities and/or the issuance of a building permit, provided all conditions of the site plan and all other requirements for the activity and/or building permit have been met as determined by the Zoning Administrator.

SECTION 19.04 REFERRAL TO FULL PLANNING COMMISSION. Notwithstanding any other provision of this Chapter, The Zoning Administrator may, in his or her discretion, decline to approve or disapprove any site plan and refer the site plan to the full Planning Commission for review and decision. In such case the full Planning Commission shall perform all duties of the Zoning Administrator set forth in this Chapter.

SECTION 19.05 OPTIONAL SKETCH PLAN REVIEW. Preliminary sketches of proposed site and development plans may be submitted for informal review to the Zoning Administrator and Planning Commission prior to an application for a formal site plan review and decision. The purpose of this procedure is to allow discussion between a developer and Township officials to better inform the developer of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for formal Site Plan approval. Such sketch plans shall include as a minimum the following:

- (a) The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or the partners of a partnership, and the name and address of the titleholder of the property.
- (b) A legal description of the property.
- (c) Sketch or tentative site and development drawings showing approximate dimensions and the relationships between uses and general descriptions of other pertinent site features and improvements .

The Zoning Administrator or Planning Commission shall not be bound by any affirmative response given at this time.

SECTION 19.06 APPLICATION AND SITE PLAN CONTENT. Applications for Final Site Plan Review shall be made by filing with the Township Clerk the following:

- (a) A review fee as determined by resolution of the Township Board based upon the cost of processing the review and as shall be on file with the Township Clerk for public information.
- (b) Six (6) copies of the completed application form for Site Plan Review which shall contain, the following information unless such information has been expressly waived by the Zoning Administrator using the discretionary authority granted to him or her under in sub-section 19.06(d):

- (1) The name and address of the applicant and the title holder of the property.
 - (2) The legal description of the subject parcel of land.
 - (3) The area of the subject parcel of land stated in acres or, if less than one acre, in square feet.
 - (4) The present zoning classification of the subject parcel.
 - (5) A general description of the proposed development.
- (c) Six (6) copies of the proposed site plan which shall include - the following:
- (1) The plan shall be drawn to a scale of not greater than one inch equals twenty feet for a development of not more than three acres and a scale of not less than one inch equals one hundred feet for a development in excess of three acres.
 - (2) The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation and the name and address of the individual or firm preparing the same.
 - (3) The subject property shall be identified by lot lines and general location, together with dimensions, angles and size correlated with the legal description of the property.
 - (4) The topography of the site with at least 2-foot contour intervals and all natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils and similar features being shown.
 - (5) Existing man-made features upon the site and within 100 feet of the same shall be disclosed.
 - (6) The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple family residential development shall also include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each such units.
 - (7) All proposed and existing streets, driveways, sidewalks and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size and number of parking spaces in off-street parking areas, service lanes thereto and service parking and delivery or loading areas.
 - (8) The location, use and size of open spaces, together with landscaping, screening, fencing, walls and proposed alterations of topography or other natural features shall be indicated.
 - (9) The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and its occupants, together with any special features which are proposed to relieve any adverse effects caused by the operations. Any potential demands for future community services will also be

described, together with any special features which will assist in satisfying such demands.

- (10) Any earth-change plans required by state law shall also be submitted with the application.
- (11) On-site lighting, surface water drainage for the site and proposed sanitary sewage disposal and water supply shall be included in the plans.
- (12) Other information as may be determined to be necessary by the Zoning Administrator as reasonably necessary to evaluate the site plan may be requested including, but not be limited to:
 - a. The proposed locations and approximate dimensions and duration of temporary soil stockpiles and the proposed location of temporary access drives, and staging areas for use in the construction phase.
 - b. Proposed temporary and permanent soil erosion and sedimentation controls
 - c. An exterior lighting plan including a photometric grid showing illumination levels from all exterior light sources on the site including but not limited to parking lot fixtures, signs and building lighting
- (d) At the time of initial review the Zoning Administrator shall have, with proper justification, the discretion to waive the inclusion of any of the information required by this Section, to reject a site plan on the basis of inadequate information, or to withhold a decision on a site plan pending submittal of more detailed information.

SECTION 19.07 CRITERIA FOR REVIEW. A site plan shall be approved if it is determined by the official or body charged with making such determination that:

- (a) There is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian and vehicular traffic. Special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement of parking areas that insofar as practical, do not detract from the design of the proposed buildings and structures and the neighboring properties.
- (b) That the buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects upon owners and occupants of adjacent properties and the environment.
- (c) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, and where they assist in preserving the general appearance of the neighborhood.
- (d) That any adverse effects of the proposed development and activities emanating from the development upon adjoining residents or owners shall be minimized by appropriate

screening, fencing, landscaping, setbacks; and by the location of buildings, structures and entryways.

- (e) The height and location of all portions of the building and structures are accessible to available emergency vehicles and equipment.
- (f) That the plan gives special attention to proper site surface drainage. Storm water shall be drained away from all roofs, canopies and paved areas by means of a suitable on-site stormwater management system so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Surface water in all parking and driveway areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in gravel or paved areas.
- (g) That any utility installations remaining above ground shall be located so as to have a harmonious relationship to neighboring properties and the site.
- (h) That the size, location and lighting of all signs shall be consistent with the requirements of this Ordinance and shall be compatible with adjoining properties.
- (i) That outdoor storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas are appropriately authorized under this ordinance and located having appropriate setbacks and are reasonably screened with screen plantings or other screening methods.
- (j) That all applicable provisions of the Township Zoning Ordinance are complied with unless an appropriate variance from the applicable provision has been granted by the Zoning Board of Appeals.

SECTION 19.08 CONFORMITY TO APPROVED SITE PLAN. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Zoning Administrator. If construction and development does not conform with the approved plan, the approval shall be revoked by the Zoning Administrator. Written notice of the revocation shall be posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of an approval, all construction activities shall cease upon the site until such time as the violation has been corrected or upon proper application of the developer, the Township Zoning Administrator has approved a modification of the site plan to coincide with the developer's construction or accepted the plans for construction as being in compliance with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance.

SECTION 19.09 EXPIRATION AND VALIDITY OF APPROVED SITE PLAN Approval of the site plan shall be valid for a period of three (3) years, with the possibility of a single three-year extension approved by the planning commission. If a building permit has not been obtained and on-site development actually commenced within the three year period, the site plan approval shall be come void, a new application for site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.

SECTION 19.10 AMENDMENT TO SITE PLAN. A site plan may be amended upon application and in accordance with the procedures and requirements provided in Section 19.06. Changes to an approved site plan shall be illustrated on a revised site plan drawing(s) submitted to the Zoning Administrator for purposes of record. The Zoning Administrator or as the case may be, the Planning Commission shall record its determinations and reasons for allowing amendment in the file, or as applicable, in the minutes of the meeting at which the action is taken.

SECTION 19.11 MODIFICATION OF PLAN DURING CONSTRUCTION. All site improvements shall conform to the approved site plan. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes shall be made at the applicant's risk, without any assurances that the Township Officials will approve the changes. It shall be the responsibility of the applicant to notify the Zoning Administrator of any changes. The Zoning Administrator may require the applicant to correct the changes so as to conform to the approved site plan.

SECTION 19.12 AS-BUILT DRAWINGS.

- (a) The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a site plan was approved. The drawings shall be submitted to the Zoning Administrator.
- (b) The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
- (c) The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional engineer.

SECTION 19.13 PHASING OF DEVELOPMENT. The applicant may divide the proposed development into two or more phases. In such case, the site plan shall show the entire property involved and shall clearly indicate the location, size, and character of each phase. However, complete site plans for all phases of a project need not be provided at once. Subsequent site plans may be submitted for review and approval for each phase as the project proceeds. Each phase of a project shall stand on its own; no phase shall rely on the completion of any subsequent phases of the project for parking, utilities, landscaping or any other element required by this Ordinance.

SECTION 19.14 PERFORMANCE GUARANTEE. To ensure faithful completion of the improvements indicated on the approved site plan the Zoning Administrator or Planning Commission may require a performance bond, letter of credit, or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, drainage, and other required improvements associated with the project. The estimated amount shall be determined by

the applicant and approved by the Zoning Administrator. The performance guarantee shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the activity or project. In cases where one or more of the required improvements have not been completed, an appropriate amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements and the balance, if any, shall be returned to the applicant. Prior to full completion, the Township may rebate a proportional amount of a cash deposit only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.

SECTION 19.15 FEES. Fees for the review of site plans and inspections as required by this Chapter shall be established and may be amended by resolution of the Township Board.

CHAPTER 20

PLANNED UNIT DEVELOPMENT

SECTION 20.01 PURPOSE. The Planned Unit Development (PUD) is an optional development provision which provides a list of "overlay" zoning standards which apply to the respective "underlying" district and which are consistent with the land use policies expressed in the Township Master Plan. For properties approved for the PUD designation, these PUD standards replace the lot area, lot width, set back requirements, and other related regulations of each respective zoning district.

The PUD provisions are intended as a design option, aimed at permitting flexibility in the regulation of land development, encouraging innovation in land use and variety of design of structures, preserving significant natural and historical features and open space, promoting efficient layout of public utilities, minimizing adverse traffic impacts, encouraging development of convenient recreational facilities, and encouraging the use and improvement of existing sites when the uniform regulations contained in other zoning districts do not afford adequate protection and safeguards for the site or its surrounding areas.

The PUD provision and its standards are intended to accommodate development on sites with significant natural, historical, and architectural features and on sites which exhibit difficult development constraints, provide opportunities to mix compatible land uses or housing types, allow for the clustering of residential units to preserve common open space and natural features, or to accomplish a particular development or land use objective identified by the Township.

In order to encourage PUD developments on specific properties, the PUD provision relaxes or waives one or more of the requirements of the underlying zoning district and remains consistent with the policies of the Township Land Use Plan. PUD also allows a developer to mix compatible uses or residential types on a single property, cluster structures to reduce development costs, and enhance marketability through the preservation of natural features and unique design.

SECTION 20.02 APPLICATION AND PROCESS. Upon a recommendation by the Planning Commission and approval by the Township Board, a PUD overlay district may be applied to any existing agricultural, residential, commercial, or industrial district. Upon approval of the final development plan and the PUD agreement by the Township Board, the Official Zoning Map shall be annotated for the land area involved so that PUD overlay is clearly shown on the map. In addition, the Township shall maintain a current list of all approved PUD projects, showing the approval date, the time by which project construction must begin, and the time that the approval period for the final PUD plan expires.

SECTION 20.03 USES PERMITTED. Compatible residential, commercial, and public uses may be combined when the underlying zoning district is residential or agricultural. Residential uses proposed in non-residential zoning districts may be permitted by the Township Board only after the developer provides detailed rationale on how residential uses meet the

objectives of the PUD provision of the Zoning Ordinance. Both permitted uses and special uses of the underlying zoning district may be proposed for the PUD.

SECTION 20.04 MINIMUM PROJECT AREA. The gross area of a tract of land to be developed under PUD shall be a minimum of ten (10) acres, provided that parcels as small as one (1) acre may be proposed for PUD on the basis of their potential to meet the intent of the PUD provision.

In an effort to advance the goal of good land use planning, the Township may propose or designate a parcel of any size for the PUD process, if it advances development objectives consistent with the goals of the Township Land Use Plan.

When a PUD proposes a mixture of residential uses and commercial/office uses, the Township Board, with recommendation from the Planning Commission, may specify and allow up to ten percent (10%) of the gross site area for commercial/office use. If the Township determines that commercial area will be beneficial to the Township and the surrounding area. In no case shall the area planned for commercial/office development exceed ten percent (10%) of the gross site area. Golf courses and club houses shall not be considered as commercial use. Accessory facilities such as driving ranges and miniature golf shall; however, be considered as commercial uses.

SECTION 20.05 PROJECT OWNERSHIP. The land proposed for a PUD project shall be under unified control, but may be owned or controlled by either a single person, a corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation. The proposed PUD site shall be capable of being planned and developed as one integral unit.

SECTION 20.06 COMMON OPEN SPACE. A minimum of twenty percent (20%) of the land developed in any PUD project shall be reserved for common open space and recreation facilities. For PUD projects which abut bodies of water and include water area as part of the common open space or as part of a recreational facility, a minimum of twenty five percent (25%) shall be reserved for common open space. Driveways, roadways, parking lots, existing or proposed right-of-way, and easements for overhead transmission lines shall not be considered as open space.

The common open space shall consist of a combination of active and passive recreation areas. At least one (1) active recreation area consisting of between 20,000 and 30,000 square feet shall be provided for developments containing between fifteen (15) and fifty (50) single family detached dwelling sites, between twenty (20) and seventy (70) townhouses, or between twenty-four (24) and eighty-five (85) apartments. Additional active recreation areas of the same size shall be provided for each additional fraction of the above specified ranges of units. (Example: developments containing between 51 and 100 single family units would require another active recreation area of the same size.) For residential developments which do not meet the minimum numerical thresholds stated in this section, the quantity and quality of active recreation area and facilities will be approved by the Township. The active recreation area shall be graded, planted with grass, and suitable for a variety of outdoor activities and yard games, such as volley ball and soccer. The installation of play equipment, including tennis courts, shall be at the option of the developer.

As a general guide, all housing sites should be designed so as to abut, have convenient access to, or have a view shed of common open space. Passive recreation areas should be massed so as to provide for wildlife, flora, and fauna experiences. Passive recreation areas which are primarily limited to buffer strips at the perimeter of the developments are not considered as meeting the intent of this provision. However, walking, jogging, and bicycle trails may be designed into the development as supplements to the larger recreation areas. All open space provisions will be negotiated by the Township as part of the PUD process.

The intent of this section is to articulate the goal that active and passive recreation areas are valuable assets which add to the quality of life for Heath Township residents and should be made integral parts of the proposed housing developments in the community.

The required amount of common open space reserved under PUD shall either be held in corporate ownership, as part of a Township approved nature conservancy, or by the owners of the project. The time at which control of open space shall pass from the corporate ownership to the owners of the project shall be specified in the master deed. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

SECTION 20.07 UTILITY REQUIREMENTS. Underground utilities, including telephone and electrical systems, are required within the limits of all PUD projects. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission and Township Board find that such exemption will not violate the intent or the character of the proposed PUD.

SECTION 20.08 DENSITY DETERMINATION AND DENSITY BONUS. In agriculturally and residentially planned and zoned areas, the base density of any proposed development will be determined by the applicant's build-out design showing the proposed development with the minimum lot size of underlying zoning district in a conventional subdivision plan. Once the base density is determined, a series of bonus densities may be applied to the project. The first is a 10% density bonus for utilizing the PUD process. This recognizes that PUD process is in the best interest of residents of the Township. The second is up to an additional 10% increase in density, provided that the applicant clearly shows how the proposed PUD design is unique, preserves open space beyond the minimum requirement of 20%, or provides a public benefit (such as paving a public road or providing a community recreation facility). However, in no case may an individual lot or building site contain less than 20% of the area or width of the underlying zone requirements. The average area of all residential building sites in the proposed development may not be used as a basis for determining density.

SECTION 20.09 HEIGHT REQUIREMENTS. For each one (1) foot of height over the maximum height allowed by the underlying zoning district, the distance between nonresidential buildings (e.g. churches) and the side and rear property lines of the development shall be increased by one (1) foot. The same shall apply to the distance between nonresidential buildings.

SECTION 20.10 PARKING. Off-street parking, loading, and service areas shall be provided in accordance with this ordinance. However, off-street parking and loading areas for non residential development shall not be permitted within fifteen (15) feet of any residential use in the PUD.

SECTION 20.11 PERIMETER YARDS. Each structure in the PUD which abuts a perimeter property line of the PUD parcel shall meet a fifty (50) foot setback requirement.

SECTION 20.12 ARRANGEMENT OF COMMERCIAL USES. When PUD's include commercial development, commercial structures shall be planned as groups having common parking area and common ingress and egress points in order to reduce the number of curb cuts. Suitable planting screens or fences shall be provided on the perimeter of the commercial areas whenever they abut residential components of the PUD. The site plan for the development shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Planning Commission and Township Board. Mixed use commercial/residential structures are encouraged.

SECTION 20.13 PUD PROCESS: PRE-APPLICATION MEETING. The developer is encouraged to meet with the Township Planning Commission and the Township Planner to discuss the concepts of the proposed project before submitting a formal application for PUD. This allows for a dialogue on the development goals of the Township as expressed in its Land Use Plan.

SECTION 20.14 CONTENTS OF APPLICATION: PRELIMINARY DEVELOPMENT PLAN. An application for preliminary PUD plan shall be filed with the Township Clerk by all owners of interest in the property for which the PUD is proposed. The plan shall contain the following information:

- (a) Name, address, and phone number of the applicants.
- (b) Name, address, and phone number of registered land surveyor, registered engineer, landscape architect, or land use planner which assisted in the preparation of the preliminary plan.
- (c) Legal description of the property.
- (d) Description of existing use(s) and zoning districts.
- (e) A vicinity map showing property lines, streets, roads, and uses of adjacent properties so that the Township can initially determine how the proposed development will relate to land use in the general vicinity.
- (f) A preliminary development plan at a scale of not less than 1" = 100' showing topography at not less than two (2) foot contours; location and type of residential, commercial, and industrial land use; layout, dimensions, and names of existing and proposed streets, rights-of-way, and utility easements; parks and community spaces; layout and dimensions of lots and building setbacks; preliminary layout of water, sewer, drainage, electric, natural gas, cable, and telephone; and other information the Township considers necessary.

- (g) Proposed schedule for the development of the site. If a multi-phase PUD is proposed, identification of the areas included in each phase. For residential PUD'S, the number, type, and density of proposed housing units within each phase.
- (h) Evidence that the applicant has sufficient control over the site to initiate the proposed PUD within eighteen (I 8) months of receiving final approval.
- (i) Any additional graphics or materials requested by the Township to assist the Township in determining the appropriateness of the PUD such as aerial photography, market studies, impact on the public school system, traffic impacts, impacts on significant, historical, and architectural features, impacts on drainage, preliminary construction costs, preliminary architectural sketches, and preliminary drafts of bylaws and master deeds.
- (j) A graphic description of how the site proposed for development could be developed under the regulations of the underlying zoning district.
- (k) A filing of \$1,000 must be submitted at the time the application for PUD is filed with the Township. In addition, the Township reserves the right to pass onto to the applicant any costs that the Township incurs for technical assistance in the review of the application and accompanying plans.

SECTION 20.15 PUBLIC HEARING BY THE PLANNING COMMISSION. Within sixty (60) days after receipt of the preliminary development plan, the Planning Commission shall hold an advisory public hearing. The notice of the public hearing shall be given in accordance with the provisions contained in Chapter 31.

SECTION 20.16 APPROVAL IN PRINCIPLE BY PLANNING COMMISSION. Within forty-five (45) days after the close of the public hearing, the Planning Commission shall review the preliminary PUD plan to determine if it is consistent with the intent and purpose of this chapter; whether the proposed PUD advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with existing and proposed land uses in the surrounding area justify the deviation from standard district regulations. Approval in principle shall not be construed to endorse the location of uses, configuration of building sites, or layout of infrastructure.

SECTION 20.17 ACTION BY THE TOWNSHIP BOARD. Within forty-five (45) days after the receipt of the approval in principle by the Planning Commission, the Township Board shall either approve, approve with conditions, disapprove the preliminary development plan, or refer the proposed PUD back to the Planning Commission for further study. If the application is referred back to the Planning Commission for further study, the Planning Commission shall have sixty(60) days within which to respond with its revised recommendation to the Township Board. This Township Board shall then make its preliminary decision.

SECTION 20.18 FINAL DEVELOPMENT PLAN. After the Township Board makes its preliminary decision, the Planning Commission shall approve the PUD plan at this intermediate stage, approve with additional conditions, or deny the PUD plan. If the plan receives approval or approval with conditions, the applicant may prepare the final development plan. If the Planning Commission denies the PUD plan, it shall state its reasons for denial in writing. The applicant

may petition the Township Board for a decision. The applicant may prepare the final development plan if the Township Board overrides the Planning Commission's denial by a majority vote of the full Board.

Ten (10) copies of the final development plan shall be submitted and be endorsed by a qualified technical expert. It shall be in substantial conformance with the PUD plan approved by the Planning Commission and contain the following information:

- (a) A survey of the proposed development site, showing the dimensions and bearings of the property lines, topography, existing natural features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
- (b) All information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential buildings intensity, and land use considered suitable for adjacent properties.
- (c) A schedule for the development of units to be constructed in phases and a description of the design for the buildings and landscaping; tabulation of the number of acres in the proposed project for the various uses in the PUD; the number of housing units by type; estimated residential population by type of housing; estimated nonresidential population; and estimated acres given to active and passive open space.
- (d) Engineering feasibility studies and plans showing water, sewer, drainage, electric, telephone, and natural gas installations; waste disposal facilities; street improvements; and the nature and extent of earth work required for site preparation and development.
- (e) Site plans showing the functional use and relationship of buildings, open space and circulation.
- (f) Preliminary building plans, including floor plans and exterior elevations.
- (g) Landscaping plans, prepared by a registered landscape architect.
- (h) Association bylaws, master deed, deed restrictions, covenants and other legal statements and devices to be used to control the use, development, and maintenance of the land and improvements including those areas which are to be commonly owned and maintained.
- (i) A statement indicating that, if a part of the proposed development is sold or leased to another party or parties, full compliance with the PUD agreement and the final development plan will be required and enforced.
- (j) A description of the process of how information on the master deed and bylaws of the proposed development will be disseminated to prospective buyers.

SECTION 20.19 RECOMMENDATION BY THE PLANNING COMMISSION.

Within sixty (60) days after receiving the final development plan, the Planning Commission shall recommend to the Township Board that the final development plan be approved as presented, approved with supplementary conditions, or not be approved. If the recommendation is to deny, the reasons for denial shall be stated clearly in the record.

SECTION 20.20 CRITERIA FOR EVALUATION BY THE PLANNING COMMISSION. Before making its recommendation on the final development plan, the

Planning Commission shall find that the facts submitted with the application and presented at the public hearing(s) establish that:

- (a) The proposed PUD can be initiated within eighteen months of the date of approval.
- (b) Each individual unit phase of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objectives will be attained; the uses in the proposed PUD will not be detrimental to present and potential adjacent uses; and will have a beneficial impact which could not be achieved under standard district regulations.
- (c) The streets and thoroughfares proposed are suitable to carry anticipated traffic and the increased densities will not generate traffic in such amounts so as to exceed the design capacities of area roadways.
- (d) Any commercial component of the PUD will be beneficial to the general area and to the population of the proposed development.(e) Any deviation(s) from the regulations of the underlying zoning district can be justified by meeting the purpose of the PUD provisions of the Township Zoning Ordinance.
- (f) The area surrounding the proposed PUD can be planned and zoned with coordination and substantial compatibility.
- (g) The proposed PUD meets the development goals and objectives of the Township Land Use Plan.
- (h) The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

SECTION 20.21 ACTION BY THE TOWNSHIP BOARD. Within thirty (30) days after receipt of the recommendation on the final development plan by the Planning Commission, the Township Board shall hold a Public Hearing in accordance with the procedures contained in Chapter 31. After the Public Hearing, the Township Board shall approve, approve with supplementary conditions, or disapprove the final plan. The Township Board may also refer the final plan back to the Planning Commission for further study. The Township Board shall also approve the final draft of the PUD agreement when it approves the final PUD development plan.

SECTION 20.22 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS. In approving any PUD, the Township Board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the final plan is approved, shall be considered a violation of this Ordinance. These conditions may be made part of the PUD agreement.

SECTION 20.23 EXPIRATION AND EXTENSION OF APPROVAL PERIODS. The approval of a final development plan for a PUD shall be for a period not to exceed eighteen (18) months. At the end of the eighteen (I 8) month period, either party (the Township or the applicant) shall provide notice to the other party of termination of the approved PUD. An extension of time limit or modification of the approved final plan may be approved if the

Township Board finds that such extension or modification is not in conflict with the public interest.

SECTION 20.24 DEVIATIONS FROM APPROVED FINAL PUD PLAN.: Deviations from the approved final PUD plan may occur only under the following circumstances:

- (a) An applicant or property owner who has been granted final PUD approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- (b) Minor changes may be approved by the Zoning Administrator provided that the proposed revision does not alter the basic design nor conditions of the plan. Minor changes shall consist of the following:
 - (1) For residential buildings, the size of structures may be reduced or increased by five percent (5%) provided that the overall density of units does not increase.
 - (2) Square footage of nonresidential buildings may be decreased or increased by up to five percent (5%).
 - (3) Buildings may be moved by no more than ten (10) feet.
 - (4) Landscape materials may be replaced by similar plant materials on a one-to-one or greater basis.
 - (5) Building materials may be changed to those of higher quality.
 - (6) Floor plans may be changed provided the change does not alter the character of the use.
 - (7) Sidewalks or refuse storage stations may be relocated.
 - (8) Internal parking lots may be rearranged which does not affect the number of parking spaces or alter access locations.
 - (9) Changes requested by the Township relative to public safety shall be considered a minor change.
- (c) Should the Zoning Administrator determine that the requested modification to the final PUD plan is not minor, re-submission to the Planning Commission is necessary.
- (d) Should the Planning Commission determine that the modifications to the final PUD plan significantly alter the intent of the original concept of the project, a new submission illustrating the modification shall be required and shall be subject to the same approval process as listed in Section 20.19 PUD Process.

CHAPTER 21

OPEN SPACE PRESERVATION PROJECTS

SECTION 21.01 PURPOSE AND APPLICABILITY. The purpose of this Section is to adopt open space preservation provisions consistent with the requirements of Section 506 of the Michigan Zoning Enabling Act which requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential purposes must adopt zoning regulations to permit “open space preservation” developments.

Under these regulations, a landowner has the option to retain at least 50% of the property as open space and placing dwelling lots on the remaining portion. The number of dwelling structures and lots cannot be more than the number which would be permitted on the land without the open space preservation regulations, nor may the Township require less than the number of dwelling lots which would be permitted on the land without the open space preservation regulations.

This Section shall only apply to open space preservation projects supporting single family detached residential dwellings in qualifying residential Zoning Districts and where no open space option has been previously exercised.

SECTION 21.02 QUALIFYING CONDITIONS.

- (a) The option to develop land under the provisions of this Section may be exercised only if each of the following conditions is satisfied:
 - (1) The land is located in the AG, R-1, and R-1a Zoning Districts, where as of the effective date of these provisions, if the land is not served by a public sewer system, the zoning will permit development at a density equivalent to only two or fewer single family dwelling units per gross acre; or if the land is served by a public sanitary sewer system, the zoning only permits development at a density equivalent to three or fewer single family dwelling units per gross acre.
 - (2) The open space cluster approach to development of land under this Chapter as defined by the number of dwelling units proposed, shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless conventional development of the land (without the exercise of the clustering option provided by this Chapter) would also depend on such extension; and
 - (3) The clustering option provided pursuant to this Chapter shall not have previously been exercised with respect to the same land.
- (b) If all of the preceding conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions of this Chapter.

SECTION 21.03 PERMITTED USES. Only single family detached residential dwellings and accessory land uses thereto, as permitted in the underlying zoning district in which the land is located, shall be permitted on land developed or used pursuant to the provisions of this Chapter.

SECTION 21.04 PRELIMINARY CONFERENCE. Prior to preparing a formal application, the applicant is required to have a preliminary conference with the Township Zoning Administrator. The purpose of the conference is to discuss the proposed development and to review the procedures, standards and requirements of the Township. The applicant is encouraged to present concept plans, site data and other information that will assist in explaining the proposed development. Statements made in the conferences shall not be legally binding to the applicant or Township.

SECTION 21.05 APPLICATION AND REVIEW PROCEDURE; REVIEW BY THE PLANNING COMMISSION. Except as specifically provided in this Chapter, the application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Chapter shall be those governing Site Plans, as outlined in Chapter 19, Site Plan Review except that final review and approval of a site plan for a project submitted under the provisions of this Chapter shall in all cases rest with the full Planning Commission.

- (a) Required Submittals: In addition to the site plan application materials required by Chapter 19, an application for the development of land under the provisions of this Chapter shall include the following:
- (1) **Parallel Plan.** The applicant shall prepare a Parallel Plan for the project consistent with the lot width, setback, area requirements and design criteria of the applicable zoning district of the Heath Township Zoning Ordinance in which the property is located. The Parallel Plan will be used to determine the allowable density/number of home sites for the project. The Parallel Plan may be conceptual in nature but must include at least the following information.
 - a. Date, north arrow and scale, which shall not be more than 1" = 100. The scale shall be the same as the scale utilized for the site plan illustrating the proposed open space preservation project permitted by this Section.
 - b. Location of existing and proposed streets.
 - c. Location of all lots, illustrating the lot area and width of each lot and in compliance with the minimum requirements of the applicable zoning district.
 - d. General layout of utilities necessary to serve the Parallel Plan development including but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - e. If the use of private wells, septic tanks and drain fields is proposed, the applicant shall submit evidence that the ground water supply and septic tank and drain field locations would be approved, or have been approved, by the Allegan County Health Department.

- f. All un-buildable land, which for the purposes of this Chapter include slopes of 20% or greater, regulated and unregulated wetlands, public utility easements, 100 year floodplains, and other similar features which limit or prevent construction of buildings or roads.
- (2) **Determination of Permitted Number of Lots by the Planning Commission.** The Planning Commission shall review the Parallel Plan design to determine the number of lots that could feasibly be constructed following the parallel plan design. This number shall set the maximum density/number of home sites that will be allowable under the Open Space Preservation Project provisions of this Chapter. Taking into account the existence of floodplains, wetlands and slopes in excess of 20% and other similar features which would physically limit or prevent construction of buildings each lot shall contain a contiguous unrestricted building footprint area of at least 6,000 square feet (exclusive of all required setbacks and yards) in order for the lot to be considered and found “developable” by the Planning Commission
- (3) **Open Space Preservation Project Site Plan.** The site plan for the cluster development option permitted by this Chapter shall include the following minimum information, in addition to that required by Chapter 19 of this Ordinance as applicable to the type of development. :
- a. Date, north arrow and scale which shall not be more than 1”=100’, and, in all cases, the scale shall be the same as that utilized for the Parallel Plan.
 - b. The land area that is proposed to remain in a perpetually undeveloped state and the portions of the land that will be used to support building sites and other improvements.
 - c. The total number of acres and the percentage of each of the following as compared to the total site acreage:
 1. land proposed to remain in a perpetually undeveloped state(open space),
 2. land proposed to be used for residential lot or other building lot development,
 3. land proposed to be used for streets,
 4. land used for access easements and utility use,
 - d. The location of all proposed lots or building envelopes, the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the Parallel plan, as approved by the Planning Commission. This number will be reduced to recognize any proposed non-dwelling structures, as described in 21.07(j).
 - e. The location and type of all proposed structures or improvements that are not dwellings.

f. The location of all septic tanks and drain fields as applicable. The applicant shall submit documentation that the proposed septic tank and drain field location for each lot has been reviewed and is acceptable to the Allegan County Health Department.

(4) **Conservation Easements and Restrictive Covenants.** A draft copy of the proposed conservation easements, plat dedications, restrictive covenants or other legal instruments that are to run with the land shall be submitted. These instruments must have the legal effect of preserving the open space required by this Chapter in an undeveloped state, in perpetuity. In addition, the proposed legal documentation shall:

- a. Indicate the proposed permitted use(s) of the undeveloped open space.
- b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such engineered drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that are approved by the Planning Commission.
- c. Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
- d. Provide standards and limitations for maintenance of the undeveloped open space, including pruning and harvesting of dead and diseased trees and new plantings.

(5) **Compliance with Street Standards.** If the development is to be served by public streets, the design, layout and construction of the streets will meet the standards of the Alleagan County Road Commission and will be accepted by the Road Commission. If the streets are to be private, the street shall meet the Private Road standards contained in Chapter 22 unless otherwise approved by the Planning Commission.

(b) **Approvals.**

(1) Prior to project approval by the Planning Commission, all proposed legal documents shall be reviewed and approved by the township attorney who shall assure the following:

- a. That the proposed manner of holding title to the preserved open land is acceptable to the Township.
- b. That the proposed restrictions will adequately preserve the natural features and regulate the use of the open land.
- c. That the restrictions can be enforced by all property owners and by the Township.

(2) If an open space preservation project site plan and all other submittals satisfy all requirements of this section and all conditions of approval imposed by the Planning Commission pursuant to Chapter 19 of this Ordinance, the Planning Commission shall approve the proposed project. After approval under this

Chapter, each Open Space Preservation Project that is proposed as a platted subdivision or a site condominium development shall be required to subsequently undergo all plat or site condominium review procedures as applicable thereto.

SECTION 21.06 DEVELOPMENT REQUIREMENTS.

- (a) Required Open Space: At least 50%, of the land proposed for development under the provisions of this Chapter shall remain in a perpetually undeveloped state (i.e., “open space”) by means of conservation easements, plat dedication, restrictive covenants or other legal instrument that runs with the land. Such open space may be dedicated to the public, may be held in common in private ownership or may be privately held by one or more individuals. Each distinct form of open space shall be so designated on the site plan.
- (b) Areas Not Eligible: Because they are considered developed or partially developed the following areas shall not be calculated in meeting the 50% open space requirement as these;
- (1) The area within all public street rights-of-way.
 - (2) The area within all private street easements.
 - (3) Any easement for overhead utility lines, unless it is included within or is adjacent to open space.
 - (4) Unless specifically authorized under these provisions to be located in or on a defined open space area, all of the area within a platted lot, a site condominium unit, or a metes and bounds parcel that is occupied or intended to be occupied by a structure.
 - (5) Off street parking and/or loading areas.
 - (6) Stormwater detention and retention ponds.
 - (7) Golf courses.
 - (8) Community drain fields.
 - (9) 50% of the area of wetlands, creeks, streams, ponds, lakes or other bodies of water.
 - (10) 50% of the area of 100 year floodplains and slopes over 20%.
 - (11) Areas within building envelopes.
- (c) Standards for Open Space: The following standards shall apply to the open space required pursuant to this Chapter:
- (1) The open space may include a recreational trail, picnic area, children’s play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
 - (2) The open space may be, but is not required to be dedicated to the use of the public.
 - (3) At least 50% of the open space shall be either dedicated to the public or held in common and be available for all residents of the development, subject to reasonable rules and regulations.

- (4) If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
 - (5) A portion of the open space shall be located along the public street abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.
 - (6) A portion of the open space held in common shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - (7) Open space dedicated to the public or held in common shall be reasonably accessible by safe, convenient and appropriately located pedestrian access points.
 - (8) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these types of land features are not present on the land, then the open space shall be located along the road frontage as indicated in paragraph (5) or as buffer between other adjacent land uses.
 - (9) Where feasible, open space shall be linked with adjacent open spaces, public parks, bicycle paths or pedestrian paths.
- (d) Use of Open Space: All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, at its discretion, may permit minor structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example, park or playground equipment could be permitted on open space designated for recreational use and small semi-permanent agricultural storage structures or animal shelters could be permitted on open space designated for agricultural use.

SECTION 21.07 GENERAL PROJECT DESIGN STANDARDS.

- (a) Water and Sanitary Sewer: Open Space Preservation projects shall be served by a public water supply and a public sanitary sewer system or a private community water supply or private sanitary sewer system as determined appropriate by the Township for the specific development OR by private wells and septic systems subject to the approval of the Allegan County Health Department.
- (b) Minimum Lot Sizes and Setbacks: In order to accommodate both the required open space and the number of lots permitted according to the "Parallel Plan" the Planning Commission shall allow a reduction in the minimum lot size and building setback requirements of the zoning district in which the Open Space Preservation project is located. The minimum lot sizes contained in Table 21-1 shall be required unless it is demonstrated that a waiver is required.
- (c) Compliance with Zoning District: The development of land under this Chapter shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except for the lot size and lot width requirements. The minimum front, side and rear yard setback standards are outlined in Table 21-2.

**Table 21-1
Minimum Lot Size and Lot Width**

<u>Zoning District</u>	<u>Minimum Lot Size</u>	<u>Minimum Lot Width</u> ¹
AG Agricultural District	80,000 square feet ^{2,3}	200 ft.
R-1 Rural Estate District	40,000 square feet ^{1,2,3}	125 feet
R-1a Rural Residential District	20,000 square feet ^{1,2,3}	100 feet

¹ If necessary the Planning Commission may further adjust the minimum lot size and/or lot width requirements to achieve the required 50% open space allotment and the maximum number of lots allowed as demonstrated on an approved parallel plan.

² Subject to individual septic system and domestic well approval of the Allegan County Health Department.

³ Subject to a Heath Township determination of sanitary sewer availability and utility improvement standards for platted and site condominium subdivisions.

**Table 21-2
Required Principal Building Setbacks**

Yard	AG District	R-1 Districts	R-1A District
Front Yard	40 feet	40 feet	40 feet
Side Yard	20 feet min. 50 feet total for both sides	20 feet min. 50 feet total for both sides	15 feet
Rear Yard:	50 feet	40	25 feet
<u>Accessory Buildings:</u> The setback and lot coverage requirements for residential accessory buildings shall be the same as the requirements established for the underlying District.			

- (d) Maximum Number of Lots. The Open Space Preservation project shall contain no more than the maximum number of lots as determined from the Parallel plan approved by the Planning Commission under this Section.
- (e) Perimeter Lots. Notwithstanding any other provision of this Chapter, the Planning Commission may require that the Open Space Preservation project be designed and constructed with lot sizes and setbacks or open space buffers on the perimeter that will create transitional net densities reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- (f) Sidewalks. The Planning Commission may in its discretion require sidewalks.
- (g) Grading. Grading shall comply with the following requirements:
 - (1) All graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof.

- (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading or excavating, except as specifically approved by the Planning Commission.
- (h) Uniform Lot Size. Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
- (i) Building Footprints/Building Envelopes. The location and area of buildings as proposed by the applicant shall be subject to the review and approval of the Planning Commission. Building envelopes shall not be located on steep slopes, or in positions that will negatively impact wetlands or other environmentally sensitive areas.
- (j) Non-Dwelling Unit Structures. Lots containing non-dwelling structures as permanent principal buildings, such as a clubhouse and its related amenities shall be subject to all requirements of this Chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. If principal structures other than dwellings, such as a clubhouse, horse stable or community pool, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
- (1) The area occupied by the principal non-dwelling structure(s), shall be calculated and then divided by the minimum required lot area for dwellings. If the number derived is a fraction, it shall be rounded up to the nearest whole number.
 - (2) The number calculated is then subtracted from the lot yield number of dwelling lots permitted (as determined by the approved parallel plan) in the open space preservation project in the absence of the non-dwelling structures to determine the maximum number of dwelling lots permitted along with the non-dwelling structures included.
- (k) Private Streets/Driveways.
- (1) All streets within an open space preservation project shall be located away from areas of steep slopes.
 - (2) Private streets within a clustered development shall conform to the private street requirements of this Ordinance. The Planning Commission may, however, following consultation with the Township Fire Chief and other public safety officials as appropriate, allow a reduction in the minimum right-of-way and roadbed width requirements for all or a portion of the street to minimize the removal of vegetation or alteration of natural slopes. The Planning Commission may require that portions of private streets with reduced widths be designated as one-way only.
 - (3) Provisions for shared driveways by individual units shall be made where appropriate to minimize removal of vegetation or alteration of existing slopes.
- (l) Other Laws. The development of land under this Chapter is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not

limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

SECTION 21.08 AMENDMENTS TO AN APPROVED SITE PLAN.

- (a) An approved open space preservation project site plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as otherwise stated below with respect to a minor change.
- (b) A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially alter the basic design or conditions required for the plan by the Commission.

The following items shall be considered minor changes:

- (1) Reduction of the size of any building, building envelope or sign.
 - (2) Movement of buildings or signs by no more than ten feet.
 - (3) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
 - (4) Changes requested by the Township for safety reasons.
 - (5) Changes which will preserve natural features of the land without changing the basic site layout.
 - (6) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site development plan 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 any significant adverse effect on the development or on adjacent or nearby lands or the public health, safety and welfare.
- (c) The Zoning Administrator may refer any decision regarding any proposed change in an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the chairperson of the Planning Commission.
 - (d) Should the Zoning Administrator determine that a requested change in the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and the consideration thereof shall take place in the same manner as for an original application.

CHAPTER 22

ACCESS MANAGEMENT,

PRIVATE STREETS AND DRIVEWAYS

SECTION 22.01 ACCESS MANAGEMENT. The provisions of this Section are intended to promote safe and efficient travel within Heath Township; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the street system by preserving capacity and avoiding the need to unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Heath Township Master Plan and the M-40 Corridor Management Plan recommendations; ensure reasonable access to properties; though not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation and/or the Allegan County Road Commission, as applicable.

SECTION 22.02 ONE ACCESS PER PARCEL.

- (a) All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the Zoning Ordinance (hereafter referred to as “the parent parcel”), that has less than 660 feet of public road frontage, unless reduced by Planning Commission, shall be entitled to one (1) driveway or road access per parcel from said public road of highway.
- (1) No subsequent land divisions of a parent parcel, shall increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.
- (2) Parcels subsequently divided from a parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall be required to have access by a new platted subdivision road by another public road, or by a private road that meets the requirements of Section 25.04 or by a joint driveway meeting the standards of Section 25.05.
- (b) Parent parcels with more than 660 feet of frontage on a public road or highway, unless reduced by Planning Commission, shall also meet the requirements of sub-sections (a) (1) and (a) (2) above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each 660 feet of public road frontage thereafter unless a registered traffic engineer determines that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate a second driveway within a lesser distance is safer or the nature of the land use to be served requires a second driveway for safety. If the parcel is a corner lot and a second driveway is warranted, the second

driveway shall have access from the abutting street unless that street is of a higher functional classification.

SECTION 22.03 APPLICATION REVIEW, APPROVAL AND COORDINATION PROCESS.

- (a) Standards of Road Authorities Apply. All standards of the applicable road authority (either the Michigan Department of Transportation or the Allegan County Road Commission, or both) shall be met prior to approval of an access application under this Chapter.
- (b) Application, Review and Approval Process. Applications for driveway or access approval shall be made on a form prescribed by and available from the Heath Township Zoning Administrator.
 - (1) Applications shall be accompanied by clear, scaled drawings (minimum of 1" = 20') in triplicate showing the following items:
 - a. Proposed plan of routing vehicles entering and leaving the site (if passenger vehicles are to be separated from delivery trucks, indicate such on drawing).
 - b. Traffic analysis and trip generation survey results obtained from a licensed traffic engineer for all developments with over 100 directional vehicle trips per peak hours.
 - c. Design dimensions and justification for any alternative or innovative access design.
 - (2) Applications are strongly encouraged to rely on the following sources for access designs, the National Access Management Manual, TRB, 2002; National Cooperative Highway Research Program (NCHRP), "Access Management Guidelines to Activity Centers" Report 348 and "Impacts of Access Management Techniques" Report 420; and the AASHTO "Green Book:" A Policy on Geometric Design of Highways and Streets. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:
 - a. Not more than one driveway access per abutting road
 - b. Shared driveways
 - c. Service drives: front, rear and perpendicular
 - d. Parking lot connections with adjacent property
 - e. Other appropriate designs to limit access points on an arterial or collector.
 - (3) Applications shall be accompanied by an escrow fee for professional review per the requirements of Chapter 19.
- c. Review and Approval Process. The following process shall be completed to obtain access approval: This process is intended to run concurrent with or subsequent to any individual land use approvals authorized under Chapters 17, 18, 19, 20 or 21.

- (1) An Access Application meeting the requirements of Section 22.03 (B)(1) shall be submitted to the Zoning Administrator and on the same day to the Allegan County Road Commission and/or the Michigan Department of Transportation, as applicable.
- (2) The completed application must be received by the Heath Township Zoning Administrator at least 15 days prior to the Planning Commission meeting where the application will be reviewed.
- (3) The applicant, the Zoning Administrator and representatives of the Allegan County Road Commission, the Michigan Department of Transportation and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design.
- (4) The Planning Commission shall review and recommend approval, or denial, or request additional information. They shall also forward the Access Application (and other relevant project information) to the Allegan County Road Commission and/or Michigan Department of Transportation for their review as applicable.
- (5) The Allegan County Road Commission and/or the Michigan Department of Transportation, as applicable, shall review the access application and conclusions of the Planning Commission. One of three actions may result:
 - a. If the Planning Commission and the Road Commission, and/or the Michigan Department of Transportation, as applicable, approve the application as submitted, the access application shall be approved.
 - b. If the Planning Commission and the Road Commission, and/or the Michigan Department of Transportation, as applicable, deny the application, the application shall not be approved.
 - c. If either the Planning Commission, Road Commission, and/or Michigan Department of Transportation, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission and staff of the Allegan County Road Commission, and/or the Michigan Department of Transportation, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.

No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case, the application shall be denied by that agency, and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.

- (6) Heath Township shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

- (7) Approval of an application remains valid for a period of three (3) years from the date it was authorized. If authorized construction is not initiated by the end of three (3) years, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Use Permits, or variances, also expire at the end of three years.
- (8) An approval may be extended for a period of three (3) months. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Allegan County Road Commission and/or the Michigan Department of Transportation, as applicable, for input.
- (9) Re-issuance of an authorization that has expired requires a new Access Application form to be filled out and processed independently of previous action.
- (10) The applicant shall assume all responsibility for all maintenance of such driveway approaches from the right-of-way line to the edge of the traveled roadway.
- (11) Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised Access Application has been submitted and approved as specified in this Section.
- (12) Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner.
- (13) When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as set forth in this Ordinance prior to the issuance of a zoning or occupancy certificate, and pursuant to the procedures of this Section.
- (14) Heath Township and the Allegan County Road Commission and/or the Michigan Department of Transportation, as applicable, may require a performance bond or cash deposit in a sum equal to the cost of installing each such approach or entrance to insure compliance with an approved application. Such bond shall terminate and deposit returned to the applicant when the terms of the approval have been met or when the authorization is cancelled or terminated.

SECTION 22.04 PRIVATE ROADS AND STREETS. The purpose of this section is to provide the regulations for construction, improvement and maintenance of private roads and driveways. The regulation of private roads and driveways is declared to be a public purpose and

necessary for year around access by fire, police and like emergency vehicles. It is further recognized that if private roads and driveways are not constructed, improved or maintained in accordance with certain minimum standards, such roads frequently become impassable and otherwise pose a threat to the health, safety and welfare of the residents who would find use of the roadway essential. Private roads and driveways may be permitted in all zoning districts under the following provisions, unless otherwise provided.

SECTION 22.05 PRIVATE STREET STANDARDS. All private streets serving four (4) or more parcels and shared or joint driveways serving lots that do not having the required minimum lot frontage on a public street shall be subject to the following standards (Ref. definitions of Private Street and Driveway in Chapter 3, also reference Section 22.06 Driveways):

- (a) Street Interconnection and Public Streets extensions. The curtailing of public street extensions by the creation of a particular private street or network of dead end private street segments may be prohibited where it is deemed contrary to the furtherance of a necessary public street extension or interconnection. (ref. sub-Section 22.05 par. (h), 2).
- (b) Easements. Private streets shall be situated within a private street easement having a width of sixty six (66) feet. The area of such easement shall not be included in the calculation for determining minimum lot size.
- (c) Lot Requirements And Limitations.
 - (1) **Minimum Frontage:** A lot or parcel having its principal means of access from a private street shall have frontage on the private street easement. This frontage requirement may be satisfied in one of three ways (Ref. Section 16.16 Minimum Street Frontage and Lot Width):
 - a. The frontage shall be continuous and at least equal to the minimum lot width required for the subject zoning district, or
 - b. For lots on private streets serving four or fewer lots, not more than two of the lots may have a property line (frontage) in common with the end line of the 66 foot wide private road easement. The minimum length of the common line (frontage on the end line) shall be twenty five (25) feet.
 - c. If the lot has continuous frontage on a cul-de-sac or a curved street segment having an arc with a radius of less than one hundred fifty (150) feet, the minimum lot frontage at the private street easement line may be reduced to forty (40) percent of the minimum frontage otherwise required in the zoning district.
- (d) Street Extensions And Lot Subdivision. Additional lots may be created with the required frontage on an existing private street. If along an existing private street or joint driveway the number of lots served by the street is increased, the existing portion of the street or joint driveway must be improved or upgraded as necessary for the street to meet the standards of this Section as applicable to the number of lots being served.
- (e) Construction Standards. The spacing, geometric design and minimum surface requirements for all private street entrances within the public right-of-way are subject to

the “Rules Regulating Work On And Over County Roads”, as adopted by the Allegan County Road Commission. In addition, the following standards shall apply to the construction and maintenance of private streets.

- (1) **Maximum Length.** The length of a single access or dead end private street shall be limited to 2640 lineal feet of roadway. The measurement shall be made from the point where the centerline of the private street intersects with the public road right-of-way line, then along the centerline of the private roadway to the street end point most distant from the public right-of-way.
- (2) **Standards for Private Streets Serving Four (4) to Ten (10) Residential Lots.**
 - a. Width: The minimum cross section width of the private street shall be fifteen (15) feet, consisting of at least twelve feet of travel surface and 1 1/2 feet of gravel shoulder on each side of the travel surface.
 - b. Turnouts: Lengthy streets with an average cross-section width, including shoulders, of less than twenty two (22) feet shall include tapered turnouts for two-way vehicle passing. The turnouts shall be provided at strategic locations at a ratio of one for each five hundred (500) feet increment of street length. The turnouts shall provide a combined thru and by-pass lane width of at least twenty (20) feet for a length of at least forty (40) feet. The turnouts shall be provided in addition to individual driveway openings but may be situated opposite driveway openings.
 - c. Turn-Around: Each private street shall provide for the turning around of vehicles at the street end. This shall be accomplished by the use of a cul-de-sac having an improved surface with a minimum outside radius of 40 feet (80 feet diameter) or by use of a continuous loop or circular street layout. On single access streets in excess of 1500 feet of length a turn-around at the approximate mid point of the street may also be required to further facilitate the maneuvering of emergency and service vehicles using
 - d. Drainage, Vertical Clearance And Load Support: All private streets shall be constructed and maintained so as to provide good drainage, vertical clearance and load support and to allow safe and efficient emergency vehicle access to structures. If a street crosses a natural drainage course, stream or other natural body of water, by bridge, culvert or other structure, the Zoning Administrator shall have the authority to require that a registered professional engineer certify that a crossing provides for adequate drainage and is able to carry the loads imposed by emergency equipment operated by the Township and those entities providing mutual aid. Vertical clearance between the street surface/street shoulder and overhanging tree branches or other obstructions shall be maintained at a minimum of 12 feet.
 - e. Base: Twelve (12) inches of sand (granular material class II) compacted in place, or in place natural sand if it is equivalent.
 - f. Surface Material: Private streets serving 3 or fewer lots may have a gravel, crushed concrete or similar improved permeable or impermeable

surface. Private streets serving four or more lots must have a paved surface. Unless a greater standard is required under Sub-Section 22.22(g),(3) below (Standards for Private Streets Serving More than 10 Lots or Parcels) the minimum surface material requirements for private streets used for residential uses (single and two family) are as follows:

- (i) Gravel - M.D.O.T. 22-A, 6 inches thick or an equivalent or better thickness of crushed concrete or limestone.
- (ii) Asphalt - M.D.O.T. 22-A, 6 inches thick gravel sub-base plus M.D.O.T. spec. 4.00, asphalt, 2 1/2 inches thick, or;
- (iii) Concrete - M.D.O.T. 22-A, 6 inches thick gravel sub-base plus M.D.O.T. spec. 6.09 concrete, 5 inches thick

- g. Maximum Grades. Average grades in excess of 10 percent over distances in excess of 100 feet are prohibited. Within thirty (30) feet of an intersection with any other private street or with any public right-of-way, grades shall not exceed four (4) percent.
- h. Minimum Grades and Cross Section. The minimum grade for a private street shall be 0.5 percent. Approximately 1/4 inch (0.02') per foot of cross sectional crown should be maintained.
- i. Curves. The minimum outside turning radius at curves shall be forty (40) feet. The minimum length of a vertical curve shall be forty (40) feet.

(3) **Standards For Private Streets Serving Eleven (11) or More Lots Or Parcels.** Unless modified or waived as provided herein, a private street which is to serve eleven (11) to fifty (50) residential lots or parcels shall be constructed to the standards for platted residential streets as adopted by the Allegan County Road Commission.

(4) **Optional Standards For Private Streets Serving More Eleven or More Lots Or Parcels.** The Allegan County Road Commission platted street standards may be waived and all or portions of the street constructed to the Allegan County Road Commission standards for local roads if one or more of the following conditions will exist. Approval of a modification as allowed herein shall be granted by the Zoning Administrator or Planning Commission as applicable under the review procedures contained or referenced in this section.

- a. If one or both sides of the street or a street segment of greater than five hundred feet (excluding the diameter of a cul-de-sac street end) serves lots or parcels with an average frontage of 220 feet or more,
- b. If one or both sides of the street or a street segment of greater than five hundred feet (excluding the diameter of a cul-de-sac street end) serves lots or parcels that utilize joint driveways, as regulated by section 22.27(b), resulting in an average driveway spacing of 200 feet or greater:
- c. If one or both sides of the street or a street segment of greater than 200 hundred feet (excluding the diameter of a cul-de-sac street end) fronts on

land area that has been permanently dedicated for open space or will not otherwise derive access to the street.

- d. A waiver of the Platted Street standard may be applied independently to each side of the street, creating street segments that have valley gutters on one side and shoulders on the opposite side of the street. Waivers may only be applied to both sides of a street if the land fronting on each side meets one or more of the above criteria, a. b. or c.
- e. The standards for platted streets shall apply to cul-de-sac street ends unless the platted standard has been waived for both sides of the street up to the beginning of the radii of the cul-de-sac.

(5) **Standards For Private Streets Serving More Than Fifty (50) Lots Or Parcels.** Any portion of a residential street which provides direct or indirect means of access to more than fifty (50) lots or parcels shall be constructed in conformance with the street standards of the Allegan County Road Commission as required for residential plat development and shall be dedicated to the public.

(6) **Additional Standards.** Ref. Sub-Section (h)(2) below for additional standards and conditions relative to residential development subject to special use approval.

(f) Street Names, House Numbering and Street Signs.

- (1) A private street shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name and meeting Allegan County Road Commission standards as to design, location, and maintenance shall be erected and maintained where the private street intersects with public road or another private street.
- (2) A duplicate street name sign bearing the name of each private street shall be provided to the Township at the time of issuance of the Final Private Road Compliance Certificate. The duplicate sign shall be kept and maintained by the Township and shall be installed at the expense of the landowners benefiting from the private street if the original sign becomes damaged destroyed or missing.
- (3) A uniform house number as assigned by the Allegan County Health Department to each dwelling served by the private road shall be conspicuously placed adjacent to the driveway serving a dwelling.

(g) Private Street Maintenance. The applicant(s) and/or owner(s) of a proposed private street shall provide to the Township a recordable or recorded 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.

- (1) 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.
- (2) A workable method of apportioning the costs of all maintenance and improvements including resurfacing.

- (3) A notice that if repairs and maintenance are not made to keep the roadway in safe and good condition, such condition shall be considered in violation of this ordinance.
- (4) A notice that no public funds of the Township of Salem are to be used to build, repair, or maintain the private street and that the Township will be held harmless for any personal or property damage claims stemming from accidents occurring on or in connection with the private streets.
- (5) Easements to the public for emergency and other vehicles and for other public services as are necessary.
- (6) A provision that the owners of any and all of the property using the street 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 and 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 street.

(h) Procedure for Review of Private Streets

- (1) *Application and Fee.* An application shall be filed with the Zoning Administrator along with a fee as set by the Township Board. Once the application has been determined to be complete, the zoning Administrator shall forward a copy of the permit application to the Township Fire Department for information purposes. A private street 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 or properties over which the private street is to be constructed.
 - c. A small scale site location map, which shows the relationship of the street to surrounding properties and other roadways within one-half mile of the site.
 - d. A scaled drawing prepared by a licensed professional engineer showing the location, route, topographic contours showing relative elevations, dimensions, specifications and design of the private street and any proposed extensions of the street and the location and distance to any public street which the private street is to intersect, and the location of driveways, streets and structures within 150 feet of the proposed private road.
 - e. A road maintenance agreement, access easement agreement and deed restrictions as described in paragraph (h) shall accompany the application.
 - f. A driveway permit for the private road from the Allegan County Road Commission.
- (2) **Street Interconnection and Public Streets Extensions-Determination of Compliance with Section 22.05(a).** Upon receipt of an application the Zoning

Administrator shall review it and determine if it meets the standards and requirements of this Section. If it is evident the proposed street will preclude the extension of the public streets within an area where an extension or interconnection of streets is necessary to further public safety and the efficient development of the public street network, the application shall be considered incomplete. The Zoning Administrator shall then refer the question to the Planning Commission. The Planning Commission shall consider the circulation pattern and traffic volumes on nearby private and public streets, land ownership, existing and proposed land use in the general area, practical difficulties and physical barriers and the recommendations contained within the Heath Township Master Plan and if applicable, the Street and Highway Plans of the Allegan County Road Commission and Michigan Department of Transportation in making a final determination of compliance.

The Planning Commission shall make a determination of compliance or non-compliance with Section 22.05(a), within 30 days of the receipt of the referral from the Zoning Administrator and notify the Zoning Administrator and applicant of such determination in writing. If the determination is made that the private street is in compliance, the Zoning administrator may at that time proceed with the review of the application. If it is determined that the private road will interfere with the orderly and interconnected development of the street network the applicant may modify the application to gain compliance, or appeal the decision to the Zoning Board of Appeals.

- (2) **Additional Standards and Procedures.** The design and construction of private streets serving multi-family developments or any residential development subject to site condominium review or approval by special land use permit, will be subject to review under Chapters 17, Chapter 18 and Chapter 19, as applicable and any conditions imposed by the Planning Commission under those provisions.
- (3) **Approval.** If the Zoning Administrator finds that the application meets the requirements of this section and any condition imposed by the Planning Commission as part of a site plan approval or special use permit, he or she shall within 14 days of the date of receipt of a complete application, approve the application and issue a permit for construction. This permit shall contain the signature of the Zoning Administrator and the date of approval. Two copies of the private street plans shall be signed for approval. One copy shall be retained by the applicant, and one copy shall be retained by the Township. This construction permit does not authorize the construction of any buildings adjacent to the private street. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the private street has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.
- (4) **Final Compliance Requirements.** Upon completion of construction of the private road, the applicant shall provide the Zoning Administrator with:

- a. A letter from a registered professional engineer stating that the road has been, designed, inspected and constructed in compliance with the approved private road plans and specifications contained herein, and
- b. Documentation that the road maintenance agreement, access easement, and deed restrictions have been recorded with the Allegan County Register of Deeds office.

SECTION 22.06 DRIVEWAYS. The spacing, geometric design and minimum surface requirements for all driveway entrances within the public right-of-way are subject to the “Rules Regulating Work On And Over County Roads”, as adopted by the Allegan County Road Commission. In addition, and unless also regulated under the provisions of Section 22.02, Private vehicular access ways serving not more three (3) lots or parcels are under the provisions of this ordinance classified as “driveways. Driveway that are 250 feet in length or greater and which serve a dwelling or other principle non-farm buildings situated more than 220 feet from an accessible point on a public or private street, shall be subject to the following standards.

(a) Construction Standards:

- (1) Drainage And Load Support. All driveways shall be constructed and maintained so as to provide good drainage and load support and to allow safe and efficient emergency vehicle access to structures. If a driveway crosses a natural drainage course, stream or other natural body of water, by bridge, culvert or other structure, the Zoning Administrator may call on the advice of the Fire Chief or his or her assigns to determine the adequacy of the crossing. The Zoning Administrator shall have the authority to require that any such crossing is certified by a registered professional engineer to its ability to carry the loads imposed by emergency equipment operated by the Township and those entities providing mutual aid.
- (2) Surface Material. The minimum surface material requirements for driveways used for residential uses (single and two family) are as follows:
 - a. Gravel - M.D.O.T. 22-A, 6 inches thick
 - b. Asphalt - M.D.O.T. spec. 4.00, 1 3/4 inches thick
 - c. Concrete - M.D.O.T. spec. 6.09, 4 inches thick
- (3) Grades And Alignment. Sufficient clear vision and turning radii for emergency equipment and service vehicles shall be provided. . Grades in excess of ten (10) percent are discouraged. Average grades in excess of 10 percent over distances in excess of 100 feet are prohibited.
- (4) Width. The minimum width of the driveway surface from the street right of way to any single family dwelling shall be nine (9) feet. The minimum surface width of any driveway serving a two family dwelling or any joint driveway serving two adjoining lots shall be ten (10) feet.
- (5) Turnouts. Lengthy driveways shall include tapered turnouts for two-way vehicle passing. The turnouts shall be provided a at a ratio of one for each Five hundred (500) feet increment of driveway length. The turnouts shall provide a combined thru and passing lane width of at least twenty (20) feet for a length of at least twenty (20) feet.

- (b) **Joint Driveways.** Joint driveways, or single driveways serving no more than three (3) lots or parcels are permitted subject to the following limitations and controls:
- (1) **Easement.** The driveway shall be positioned entirely within a driveway easement. The driveway easement shall be at least twenty five (25) feet in width and may be situated on one or portions of each of the parcels being served. The twenty five (25) foot easement may be included in determining compliance with the lot or lots minimum street frontage requirements (see **Expansion** below).
 - (2) **Minimum Street Frontage.** Notwithstanding provisions to the contrary, an access easement serving three lots will be classified and regulated as a private road unless at least two of the three lots have the required minimum lot frontage (lot width) on a public or private road (ref. Section 22.05). An access easement serving only two lots (a “joint driveway”) will be classified as a private street and will be subject to all of the requirements of Section 22.05 unless both lots have the required minimum lot frontage (lot width) on a public road.
 - (3) **Expansion.** Driveways serving four (4) or more parcels as their principal means of access are for the purposes of this ordinance defined as private streets and are subject to the provisions of Section 22.05. To retain the future option of expanding a joint driveway to a private street, proprietors are advised to utilize 66 foot easement widths and to establish minimum lot frontages exclusive of the easement widths.

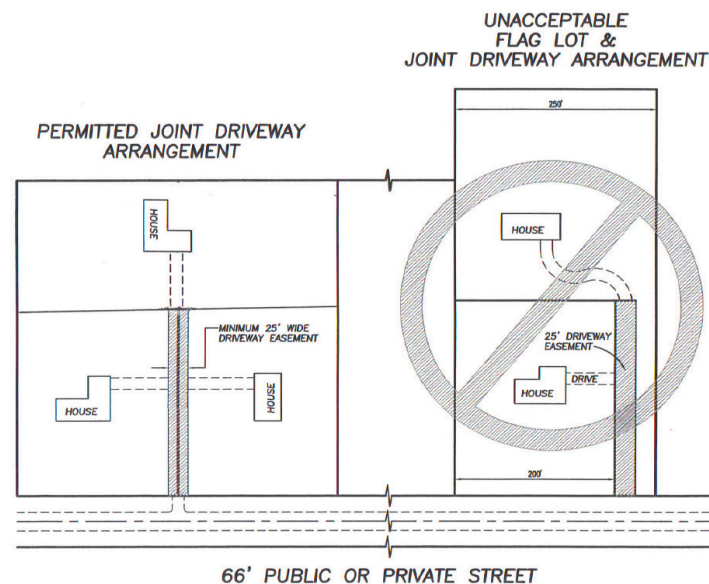


Figure 22-1

- (c) **Commercial Driveways.** The design, number, placement and construction of any driveway serving a commercial, industrial or multi-family use, or any special land use, is subject to the standards of Section 22.01 and to the review by the Planning Commission under Chapter 19, Site Plan review and/ or Chapter 17. All of the above aforementioned driveways are subject to additional conditions as may be imposed under those provisions.

- (d) Permits, Inspection and Compliance. The Zoning Administrator shall be the inspector of compliance with the aforementioned standards. The Zoning Administrator may retain professional expertise as is deemed necessary in the review of construction plans, field inspections, testing and in the interpretation of test results. All expenses relating to inspection will be paid by the builder of the driveway. Plans for the location and construction of a driveway or joint driveway shall be submitted at the time of an application for a building permit.

CHAPTER 23

PARKING AND LOADING SPACES, LANDSCAPING

AND LIGHTING

SECTION 23.01 PARKING AND LOADING The purpose of these provisions (Section 23.01 through Section 23.09) is to prescribe regulations for off-street parking of motor vehicles, recreational vehicles, trucks and trailers in residential and nonresidential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other affects of parking areas.

SECTION 23.02 SCOPE.

- (a) At the time any building or structure is erected, enlarged or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Chapter.
- (b) No parking or loading area or space which exists at the time of the adoption of this Chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this Chapter.
- (c) Parking areas must be in the same zoning classification as the property it serves.

SECTION 23.03 GENERAL. In all Zoning Districts, there shall be provided, before any building or structure is occupied or is enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

**Table 23-1
PARKING SPACES**

USE	MINIMUM PARKING SPACES REQUIRED
Dwellings	Two (2) for each single or two family dwelling unit, one and one half (1 1/2) for each dwelling unit in a multi-family structure
Lodging, rooming and boarding houses	One (1) for each guest room plus two for management.
Hotels, Motels and tourist homes	1.25 for each guest room or sleeping room plus 30 per 1000 square feet of banquet /mtg. room, plus spaces for restaurant.
Private clubs, health clubs and lodges	One (1) for 3 persons of permitted capacity
Hospitals	Two (2) for each patient bed plus one for each staff doctor and one for each two employees other than doctors.

Use (Cont.)

Minimum Parking Spaces Required(Cont.)

Sanitariums, convalescent or nursing homes	One (1) for each two (2) beds
Homes for senior citizens	Independent care- One (1) for each dwelling/tenant unit. Assisted Living- 0.4 per dwelling unit
Theaters, auditoriums, stadiums	0.33 for each seat
Bowling alleys	Eight (8) for each alley
Private elementary, and junior high schools	Two (2) for each three(3) employees normally engaged in or about the buildings and grounds, plus one (1) additional for each 8 auditorium seats.
Private senior high school and institutions of higher learning	Two (2) for each three(3) regular employees and one(1) additional for each four (4) students enrolled, plus one (1) additional for each eight(8) auditorium seats.
Churches and other places of religious assembly	One (1) for each two (2) seats in the main worship unit
Community center	One (1) for each four (4) persons in the permitted capacity of assembly floor area
Libraries, museums, and Post Offices	One (1) for each four hundred (400) square feet of floor area
Mortuaries or funeral homes	One (1) for each fifty (50) square feet of floor area used for services
Antique shops, second hand sales	1 space/200 sq. ft. floor area,
Stores selling furniture and major appliances only	1 space per 500 sq. ft. area
Shopping centers and general retail sales unless otherwise specifically governed	1 space/200 sq. ft. floor area
Outdoor markets, flea markets, farm markets etc.	1 space/500 sq. ft. sales area, with a minimum of 4 spaces.
Restaurants, grills, dining rooms, dairy bar, soda fountain	One (1) for each two seats based on maximum building occupancy under the BOCA Code
Taverns and bars	Two (2) for each three (3) seats but no less than forty (40) spaces in any event
General business and professional offices including all public offices, except as otherwise specified	1 space/250 sq. ft. floor area with a minimum of 4 spaces
Banks Savings and loan and other financial institutions, title companies	1 space/250 sq. ft. floor area PLUS 5 spaces/teller or teller station,
Medical, dental, veterinary offices and clinics	One (1) for each one hundred fifty (150) sq. ft. of floor area
Health studios	1 space/100 sq. ft. floor area

<u>Use (Cont.)</u>	<u>Minimum Parking Spaces Required(Cont.)</u>
Barber shops, beauty and styling	3 spaces per barber or salons stylist, with a minimum of 4 spaces
Auto repair shops, body and fender shops	1 space/400 sq. ft. floor area
Cabinet, plumbing, heating, electrical shops	1 space/500 sq. ft. floor area
Motor vehicle sales	1 space/500 sq. ft. floor area or 1 space/2000 sq. ft. of outdoor sales area, with a minimum of 4 spaces
Self-serve auto washes	2 spaces/stall
Self-serve laundries and dry cleaners	1 space/3 washing machines
"Drive-in" establishments	Six (6) vehicle waiting spaces for each drive in or drive up service area, plus the parking requirements for building occupancy
Marinas	Two (2) for each slip or mooring
Contractor's storage yards	1 space/3000 sq. ft. lot area
Feed yards, fuel yards, material yards, nurseries	1 space/2000 sq. ft. site area PLUS 1 15' x 30' loading space/acre
Industrial, manufacturing, processing	1 space/2000 sq. ft. gross building floor area for warehousing. 1 space/500 sq. ft. of area devoted to manufacturing 1 space/250 sq. ft. floor area devoted to office use.
Research and development and testing facilities and/or similar uses	One (1) per three hundred (300) square feet of floor area (Amended 5/10/94)

SECTION 23.04 PARKING REQUIREMENTS FOR USES NOT LISTED. The minimum parking space requirements for all uses shall be as listed in the above table. For uses not specifically listed in Section 23.03 the approving official or body may establish the parking requirement by making the determination that the proposed use is similar in parking requirements to a use which is listed in Section 23.03. The approving official or body may refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities in order to determine the minimum parking requirements.

SECTION 23.05 JOINT USE OF FACILITIES, MIXED OCCUPANCY AND ALTERNATIVE PARKING ARRANGEMENTS.

- (a) In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements for

the individual uses computed separately, except as outlined in Section 28.4(2) (d).

- (b) Shared Parking - Where a mix of land uses in the same building or on the same lot or parcel creates staggered peak periods of parking, shared parking agreements that have the effect of reducing the total amount of needed parking spaces, may be allowed at the discretion of the approving official or body. Shared parking agreements shall be tied to a specific land use and not the land itself. Retail, office, institutional and entertainment uses may share parking areas. In no case shall shared parking include the parking required for residential uses.
- (c) Joint or Collective Parking provisions of off-street parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the approving official or body may approve a lesser parking requirement for such uses if evidence of a signed agreement between the owners of both properties agreeing to such joint use is provided to The approving official or body. The lots shall be interconnected for vehicular passage.
- (d) Deferred Parking Construction - In order to avoid excessive amount of impervious surface, the approving official or body may approve a development which provides less than the minimum number of parking spaces required herein if the applicant demonstrates to the satisfaction of the approving official or body that a reduced amount of total parking space will meet the projected parking needs of the project due to:
 - (1) The nature, size, density, location or design of the proposed development, including the design of the circulation and parking plan;
 - (2). Characteristics of the development which will affect the parking needs, including factors such as non-conflicting peak hours of operation and the sharing of spaces by different uses;
 - (3) Any other factors reasonably related to the need for parking for the proposed development; and
 - (4) The availability of vacant or otherwise undeveloped land on the same parcel as shown on the proposed development plan shall remain available to provide additional off-street parking space if additional parking space is subsequently determined to be necessary by the approving official or body to meet the parking needs of the development.
 - (5) The available land must be of sufficient size to accommodate the full amount of parking required under the Zoning Ordinance for the use, may not count as any type of required open space and shall be permanently reserved for parking as outlined in a signed and recorded agreement.

SECTION 23.06 LOCATION OF FACILITIES. Off-street parking facilities shall be located as hereafter specified; when a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to nearest normal entrance to the building or use that such facility is required to serve.

- (a) For all residential buildings and for all nonresidential buildings and uses in residential Zoning Districts, required parking shall be provided on the lot with the building or use it is required to serve.

- (b) For commercial and all nonresidential buildings and uses in Commercial and Industrial Zoning Districts, required parking shall be provided within three hundred (300) feet. Parking on lots under different ownership within 300 feet of the building it is intended to serve shall also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties is provided.

SECTION 23.07 SIZE OF PARKING SPACES AND AISLES. Off-street parking spaces and aisles for various parking angles shall be provided in accordance with the minimum dimensions indicated in Table 23-2.

TABLE 23-2
Minimum Standards For Size
Of Parking Aisles And Driveways

<u>Parking Angle</u>	<u>Maneuvering Aisle Width</u>		<u>Parking Stall Width</u>	<u>Parking Stall Length</u>	<u>Total Width of 2 Stalls of Parking Plus Maneuvering Aisle</u>	
	One Way	Two Way			One Way	Two Way
0° parallel	12 feet	22 feet	8.5 feet	22 feet	29 feet	39 feet
Up to 53°	13 feet	22 feet	9.0 feet	18 feet	49 feet	58 feet
54° to 74°	16 feet	22 feet	9.0 feet	18 feet	52 feet	58 feet
75° to 90°	12 feet	24 feet	9.0 feet	18 feet	48 feet	60 feet

SECTION 23.08 GENERAL REQUIREMENTS FOR PARKING AREAS. Every parcel of land hereafter established as an off-street public or private parking area for more than five (5) vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- (a) The parking lot and its driveways shall be effectively landscaped and screened in accordance with the landscaping regulations of this Chapter.
- (b) The parking lot and its driveway shall be: (1) designed to provide adequate drainage; (2) surfaced with concrete or asphalt pavement; and (3) maintained in good condition, free of dust, trash and debris. In order to reduce the amount of impervious surface and the corresponding storm water runoff as well as improve parking lot aesthetics, the approving official or body may approve alternate parking lot surfaces for overflow parking or other areas reserved or intended for infrequent light loads and traffic. Such alternate parking lot surfaces may include but shall not be limited to gravel, crushed stone, or products which are installed in the ground to support a vehicle but allow grass to grow within the supporting spaces.
- (c) The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicles.

- (d) The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion, in accordance with Chapter 22.
- (e) Lighting facilities shall be so arranged as to reflect the light away from adjoining properties, and shall be in accordance with the lighting regulations of this Chapter.
- (f) Unless a greater distance is specified for a particular zoning district, part of any public or private parking area regardless of the number of spaces provided shall be closer than ten (10) feet to the street right-of-way.
- (g) For seasonal uses such as road side stands and u-pick operations and other farm uses permitted by right (Permitted Uses) in this district, parking facilities may be located on a grass or gravel area for. All parking areas shall be defined by gravel, cut lawn or other visible marking and may not be located within the street right of way.

SECTION 23.09 OFF-STREET LOADING SPACES. For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses required the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition (1) an area or means adequate for maneuvering and ingress and egress for delivery vehicles; and (2) off-street loading spaces in relation to floor areas as follows:

- (a) Up to twenty thousand (20,000) square feet - one (1) space;
- (b) Twenty thousand (20,000) or more but less than fifty thousand (50,000) square feet - two (2) spaces; and
- (c) One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. No such space shall be located closer than fifty (50) feet to any lot in any R Zoning District.

SECTION 23.10 OUTDOOR LIGHTING: GENERAL. The following regulations (Section 23.07) shall apply to all commercial, industrial, institutional and multi-family principal and accessory uses in all zoning districts. These provisions shall not apply to agricultural uses and activities protected by the Right to Farm Act and unless the use is one requiring special use permit approval, the provisions shall not apply to single and two family residential uses in any zoning district.

- (a) Unless all outdoor fixtures, including building mounted fixtures, shall be full cut-off fixtures as defined by as Illumination Engineering Society of North America (IESNA). The level of light trespass onto surrounding properties or roads shall not exceed 0.1 foot-candles.
- (b) Parking Lot, Loading and Broad Area Lighting. Broad area lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort and not to cause glare or direct illumination onto adjacent properties or streets.
 - (1) The mounting heights of fixtures that are located within 200 feet of a residential

use or district shall not exceed 20 feet. The mounting heights of all other standard cut-off fixtures shall not exceed 25 feet.

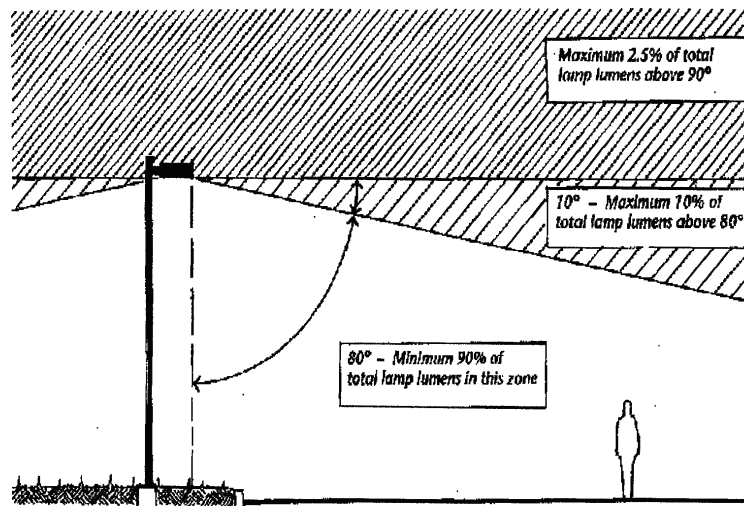
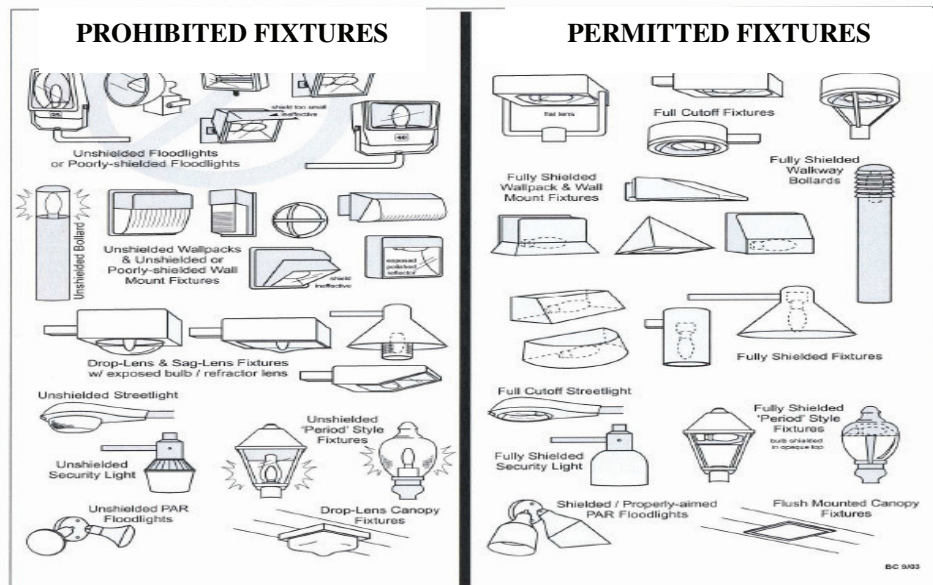


Figure 23.1
Full cut-off Fixture

- (2) The overall lighting design shall prevent light trespass beyond the property line with any adjacent residential district. The acceptable level of light trespass in industrial and commercial districts is 0.5 foot candles.
 - (3) Average horizontal illumination levels shall be no greater than 2.4 foot-candles. There shall be a maximum to minimum illumination level ratio throughout the site of no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.
 - (4) Average horizontal illumination levels within 30 feet of building entrances shall be no greater than 4.0 foot-candles with a maximum to minimum ratio no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.
- (c) **Security Lighting.** The purpose of and need for security lighting (i.e. the lighting located independent of storefront, parking and pedestrian areas) must be demonstrated to the Planning Commission as part of site plan approval.
- All security fixtures shall be shielded and aimed so that illumination is directed only to designated areas and not cast onto other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures is prohibited.
- (d) **Illumination of Building Façades.** When buildings and structures are to be illuminated, the Planning Commission shall approve a design for the illumination and the following shall apply:
- (1) Lighting fixtures shall be located, aimed and shielded so that light is directed only onto the building façade. Lighting fixtures shall not be directed toward adjacent streets, roads or properties.

- (2) The illumination of landscaping, monuments or flags shall not direct light beyond the feature being illuminated.
- (e) Lighting of Gasoline Stations/Convenience Store Aprons and Canopies.
 - (1) Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth in this ordinance. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.
 - (2) Areas around the pump islands and under canopies shall be illuminated so that the horizontal average at grade level is no more than 22 foot-candles with a maximum to minimum ratio no greater than 10:1 and an average to minimum uniformity ratio not to exceed 4:1.
 - (3) Light fixtures mounted under canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85 degrees from vertical.
 - (4) Gas Pump Canopy. Indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. Light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. Lights shall not be mounted on the top or sides (fascias) of the canopy.
- (f) Luminaire (Light Fixture) Illustrations. The following luminaire illustrations shall be used as a guideline to help determine appropriate and inappropriate lighting fixtures, which offer different levels of shielding. Please note that these graphics are representative and do not comprise a complete inventory of permitted and prohibited fixtures.

Figure 23-2



SECTION 23.11 LANDSCAPING, BUFFERS AND SCREENING. Landscaping and screening are important elements of the use, development and preservation of land and are significant factors in preserving and enhancing the value of land and buildings in the Township. The purpose of this chapter is to promote the public health, safety and general welfare by establishing minimum standards for the design, installation and maintenance of landscaping in front yards, parking lots and greenbelts between uses and along roadways.

The standards and requirements of this chapter are intentionally made flexible, so as to encourage innovative and creative landscape design, consistent with the purposes of this chapter. To further improve the function, appearance and value of properties within the Township applicants are also encouraged to provide landscaping in excess of the minimum required.

SECTION 23.12 SCOPE AND APPLICABILITY OF LANDSCAPING PROVISIONS, VARIATIONS AND SUBSTITUTIONS.

- (a) Except as otherwise stated herein, the standards and requirements specified in this chapter shall apply to any land use governed under the site plan review provisions of Chapter 19, Special Land Uses (unless exempted under Section 23.17) and any land use undergoing review under the provisions governing planned unit developments. The requirements for landscaping as outlined in this chapter shall not apply to an individual single family detached dwelling, an individual two-family dwelling or a residential or agricultural accessory building except that residential accessory buildings classified as special land uses may be required to satisfy certain buffer and screening requirements as determined by the approving official or body.
- (b) The landscaping and screening requirements of this chapter shall be complied with at the time of site plan or development plan review and approval insofar as they are reasonably applicable. In its review of a landscape plan, the board or body having final approval authority, may in its sole discretion consider alternatives to the standards and requirements herein and may allow variations and substitutions to the requirements, if the purposes of requirement will nevertheless be achieved. In approving any such modifications, the approving body shall consider the following criteria:
 - (1) The amount of space on the site available for landscaping and/or screening.
 - (2) Existing landscaping and screening vegetation on the site and on adjacent and nearby properties.
 - (3) The type of land use on the site and the size and scope of the development
 - (4) Existing and proposed adjacent and nearby land uses.
 - (5) Existing native vegetation on the site, and the extent to which strict application of the regulations of this chapter may result in less effective screening and landscaping than alternative landscape designs which incorporate the native vegetation on the site.
 - (6) The topographic and other features of the site which when combined with the strict application of the standards of this chapter will result in less effective screening and landscaping than alternative landscape designs.
- (c) When requesting any variations or substitutions from the provisions of this chapter, the

applicant shall identify the site conditions that warrant the requested variations or substitutions and provide an explanation of how the alternatives will satisfy the intent and purposes of the standard(s) that are the subject of the proposed variation or substitution.

SECTION 23.13 LANDSCAPE PLAN REQUIRED.

- (a) A landscape plan is a required element of a site plan, development plan or sketch plan and shall be submitted as part of the required application for site plan, planned development or special land use review and approval. The landscape plan may be incorporated within a site plan or it may be a separate plan, but it shall have sufficient detail and clarity to enable evaluation of all aspects of the proposed landscaping and to determine whether the plan complies with the provisions of this chapter.
- (b) A landscape plan shall include, but is not necessarily limited to, the following:
 - (1) Existing vegetation on the site and a clear indication of which existing plants, if any, will be retained.
 - (2) Existing and proposed contours of the site, shown at reasonable intervals.
 - (3) Typical straight cross-section, including the slope, height and width of berms.
 - (4) The location, spacing and size of each plant type proposed to be used in all landscaped areas.
 - (5) A list of all plants, showing the required and proposed quantities thereof.
 - (6) Topographic features of the site which will be utilized as a part of the landscaping of the site.
 - (7) Methods and details for protecting during construction activity any existing trees and other existing vegetation that is to be retained on the site.
 - (8) Description of a proposed landscape maintenance program, including a statement that all diseased, damaged or dead plant materials shall be promptly replaced.
- (c) Exceptions. Notwithstanding the above requirements, the landscape or screening plan submitted for a special land use occurring in association with single family residential property needs only to consist of photographs and or sketches. The photographs and sketches shall illustrate the relative locations, sizes and general types of existing and proposed vegetation, trees and structures along each property line separating the proposed structure and use from adjoining property.

SECTION 23.14 GENERAL LANDSCAPE REGULATIONS.

- (a) All required landscaping shall be planted prior to the issuance of a certificate of occupancy; provided, however, that if a certificate of occupancy is ready to be issued, but inclement weather prevents the completion of required landscaping, the certificate may nevertheless be issued, but upon the specific condition that the remaining required landscaping shall then be installed as soon as weather conditions permit, or not later than a date to be specified in the certificate. As a condition of the issuance of the certificate of occupancy in such circumstances, a financial guarantee shall be provided in accordance with subsection (e) of this Section 23.14.

- (b) For the purpose of applying the landscape requirements of this chapter, a corner lot shall be considered as having a front yard along each intersecting street, and accordingly, the required front yard landscaping shall be provided for both street frontages.
- (c) Plant materials shall be planted and maintained so as not to create any site obstruction near street intersections. In addition, applicants shall give consideration to utilizing plant materials to assist in storm water management on the site, including the establishing of rain gardens and other bio-retention measures as noted in Section 23.24.
- (d) Landscaping shall be provided adjacent to buildings if the landscaping serves to enhance the general appearance of the building.
- (e) If required by the Township, the applicant shall provide a financial guarantee sufficient to assure the installation of all required landscaping. The financial guarantee may be included with any other such financial guarantee required by the Township with respect to the land use being approved. The financial guarantee may be in the form of a cash deposit, an irrevocable bank letter of credit or a performance bond, with a surety acceptable to the Township.

SECTION 23.15 PRESERVATION OF EXISTING TREES AND OTHER LANDSCAPE ELEMENTS.

- (a) A landscape plan shall provide for the preservation of existing trees of reasonable quality whenever preservation is feasible, particularly in buffer strip areas. Relocation of existing trees within the site is also encouraged.
- (b) Existing trees may be utilized for the purpose of complying with landscape requirements if the trees are in healthy growing condition, are of a variety not prone to disease and if they comply with minimum size requirements.
- (c) If a tree which is designated for preservation and for which landscaping credit is given, should die, then the applicant shall replace the tree with a tree of the same or equivalent species, or with a tree which will in approximately the same time attain the same height, spread and growth of the tree which is being replaced. Any replacement tree shall be a minimum of two and one- half inch caliper.
- (d) Existing trees and other vegetation that are to be preserved shall be labeled “to remain,” or with some comparable legend, on the landscape plan. During construction, protective measures shall be taken so as to protect all plants that are to be preserved, including the installation of temporary fencing or other barriers.

SECTION 23.16 INSTALLATION AND MAINTENANCE OF PLANT MATERIALS.

- (a) All landscaping shall consist of hardy plant materials, which shall be maintained thereafter in a healthy condition. Withered and/or dead plant materials shall be replaced within one growing season.
- (b) All landscaping and landscape elements shall be planted, and all earth moving or grading shall be performed, in a sound manner and according to generally accepted planting, grading and other landscaping practices.

- (c) All landscaped areas shall be provided with a readily available water supply, sufficient in quantity and reasonably convenient, so as to assure adequate water for maintaining plant materials in a healthy growing condition.

SECTION 23.17 REQUIREMENTS AND EXEMPTIONS FOR CERTAIN SPECIAL LAND USES OCCURRING ON SINGLE FAMILY RESIDENTIAL PROPERTY.

As pertains to special land uses occurring on property where the principle use remains single family residential, the approving body may, at the time of special use authorization, and as conditions of approval, require the preservation of existing vegetation and/or the installation of reasonable tree and shrub plantings, and/or the installation of fencing or other screening device for the purpose of shielding adjacent conflicting uses and activities wherever such conflicts appear significant. Special land uses occurring on property where the principle use remains residential are hereby exempt from the subsequent provisions of this chapter.

SECTION 23.18 BUFFER STRIPS AND PLANTING SCREENS. Except as required under Section 23.20, side and rear yard area tree plantings are not generally required between like uses and districts. For any special land use and for any use listed in Subsection (c) below the approving body may however, require the installation of a buffer strip and planting screen for the purpose of shielding adjacent conflicting uses and activities wherever such conflicts appear significant.

- (a) At minimum and at the time a development is approved, a buffer strip and planting screen shall be provided along the abutting lot line when any of the districts or uses listed below abuts a single or two family residential use, an R-1, R-1a, R-2, or R-3 residential zoning district, a residential planned unit development, or an agricultural zoning district planned for residential uses according to the Township Master Plan:
- (1) C-1, and I-1 Districts and uses.
 - (2) Institutional, religious and governmental uses
 - (3) Multi-family Development
 - (4) Manufactured Home parks
- (b) A buffer strip shall have a minimum width of 20 feet.
- (c) Unless otherwise required under the terms of this Section a buffer strip shall at a minimum consist of two staggered rows of evergreen trees planted eight to ten feet apart, center to center. The minimum height of the trees shall be 5 feet. For reasons of conflicting uses, unfavorable topography or other unique or extenuating physical circumstances the approving body may increase required landscape plantings and or require more intensive screening if an increase is found to be necessary to reasonably achieve screening and aesthetic objectives. The remainder of the buffer strip shall be landscaped with other trees and other natural landscape material, including but not limited to grass, ground cover and shrubbery.
- (d) Berms, walls and fences may be included within a buffer strip. In its discretion, the approving body may reduce the amount of required plantings, or may revise the required placement of such plantings, if a berm, fence or wall assists in achieving the intent and

purposes of this section.

- (e) Access ways from public or private streets may run perpendicularly through required buffer strips. Pedestrian trails may be located lineally within a buffer strip so long as the requisite degree of buffering and screening between uses is accomplished and is approved.
- (f) Where the required 20 feet of width of the buffer strip cannot be achieved or where there is a need to provide a greater visual, noise or dust barrier for the benefit of adjacent lands or uses the approving body may substitute or require:
 - (1) The installation and maintenance of a solid wall, of such height and materials as the approving body may determine.
 - (2) An intensive landscape screen. In such cases, the screening required within the buffer strip may consist of earthen berms and/or plant material designed and installed so as to maintain after two growing seasons a minimum opacity of at least 80 percent for the first 6 feet above average grade and 40% in the area between 6 feet and 10 feet above grade. For purposes of this requirement, opacity shall be measured by the observation of any two square yard area of landscape screen between a point one foot above the established average grade at the foot of the screen and the above referenced heights above average grade, from a point 25 feet off sight.
 - (3) Any combination of screening walls and landscaping.

SECTION 23.19 FRONT YARD LANDSCAPING.

- (a) Except for necessary driveways, frontage roads, service drives, trails or walkways, the front yard shall be landscaped in accordance with the following minimum requirements:
 - (1) Front yard landscaping required by the terms of this section, shall be within a greenbelt that extends from the street right of way into the front yard. The minimum depth of front yard green strips shall be as follows:
 - a. M-40: Twenty (20) feet
 - b. All other streets ten (10) feet
 - (2) One canopy tree, two evergreen trees and one ornamental tree for each 50 feet in length of street frontage, or any combination thereof, shall be planted and maintained as front yard landscaping; provided, however, that the approving body may in its discretion modify this requirement.
 - (3) As an alternative to formal groupings of trees, and in order to provide more variety in landscaping, applicants are encouraged to incorporate natural vegetation, native grasses, wildflower plantings, perennials and other materials which may carry out the purposes of this chapter.
- (b) For the purpose of obscuring or moderating the view of parked vehicles from the adjacent street the approving body may require additional landscaping to be planted and maintained within the front yard. Other screening devices, such as earthen berms or other land contouring may also be utilized or required.

SECTION 23.20 PARKING AREA LANDSCAPING. All off-street parking areas shall be landscaped according to the following minimum requirements:

- (a) There shall be parking area perimeter landscaping consisting of at least one canopy tree installed and maintained for each ten vehicle parking spaces or fraction thereof in the parking area. Landscaping required for buffer strips and front yard greenbelts that abut parking areas will be counted as meeting required parking lot perimeter landscaping. Trees required within landscaped interior islands shall not be applied toward the requirements of this subsection.
- (b) Paved parking lots shall contain interior landscaped islands, peninsulas or other unpaved and planted surfaces in order to provide shade and to vary the visual monotony of paved parking areas. There shall be one landscaped interior space for every 18 lineally adjacent parking spaces, provided, however, that the approving body may waive this requirement in the case of parking lots of such small size that an interior landscaped space is determined to be impractical or unnecessary.
 - (1) An interior landscaped space shall be at least eight feet wide and at least 150 square feet in area; provided, however, the approving body may require that interior spaces be 16 feet in width and 300 square feet in area where the size of the parking area is such that larger interior landscape space will be more effective at moderating visual monotony and providing benefits of shade, and rainwater absorption than the smaller interior spaces.
 - (2) Interior landscape space shall be planted with at least one canopy tree and four shrubs, for each 150 square feet of landscape area, or such other equivalent as the approving official or body may approve. Any shrubs planted within an interior planting space shall be maintained at a maximum height of three feet. The base of plantings shall be at least three feet from the edge of the landscaped island or peninsula.
- (c) Landscaping in paved parking areas shall be arranged so as not to obscure traffic signs or fire hydrants or obstruct the sight distance of drivers within the parking area or at driveway entrances.
- (d) Rain gardens and other bio-retention measures may be considered as partial alternatives to interior islands, and applicants are encouraged to consider such measures as elements of parking area landscaping. In its discretion, the approving official or body may modify parking area landscaping requirements to allow rain gardens and other bio-retention measures as noted in Section 23.21.

SECTION 23.21 ROADWAYS, ACCESS DRIVES AND WALKWAYS.

- (a) In its consideration and approval of a landscape plan, the approving body may require that shade trees be planted and that rain gardens be established along one side of existing roadways, access drives and walkways, where these features abut the site, and also along one or both sides of the roadways, access drives and walkways that are proposed to be located within a development or other land use.
- (b) Shade trees required to be planted and maintained under the terms of this section shall be

spaced no greater than 40 feet apart along one or both sides of each roadway, access drive or walkway. Such plantings shall not be required for rear access lanes or alleys.

SECTION 23.19 MINIMUM REQUIREMENTS FOR LANDSCAPE PLANTINGS.

- (a) Plantings shall comply with the following minimum requirements, except that the approving official or body may in its discretion permit variations in the size of plantings, in order to achieve the intent and purposes of this chapter.
 - (1) Evergreen trees – 5 feet height when planted.
 - (2) Deciduous canopy trees – 2 inch caliper when planted.
 - (3) Deciduous ornamental trees – 1 ½ inch caliper when planted.
 - (4) Upright evergreen and deciduous shrub – 2 feet height when planted.
 - (6) Spreading evergreen shrub – 18 inch spread when planted.
- (b) Types of trees to be planted shall include those that are listed on the current Township List of Approved Landscape Trees and Other Plant Materials, maintained in the Township office, or such other types of trees as are approved by the approving official or body in its approval of a landscape plan.

SECTION 23.20 COMPOSITION OF LANDSCAPING, BERMS AND OTHER FEATURES.

- (a) Plant material shall be free of disease and insect infestation and shall be suitable for planting within the Township, given local climatic conditions. The use of native plant species is encouraged.
- (b) A mixture of plant material is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended, rather than a large quantity of many different species.
- (c) Berms shall be constructed with slopes not to exceed a 1:3 gradient, with side slopes designed, graded and planted to prevent erosion. A berm shall have a rounded surface at least two feet in width at the highest point of the berm, extending for the length of the berm. The slopes of berms shall be protected with sod, seed, shrubs or other forms of natural ground cover.
- (d) Rain gardens and other bio-retention measures may be included in landscape plans, and their installation and use is encouraged as an effective aid in reducing storm water runoff.

SECTION 23.21 RAIN GARDENS.

- (a) Rain gardens are landscaped areas that are designed, planted and maintained to absorb rain water and other storm water runoff, and thereby help to reduce the total storm water runoff from the property on which the garden is located.
- (b) Applicants are encouraged to include rain gardens in landscape plans and in the landscaping for the types of land uses covered by this chapter; provided, however, that rain gardens will not serve in the place of required landscaping unless approved by the

approving official or body in its approval of a landscape plan.

- (c) The Township also encourages applicants to utilize other bio-retention practices and other storm water control measures in landscape plans and in approved landscaping under the terms of this chapter; provided, however, that other bio-retention practices or measures may not take the place of required landscaping and stormwater management measures unless approved by the Township and the Alleagan County Drain Commission, as applicable. In considering bio-retention measures that are included in a landscape plan, the approving official or body may obtain the advice and recommendations of the Township Engineer or Drain Commission, as applicable and other Township consultants. Such other bio-retention measures may include grass waterways, vegetated storm water drainage channels and the use of existing or enhanced swales to control and moderate the flow of storm water within landscaped areas.

CHAPTER 24

SIGNS

SECTION 24.01 PURPOSES AND SCOPE. This section is intended to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals, health, safety and general welfare; to conserve and enhance the character of the Township, to promote the identification of establishments and of commercial areas by minimizing visual clutter; to prevent traffic pedestrian hazards caused by visual obstructions and distractions and to promote uniformity in the size, number and placement of signs. Such signs will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare, shall be permitted except as may be otherwise provided herein.

SECTION 24.02 DEFINITIONS.

- (a) Balloon sign - A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.
- (b) Banner or pendant - A sign containing a commercial message produced on lightweight flexible fabric, such as canvas, cloth, paper or similar material, that is mounted to a cord, a pole or a building at one (1) or more edges, and which is more or less subject to movement by the wind. For the purposes of this ordinance, flags used as the symbol of a nation, state, municipal, educational, institution or corporate organization are not be considered banners or pendants.
- (c) Billboard - Any off premise sign, structure or portion thereof on which a lettered message or figured or pictorial matter is displayed that is not related to the premises or the nature of the business or activity conducted thereon This definition shall not be held to include any sign used for official notices issued by a court or public body.
- (d) Commercial Message -Words, symbols, logos, pictures or any combination thereof that identify which directs attention to a business, commodity, service or entertainment sold or offered for sale or a fee
- (e) Directional Sign –An incidental on-premise sign, the sole purpose of which is to guide pedestrians or vehicular traffic.
- (f) Electronic Message Display – A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The following additional terms are used to describe various aspects of electronic message display:

Dissolve – a mode of message transition on an Electronic Message Display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

Electronic Changeable copy – Where a sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic, or

symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs could include projected images or messages with these characteristics onto buildings or other objects.

Electronic graphic display – Where a sign or portion thereof displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs could include projected images or messages with these characteristics onto buildings or other objects.

Fade – a mode of message transition on an Electronic Message Display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Frame – a complete, static display screen on an Electronic Message Display.

Frame Effect – a visual effect on an Electronic Message Display applied to a single frame to attract the attention of viewers.

Multi-vision display – Where a sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.

Scroll – a mode of message transition on an Electronic Message Display where the message appears to move vertically across the display surface.

Transition – a visual effect used on an Electronic Message Display to change from one message to another.

Travel – a mode of message transition on an Electronic Message Display where the message appears to move horizontally across the display surface.

Video display – Where a sign changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

- (g) Flashing sign - A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling or sparkling.
- (h) Freestanding Sign- A freestanding sign is a sign which is supported by poles or posts. Freestanding signs are also sometimes called ground signs.
- (i) Identification Signs - A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.
- (j) Illuminated Signs - A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
- (k) Incidental sign - A small sign, placard, emblem or decal whose purpose is secondary to the use of the lot or is explanatory in nature. As defined herein they include identifying signs, nameplate signs, directional signs, for sale signs, garage sale signs, small political signs and similar small temporary signs of five (5) square feet or less in size and a height of forty-two inches (42") above ground level.
- (l) Institutional Reader Board - A sign containing a surface area upon which is displayed noncommercial message such as the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.
- (m) Marquee Signs - An identification sign attached to a marquee, canopy or awning projecting from and supported by the building.
- (n) Monument Sign- A monument sign is a sign which with a base affixed to the ground where the base is at least ½ the horizontal length of the monument. A monument sign is classified as a type of freestanding sign.
- (o) Nameplate - A non-illuminated, on-premise incidental sign giving only the name, address and/or occupation of an occupant or group of occupants.
- (p) Off-Premises Sign- A sign which directs attention to an establishment, service, product or activity not conducted on the same lot.
- (q) On-Premise Sign- A sign which directs attention to an establishment, service, product or activity found on the same lot where the sign is located.
- (r) Pole Signs - A free standing sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and have a sign area not more than 100 square feet from the ground to the bottom of the sign.
- (s) Political sign -A temporary sign whose message relates to the election of a person to a public office, or to a political party, or to a public issue which shall be voted on at an election called by a public body, or to an opinion. See Sections 24.04 (m), Section 24.05 and Section 25.06 for the provisions regulating temporary signs.

- (t) Portable Signs - Any sign or graphic that can be readily moved from place to place and is not permanently anchored or secured to either a building or the ground. See Sections 24.05.
- (u) Projecting Signs - A sign which projects from and is supported by a wall of a building and does not extend beyond or into and over street right-of-way.
- (v) Real Estate Signs - A temporary sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease. See Section 24.04 (m).
- (w) Roof Signs - Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
- (x) Subdivision Sign - A sign having a noncommercial message placed at the primary entrance to a subdivision, containing information only about the subdivision. This term also refers to signs at the primary entrance to a mobile home park. Such signs being without moving part, not higher than ten (10) feet from the ground and no closer than twenty (20) feet to any public right-of-way line.
- (y) Temporary Signs - A sign, banner other advertising device displayed for a fixed, terminable length of time. Temporary signs are intended to be removed after the temporary purpose has been served. Included are for sale, lease or rent signs, political signs, service signs, special-event signs, construction signs, directional signs to special or temporary events and signs of a similar nature. Temporary signs advertise municipal or civic projects, construction projects, real estate, a commercial grand opening, political candidates, or other special events on a temporary basis. Political signs and portable signs (e.g. sandwich board signs) are also examples of temporary signs. See Sections 24.04 (m), Section 24.05 and Section 25.06 for the provisions regulating temporary signs.
- (z) Wall Signs - A sign which is attached directly to, painted or projected upon a building wall and which does not extend more than thirteen (13) inches from or more than five (5) feet above the roof line, with the exposed face of the sign in a plane parallel to the building wall.

SECTION 24.03 GENERAL SIGN PROVISIONS .

- (a) No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling an emergency light shall be used in connection with any sign.
- (b) Flashing or blinking lights and electronic displays that create the perception of flashing or blinking are prohibited. Except as permitted for temporary special events under the provisions of Section 24.04 and Section 24.05 below, pendants, balloons, light strings, and other similar devices used to attract the attention of the public are also prohibited; provided, however, that this provision shall not prohibit the display of flags of any country, state, municipality, educational institution, non-profit organization or business entity when attached to a structure or flag pole.

- (c) Subject to the provisions of Section 24.14, all signs shall be maintained in good condition and repair.
- (d) No permanent sign, billboard, or other type of permanent sign shall be constructed, erected, or attached to a building prior to the issuance of a permit therefore by the Zoning Administrator.
- (e) All signs may be illuminated if the source of light is not directly visible.

SECTION 24.04 SIGNS EXEMPT FROM SPECIAL EVENT AND ZONING DISTRICT LIMITATIONS. The following signs are exempt from the provisions of Sections 24.05 through 24.08 of this Chapter unless otherwise specified herein:

- (a) Highway signs erected by the State of Michigan, County of Allegan or the Township;
- (b) Governmental use signs erected by the governmental agencies to designate house of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings;
- (c) Directional signs. All directional signs for orientation of the general public, when erected by the township, county or state, shall be permitted in all Districts. As are directional signs erected in conjunction with private on-site circulation and off-street parking areas, provided any such sign does not exceed four (4) square feet in area and is limited to traffic control functions only;
- (d) Subdivision development/multiple building site or unit marketing signs not exceeding thirty-two (32) square feet in area; provided, however, that such signs shall be removed at such times as fifty (50) percent or more of the lots or units in such developments are sold or after five (5) years, whichever shall first occur.
- (e) One (1) construction sign per project of no more than thirty two (32) square feet in area denoting architects, engineers, or contractors in conjunction with the work under construction, other than one and two family dwellings, provided such signs do not exceed one (1) per project and thirty two (32) square feet in area.
- (f) Memorial nameplates or tablets which are either (1) cut into the face of a masonry surface; or (2) constructed of bronze or other incombustible material when located flat on the face of the building.
- (l) A sign painted on or attached to the inside of a window or door of a commercial building provided that its total area shall not exceed twenty-five (25) percent of the area of the window or door. Such sign area shall furthermore, not be counted in the calculation of total sign area.
- (m) Temporary and incidental signs as defined in Section 24.02, as follows:
 - (1) Non-illuminated incidental and temporary signs of five (5) square feet or less in size and a height of forty-two inches (42") above ground level for all permitted residential uses in all residential zoning districts
 - (2) Non-illuminated temporary signs of sixteen (16) square feet or less in size and a height of not more than sixty (60) inches in all Business and Industrial zoning

districts and for all non-residential uses in Residential and Agricultural zoning districts.

SECTION 24.05 SPECIAL EVENT SIGNS AND DISPLAYS. In any Zoning District special decorative banner displays or signs used for celebrations, public demonstrations or civic, charitable or commercial promotions may be permitted when authorized by the Zoning Administrator. In considering such authorization, the Zoning Administrator shall in all districts consider the following general standards:

- (a) Unless first issued a permit by the Allegan County Road Commission temporary signs, portable signs and banners, inflatable displays and sandwich boards/A-frame signs are at all time prohibited within the public street right-of-way or any public street easement
- (b) The duration or time period during which the display or sign will be utilized and whether such is reasonably related to a specific celebration period or event;
- (c) The arrangements made for the removal of the sign or display after the termination of the above stated time period;
- (d) The effect of the proposed sign or display shall not impair light dispersion and air circulation for lots and activities which are both adjoining and in the surrounding neighborhood of the proposed sign or display; and
- (e) The sign or display shall not constitute a traffic hazard;
- (f) The effect of the sign or display on the surrounding neighborhood

SECTION 24.06 TEMPORARY SIGNS AND DISPLAYS- SPECIFIC STANDARDS AND LIMITATIONS. The following specific standards and limitations shall also apply to display of temporary signs, including portable signs, banners and other displays issued permits under the above Section 24.05.

- (a) Temporary signs (in excess of 16 square feet) banners, pennants, string lights, ribbons, balloon signs, inflatable signs and figures and portable signs may be in place or erected for no more than sixty (60) days in any one (1) year period. No more than fifteen (15) days shall be consecutive. The time between issuance of permits for Temporary Sign(s) shall be no less than thirty (30) days.

For new business establishments located in a commercial or industrial district one (1) consecutive display period of thirty (30) days and a total of seventy-five (75) display days may be permitted within the first year of business activity.

- (b) The beginning of the display period for any temporary or portable sign, banner or other similar display shall not be more than fourteen (14) calendar days from the date of the issuance of the permit.
- (c) There shall not be more than one temporary sign (in excess of 16 square feet), portable sign, banner or inflatable display, displayed per principle use or tenant on a property at any one time.
- (d) No banner shall exceed 35 square feet in area.
- (e) No temporary or portable sign shall exceed forty eight (48) square feet per side. No

temporary or portable sign shall exceed a maximum height of ten (10) feet from above ground level. For the purpose of this section, the height of a portable or temporary sign shall include the height of any portion of a berm or mound on which the sign is placed that is above the average grade between the street and the front of the principle building. Such signs shall be positioned so as not to constitute a traffic hazard or a detriment to traffic safety by, including but not limited to, obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic control device on public streets and roads.

- (f) Portable signs shall be subject to the following additional standards:
- (1) Illuminated portable signs shall be installed in conformance with all State electrical codes. No flashing or moving lights shall be used on any portable sign.
 - (2) The under carriage or towing mechanism of a portable sign shall be leveled with jack mechanisms attached to and made a part of the under carriage by the manufacturer. All portable signs and components shall be firmly anchored to the ground in a manner which ensures that the sign will not constitute a safety hazard in the event of high winds, as determined by the Zoning Administrator.
- (g) Any temporary sign, portable sign or banner for which a permit has been issued pursuant to this Section and which is placed or displayed in violation of this ordinance may be impounded by the Township. Any costs associated with the removal and impoundment of the sign by the Township shall be deducted from the deposit made at the time of application for the sign permit. Upon removal and impoundment of a sign, the Township shall notify the sign owner and/or permit applicant of the Township's intent to dispose of the sign. If it is not claimed and removed from the Township's place of impoundment within thirty (30) days from the date of the notice, the Township may dispose of the sign in any manner it deems appropriate.

SECTION 24.07 SIGN OR MESSAGE CONTENT. Any non-commercial message may be substituted for the message on any sign permitted by this ordinance and signs with a noncommercial message may be modified to contain any other noncommercial message.

SECTION 24.08 SIGNS PERMITTED BY ZONING DISTRICT. Signs are permitted according to the district in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the following regulations:

- (a) **Agricultural District.** In the AG Agricultural District the following types of signs are permitted:
- (1) **On Premises Advertising Sign,** one for principal uses other than dwellings, not exceeding twenty-four (24) square feet in area and set back at least fifteen (15) feet from the front line.
 - (2) **Identification Sign,** one per dwelling unit not exceeding eight (8) square feet in area; and one per business not exceeding twenty-five (25) square feet.

- (3) Subdivision Identification Sign. One per subdivision entrance, continuously and properly maintained; not exceeding two (32) square feet in area and set back at least fifteen (15) feet from any property or right-of-way line.
 - (4) Electronic Message Displays are permitted subject to the following requirements:
 - a. Operational Limitations. Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.
 - b. Minimum Display Time. Each message on the sign must be displayed for a minimum of 7 seconds.
 - c. Message Change Sequence. A minimum of 0.3 seconds of time with no message displayed shall be provided between each message displayed on the sign.
 - (5) Signs exempted and allowed under Sections 24.04 and 24.05
- (b) **Residential Districts**. In the R-1, R1-A, R-2 and R-3 Residential Districts, no more than one sign at any one time shall be permitted. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any visible moving parts. The following types of signs are permitted:
- (1) On-Premises Advertising Sign, for principal uses other than dwellings, not exceeding ten (10) square feet in area and not located nearer to the front lot line than six (6) feet from the required front yard setback nor located in the required side yard setback.
 - (2) Identification Sign. One per dwelling unit, not exceeding one hundred forty-four (144) square inches in area; and one per business, not exceeding eight (8) square feet in area.
 - (3) Institutional Reader Board. One per public or semi-public institution, located on premises, not exceeding forty (40) square feet in area, and set back at least fifteen (15) feet from the front lot line.
 - (4) Subdivision Identification Sign. One per subdivision entrance, continuously and properly maintained; not exceeding thirty two (32) square feet in area and set back at least fifteen (15) feet from any property or right-of-way line.
 - (5) Electronic Message Displays are permitted subject to the following requirements:
 - a. Operational Limitations. Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.
 - b. Minimum Display Time. Each message on the sign must be displayed for a minimum of 7 seconds.

- c. Message Change Sequence. A minimum of 0.3 seconds of time with no message displayed shall be provided between each message displayed on the sign.
- (6) Signs exempted and allowed under Sections 24.04 and 24.05
- (c) **Mobile Home Parks and Multiple-Family Dwellings.** The following additional types of signs are permitted provided that no sign shall be illuminated by other than continuous indirect white light, nor shall it contain any visible moving parts
- (1) All signs as permitted above in R-1, R1-a, R-2 and R-3 Residential Districts.
 - (2) Signs exempted and allowed under Sections 24.04 and 24.05
 - (3) Wall Signs. One per housing development, indicating only the name of the housing development; not exceeding sixteen (16) square feet in area.
- (d) **General Business and Industrial Districts.** In the C-1 and I-1 Zoning Districts, the following signs are permitted.
- (1) All signs as permitted above in R-1, R1-a, R-2 and R-3 Residential Districts except as modified hereunder.
 - (2) Advertising Sign, Wall Sign, Roof-Sign, Monument Sign, Pole Sign (less than twenty (20) feet in height) or Marquee Sign. No business establishment shall have a total of more than three (3) signs facing upon any one street, providing the total sign area for all signs permitted shall not exceed fifteen (15) percent of the area of the face of the building to which they are attached or stand in front of. The set back from the front lot line shall be at least ten (10) feet, except as provided for elsewhere in this ordinance.
 - (3) Electronic Message Displays may be permitted subject to the following requirements:
 - a. *Operational Limitations.*
 - i. *All Sites and uses within 150 feet of a residential use or Residential District.* The displays shall contain static messages only, changed only through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, but which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity.
 - ii. *All other sites and Uses.* The displays shall be limited to static displays, messages that appear or disappear from the display through dissolve, fade, travel or scroll modes, or similar transitions and frame effects that have text, animated graphics or images that appear to move or change in size, or be revealed sequentially rather than all at once.

- b. *Minimum Display Time.* Each message on the sign must be displayed for a minimum of 7 seconds.
- (b) Signs exempted and allowed under Sections 24.04 and 24.05.
- (c) Billboard, where the erection or maintenance of same will not unreasonably affect the proper use of adjoining property, at least twenty (20) feet from any right-of-way line; not exceeding a sign area of ten (10) feet in height and fifteen (15) feet in length. Not more than one billboard may be located within 2,640 linear feet of another billboard located on the same side of such street or highway. The 2,640 linear foot measurement shall not be limited to the boundaries of Heath Township where the particular street or highway extends beyond such boundaries. The following additional provisions shall apply to billboards incorporating electronic display:
 - a. Off-premises Electronic Message Display advertising signs may not be constructed to replace existing off-premises advertising signs unless they meet the above spacing requirements.
 - b. The entire sign face shall be a moving image display and shall only convey a single product or message at any one time.
 - c. Except for the change from one display to the next, each individual sign display shall be stationary. No elements of the display may move, flash or scroll, except to change from one display to the next (ref. def. of "Multi-vision display").
 - d. Displays may change no less than seven seconds apart. Each change shall be a fade from one display to the next, with the duration of the transition (fade-out/fade-in) no less than one-half of a second.
 - e. Maximum brightness of a video display or electronic graphic display sign shall not exceed illumination of 5,000 nits (candelas per square meter) during daylight hours, nor 540 nits between dusk and dawn, as measured from the sign's face at maximum brightness. The sign must have an automatic dimmer switch control to produce a distinct illumination change from a higher illumination level to a lower illumination level for the period of time between one-half hour before sunset and one-half hour after sunrise. For those electronic signs equipped with automatic dimmer features to adjust brightness levels for ambient light, it shall be required that the sign software be set to "automatic" in order to comply with levels of brightness as set forth in this section

SECTION 24.09 MEASUREMENT OF AREA OF A SIGN. The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed but including any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to

back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. In the case of a sphere, the total area of the sphere is divided by four for purposes of determining the maximum permitted sign area.

SECTION 24.10 ILLUMINATION. There shall be no flashing, oscillating, or intermittent, red, blue, or green illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections. All illuminated signs shall be designed and located to prevent the light there from being cast upon adjoining residences and shall be located at least one hundred fifty (150) feet from any residential use. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard, as determined by the Zoning Administrator.

SECTION 24.11 CONSTRUCTION AND MAINTENANCE. The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements. No advertising sign or billboard permit shall be issued until the building and zoning inspectors are satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing anchorage and foundation. A sign shall not be erected or installed until a permit is first obtained from the Township Zoning Administrator and from the Building Inspector.

SECTION 24.12 HEIGHT. No sign otherwise permitted shall exceed the maximum height limitations of the zoning district in which it is located.

SECTION 24.13 PERMIT PROCEDURE. Application for a permit to construct or locate a sign, (except those exempted in Section 24.04) shall be obtained from the Township Zoning Administrator. The Zoning Administrator shall approve, disapprove or approve subject to specified conditions, the request for a permit, based upon the standards for this Section. The application shall include the following information:

- (a) Name, address, telephone number of the landowner, developer or petitioner.
- (b) A map of the property at a scale of 1" = 25' showing the location and type of existing structures on the site, property boundaries, location and type of structures or adjacent properties, road rights-of-way, entrances and exits onto the subject property and approximate location of the proposed sign(s).
- (c) An elevation drawing of the proposed sign(s) depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height and length, and width of the sign(s) and height between ground elevation and the bottom of the sign, shall be noted.
- (d) In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.
- (e) In the case of a temporary sign, the length of time the proposed sign will be on the site.

- (f) The proposed date of construction of the sign.
- (g) Other information or data as may be required by the Zoning Administrator.

SECTION 24.14 NONCONFORMING SIGNS, AND SIGNS ACCESSORY TO NONCONFORMING USES.

- (a) **Continuance.** Notwithstanding any other provision of this Chapter to the contrary, a permanent sign which was erected legally and which lawfully exists at the time of the enactment of this Amendment, but which does not conform to the height, size, area, location or other requirements of this Chapter, is deemed to be nonconforming and may continue to be used subsequent to that time, as provided by this section.
- (b) **Alteration/Repair.** Nonconforming signs shall not be altered, expanded, enlarged, extended, or repaired, without being brought into full compliance with all applicable regulations under this Chapter, except as expressly provided by this subsection.
 - (1) A nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. As with conforming signs, a change solely in the wording of the copy of a nonconforming sign shall not constitute an alteration for purposes of this Chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation.
 - (2) Routine repair to maintain a nonconforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this Chapter and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this Chapter, unless the estimated cost of repair exceeds fifty (50%) percent of the appraised replacement cost of the entire sign prior to the repair, as determined by the Township. If the estimated cost of repair exceeds fifty (50%) percent of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign must be brought into full compliance with all applicable provisions and requirements of this Chapter prior to further use.
 - (3) In no event shall the alteration of a nonconforming sign result in an increase in the nature or degree of any aspect of the sign's nonconformity.
- (c) **Signs Accessory to Nonconforming Uses.** A sign related to a nonconforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.
- (d) **Damage or Destruction.** If a nonconforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50% of the appraised replacement cost of the entire sign prior to the loss, as determined by the Village. If the estimated cost of restoration or replacement exceeds 50% of that appraised replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this Chapter prior to further use.

- (e) **Abandoned Signs.** Any sign which the Township determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Township may remove the sign. If the sign is removed by the Township and the owner is known, the Township shall have the right to recover from the owner of the sign the full costs of removing and disposing of the sign.
- (f) **Portable and Temporary Signs.** Portable and temporary signs that are nonconforming shall be altered to comply with the provisions of this Chapter or they shall be removed within ninety (90) days after the effective date of this section.

CHAPTER 25 RESERVED FOR FUTURE USE

CHAPTER 26

WIND ENERGY SYSTEMS

SECTION 26.01 INTENT AND PURPOSE. The purpose of this section is to establish standards and procedures by which the installation and operation of a Wind Energy System (WES) shall be regulated within the Township and to:

- (a) Promote the safe, effective and efficient use of WES in order to reduce the consumption of fossil fuels in producing electricity.
- (b) Preserve and protect health, safety welfare and quality of life by minimizing the potential adverse impacts of WES.
- (c) Establish standards and procedures by which the siting, design, engineering, installation, operation and maintenance of a WES shall be governed.

SECTION 26.02 DEFINITIONS. The following terms and their definitions pertain to the regulation of wind energy systems.

- (a) Anemometer. A wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices, that are used to monitor or transmit wind speed and characterize the wind resource at a given location.
- (b) Applicant. The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) to any approved Wind Energy System (WES). An applicant must have the legal authority to represent and bind the landowner(s) or lessee(s) who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be jointly and severally with the land owner(s), the owner(s) of the WES and the operator or lessee of the WES if different than the owner.
- (c) Building Mounted Wind Energy System (WES). A WES mounted or attached to an existing structure or building.
- (d) Cooperative Wind Energy System Site. A WES site created with the mutual consent of two or more adjacent property owners, comprised of an easement encompassing all or portions of two or more adjacent lots or parcels. A cooperative WES site meeting the standards of this section may support an on site WES or a WES for commercial purposes.
- (e) Nacelle - In a wind turbine, the nacelle refers to the structure which houses all of the generating components, gearbox, drive train and other components.
- (f) On Site Use Wind Energy System. A Wind Energy System (WES) with a main purpose of providing energy to the property where the WES structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or by the mutual consent of adjacent property owners.

- (g) Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.
- (h) Single Wind Energy System for Commercial Purposes. A single WES placed upon a lot or parcel with the main purpose of generating electricity for sale or otherwise, to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which the WES is placed.
- (i) Tower Mounted Wind Energy System. A WES mounted or attached to a tower, pole or similar structure which is not a building.
- (j) Utility Grid Wind Energy Systems. A WES interconnected with the electricity distribution system.
- (k) Wind Energy System (WES) shall mean any combination of the following: (Note: For purposes of this section a windmill traditionally used to pump water shall not be considered a Wind Energy System.)
 - (1) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
 - (2) A surface area such as a blade, rotor or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
 - (3) A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;
 - (4) The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy; and any temporary anemometer constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site prior to the installation of a wind energy turbine.
 - (5) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted;
- (l) WES Height. The distance from the ground at normal grade and the highest point of the WES which is the tip of a rotor blade when the blade is in full vertical position.
- (m) WES Setback. The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.
- (n) Wind Farm. Clusters of two or more WES placed upon a parcel or parcels with a purpose of generating electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

SECTION 26.03 WIND ENERGY SYSTEMS ALLOWED AS A PERMITTED USE

Any On Site Use Wind Energy System which is 65 feet or less in total height shall be a permitted use in all zoning districts subject to the following standards and those of Section 26.05 of this Chapter:

- (a) Maximum WES height. The height of the WES with the blade in vertical position shall not exceed 65 feet.
- (b) Tower mounted WES setbacks. A tower mounted WES shall be set back from all lot lines, or (in the case of a cooperative WES site) all cooperative WES site easement lines a distance which is at least equal to the height of the WES as measured from the lot line or easement line to the base of the tower. No portion of the WES, including the guy wire anchors, shall be located within or above the required front, side or rear yard setback.
- (c) Building mounted WES setbacks. A building mounted WES shall have a distance from the nearest property line which is at least equal to the height of the WES as measured from the point of attachment to the building to the top of the WES with the blade in the vertical position. The blade arcs created by a WES mounted on an existing structure shall have a minimum clearance of eight feet and be designed so the blade or other moving parts do not present a safety hazard.
- (d) Shared WES Usage. An On Site Use WES may provide electrical power to more than one dwelling unit or user, provided the dwelling units or users are located on property or properties that are adjacent to the property or properties on which the WES is located.
- (e) Construction permit required. A permit must be obtained from the Township to construct or install and any WES, 65 feet or less in total height. The WES shall not be constructed nor remain on the property unless such permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township as part of the permit application.
- (f) Operating permit required. Prior to commencement of operations the applicant shall submit to the Township an application to commence WES operations. Included in the operating permit application shall be as built land survey documentation showing the exact location of all WES towers and appurtenances, the depths and locations of all underground electric lines and all applicable easements and property lines. A permit to operate a WES shall be issued after an inspection of the WES by the Township Zoning Administrator when the inspection finds that the WES complies with the requirements of this Section, all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions.
- (7) Decommissioning and Removal Required. The applicant shall certify and provide the Township with written assurance that the WES shall not be abandoned in place and shall be removed within one (1) year of decommissioning.

SECTION 26.04 WIND ENERGY SYSTEMS WHICH REQUIRE A SPECIAL LAND USE PERMIT. A WES including any structure mounted WES and any temporary wind turbine test tower which is greater than 65 feet in height may be allowed as a special land use in any zoning district provided that the lot, parcel or "cooperative WES site" contains at least 1 acre of total land area and a shape capable of encompassing within its boundaries a circle with a minimum diameter of 135 feet. Any WES eligible for special use consideration shall be further subject to the following regulations, the requirements of Section 26.05 and the procedures and general standards for special land uses contained in Chapter 17 of this Zoning Ordinance:

- (a) Site Plan Requirements. Applications for a WES special land use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information unless such information is in whole or in part deemed unnecessary by the reviewing authority based on the conditions peculiar to the specific property involved:
- (1) A legal survey showing the location and dimensions of the area owned, purchased, leased and/or dedicated by easement which is to contain the WES.
 - (2) Existing property features to include the following: land use, zoning district, contours, setback lines, right-of-ways, public and utility easements, public roads, access roads (including width), sidewalks, non-motorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within three hundred (300) feet of the property.
 - (3) Location and height of all proposed WES structures, buildings, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition and maintenance plans), electrical substations, and other above-ground structures and utilities associated with the proposed WES.
 - (4) Additional details and information as required by the Special Use requirements of the Zoning Ordinance or as requested by the Planning Commission.
- (b) Height. The height of a WES for which a Special Use is required shall be determined by compliance with the requirements of this Section .
- (1) Setbacks.
 - a. The setback for the base of a WES tower from any adjacent residentially zoned or used lot or parcel shall be at least equal to the height of the WES. Any other part of a WES, including guy wire anchors, shall not be located within the minimum front, side, or rear yard area for principal buildings as required for the zoning district in which the WES is located.
 - b. The setback of the WES from any existing or proposed street right-of-way or other publicly traveled road or pedestrian way shall be no less than seventy five (75) percent of the height of the WES.
 - c. The setback for a WES from any adjacent lot or parcel zoned or used for business or industrial purposes shall be the greater distance of either fifteen (15) feet or the required front, side or rear yard setback for principal buildings as required for the zoning district in which the WES is located. In addition, there shall be signed analysis and certification by a state licensed professional engineer describing the manner in which the WES structure will fall or fail. The certified analysis will be utilized, along with other applicable zoning regulations, in determining the appropriate setback to be required for the WES.
 - (4) Rotor or Blade Clearance. Blade arcs created by a tower mounted WES shall have a minimum of 30 feet of clearance over and from any structure, adjoining property or tree.

- (5) **Lighting.** A WES shall provide lighting as may be required by the FAA.
- (6) **Maintenance Program Required.** The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a maintenance schedule of types of maintenance tasks to be performed.
- (7) **Decommissioning Plan Required.** The applicant shall provide a written description of the anticipated life of the system and facility; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the become obsolete or abandoned.
- (8) **Siting Standards and Visual Impact.**
 - a. A WES shall be designed and placed in such a manner to minimize adverse visual and noise impacts on neighboring areas.
 - b. A WES project with more than one WES structure or tower shall utilize similar design, size, color, operation, and appearance throughout the project as is practicable.
- (9) **Insurance.** The WES operator shall maintain a current insurance policy which will cover installation and operation of the WES. The amount of the policy shall be a condition of approval.
- (10) **Performance Guarantee.** If a Special Use is approved pursuant to this section, The Township may require a security in the form of a cash deposit, surety bond, or irrevocable letter of credit in a form, amount, time duration and with a financial institution deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval.
- (11) **Operating permit required.** Prior to commencement of operations the applicant shall submit to the Township an application to commence WES operations. Included in the operating permit application shall be as built land survey documentation showing the exact location of all WES towers and appurtenances, the depths and locations of all underground electric lines and all applicable easements and property lines. A permit to operate a WES shall be issued after an inspection of the WES by the Township or an authorized agent of the Township, and where the inspection finds full compliance with this section and any conditions of special use approval, all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions.

SECTION 26.05 STANDARDS FOR ALL WIND ENERGY SYSTEMS. All WES shall comply with the following:

(a) Sound Pressure Level.

- (1) On Site Wind Energy systems shall not exceed 45 dB (A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term

events such as severe wind storms. If the ambient sound pressure level exceeds 45 dB (A), the standard shall be ambient dB (A) plus 5 dB (A).

- (2) Utility Grid Systems and Wind Farms shall be subject to the requirements of above but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all property used for the Utility Grid System. In addition, the applicant shall provide modeling and analysis that will demonstrate that the Utility Grid System or Wind Farm will not exceed the maximum permitted sound pressure.
- (b) Construction Codes and Interconnection Standards.
- (1) All applicable state construction and electrical codes and local building permit requirements.
 - (2) Federal Aviation Administration requirements.
 - (3) The Michigan Airport Zoning Act, Public Act 23 of 1950, as amended.
 - (4) The Michigan Tall Structures Act, Public Act 259 of 1959, as amended.
 - (5) The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.
- (c) Safety.
- (1) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds or must otherwise be designed so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
 - (2) To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the Township:
 - a. A locked anti-climb device shall be installed and maintained.
 - c. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire fence.
 - (3) All WES shall have lightning protection.
 - (4) If a tower is supported by guy wires, the wires shall be clearly visible to height of at least 10 feet above the guy wire anchors
- (d) Signs
- (1) Each WES shall have one sign not to exceed two square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include the following information:
 - a. The words “Warning: High Voltage”.
 - b. Emergency phone numbers.
 - (2) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer and/or owner’s identification.

- (e) Electromagnetic Interference. WES shall be designed, constructed and operated so as not to cause radio and television interference.
- (f) Maintenance. WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
- (g) Electrical Distribution Lines. All distribution lines from the WES shall be located underground, both on the property where the WES will be located and off-site. The Township may waive this requirement for Utility Grid Wind Energy Systems if the Planning Commission determines that installation or maintenance of distribution lines underground would be impractical or unreasonably expensive.
- (h) A WES, except for building mounted WES, may be located on a lawful parcel or parcels, which do not have frontage on a public or private road.

CHAPTER 27

EARTH REMOVAL, SAND AND GRAVEL MINING AND RELATED PROCESSING OPERATIONS

SECTION 27.01 EARTH REMOVAL, SAND AND GRAVEL MINING AND RELATED PROCESSING OR RECYCLING OPERATIONS. Prior to the approval by the Planning Commission of a special use permit for earth removal, quarrying, sand or gravel processing and related mineral recycling or extraction businesses in any area of the Township, the commission must be satisfied that the following conditions and limitation are, or shall be, strictly complied with. In addition all other requirements contained in the Township zoning ordinance or in any other Township ordinance controlling such operation shall be complied with.

SECTION 27.02 EXEMPTIONS AND PARTIAL WAIVERS. These provisions do not apply to construction, grading or excavation operations that do not involve the removal of material from a site.

These provisions to not apply to earth removal or mining operations (where material is carried off site) that are conducted by land owners for the purposes of preparing their land for cultivation, drainage projects or in preparation of building sites, provided that:

- (a) No area is created which fills with water, unless it is a farm watering pond, drainage project or private recreational pond with bank gradients of no more than one (1) foot vertical to three (3) feet horizontal.
- (b) Operations are not commercial in nature and do not involve on-site processing such as crushing, washing or grinding.
- (c) The area of the mining and removal operation limited to a maximum of approximately one (1) acre in size or in the case of field grading, drainage projects or building site development, to an area roughly equivalent in size to the cultivated area, drainage project or development site and is therefore considered minor in size and scope.
- (d) The duration of operation is limited to a continuous twelve (12) month period of time.
- (e) The reclamation requirements of Section 27.11 shall still apply.

Any operation found to exceed the above limits will be considered in violation of this ordinance and will be required to receive a special use permit under this Chapter and Chapter 17

SECTION 27.03 LOCATION AND ACCESS. No earth removal, mining or processing/recycling operation shall be permitted within areas predominated by existing residential development unless it is first shown by evidence and facts presented by the applicant and confirmed by the Planning Commission that severe negative consequences to the resident's health, safety and welfare from the impacts of noise, dust, vibration, traffic and adverse hydrologic or geologic conditions created by the operation will be avoided.

- (a) When possible, the driveway or haul road used to obtain ingress and egress access to the operation shall be situated on a primary road, as defined by the Allegan County Road Commission, or on a road which already carries measurable amounts of commercial truck or agricultural related traffic. The Planning Commission may require the applicant/operator to construct and/or improve a private road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic away from residences or residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
- (b) The first three hundred (300) feet of road or drive used to access the site from the public right of way shall be paved with a hard surface paving material and maintained in a dust controlled condition.

SECTION 27.04 SETBACKS. In accordance with the following provisions, sufficient setbacks shall be provided from all property lines and public highways to assure adequate isolation, screening and lateral support for adjacent property.

- (a) No excavation operation shall be permitted closer than one hundred (100) feet to interior boundary lines of the property except that the Planning Commission may allow a reduction or eliminate a setback if the excavation is limited to the stripping of top soil and /or if no practical benefit to the adjoining property is achieved by maintaining the setback. All setback reductions must be in accordance with an operation and reclamation plan approved by the Commission and adequate screening and lateral support shall be maintained at all times.
- (b) No excavation operation is permitted within one hundred (100) feet of an adjoining public right-of-way except for the lowering of land adjoining the rights-of-way to the grade level of the rights-of-way. For purposes of public safety and nuisance control the timing (phasing) of the clearing and/or lowering of the land adjacent to the right of way may be regulated by the Commission.
- (c) Materials screening, crushing and processing plants and all accessory structures shall be located a minimum of two hundred (200) feet from interior property lines and adjoining public rights-of-way. Where practicable, they shall be located at a lower level than the surrounding terrain to lessen visual and noise impact. Where practicable the foregoing shall also apply to stockpiling and loading areas and to the staging of transportation equipment.
- (d) No excavation operation shall be located within one hundred (100) feet of a natural stream, waterway or wetland. No mining operations shall interfere with the established flow of surface waters to the detriment or damage of adjoining public or private properties.

SECTION 27.05 SIGHT BARRIERS AND SCREENING. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions. Unless otherwise approved, site barriers shall consist of one or more of the following:

- (a) Earth berms constructed to a height of five (5) feet above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along interior property lines, as the case may be. Unless specifically authorized by the

Planning Commission, berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be contoured and capable of being planted with grass and mowed. If used as a base for the planting of trees, the composition and contours of the berms shall be shown to be capable of supporting hearty evergreen trees, without irrigation.

- (b) Plantings of at least two rows evergreen trees parallel to the boundaries of the property, of sufficient height and spacing to provide effective sight barriers at the time of planting. Plantings shall be watered and cared for to assure long term survival. Dead or diseased plantings shall be replaced as necessary to maintain the effectiveness of the screen.
- (c) Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than six (6) feet and maintained in good repair.

SECTION 27.06 NOISE AND VIBRATION

- (a) Noise and vibration shall be controlled to minimize their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls and planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
- (b) To further minimize the effects of noise and vibration, the hours of operation shall be controlled as indicated in Section 27.09

SECTION 27.07 DUST AND EMISSIONS.

- (a) Air pollution in the form of dust, dirt and vehicle emissions shall be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust, dirt or hydro-carbon emissions injurious or substantially annoying to the occupants of adjoining property.
- (b) Interior haul roads used in the operations shall at a minimum have their surface treated to minimize any such nuisance (Ref. Section 27.03). To further minimize the effects of dust and the tracking of material onto the public roadway, the Planning Commission may as applicable require the periodic application of water or chemical dust control agents on unpaved public street segments accessing the site and or the installation and use of a truck undercarriage wash facility prior to trucks exiting onto a paved public street.
- (c) Operations shall be curtailed during periods of sustained high winds or wind gusts that are capable of carrying visible dust plumes onto adjacent property that is adversely sensitive to dust pollution.

SECTION 27.08 SECURITY AND SAFETY

- (a) The perimeter of the mining site will be conspicuously and adequately posted with signs at not less than 100 unless otherwise increased by the Planning Commission foot increments. The signs shall indicate the danger or dangers of trespassing in the area.
- (b) Above the active face of the extraction area, including submerged areas and all un-reclaimed slopes exceeding 1 foot vertical to 1 feet horizontal an orange construction safety fence will be placed as a final caution and physical barrier to trespassers. This

fence shall be portable and shall be periodically relocated so to remain no closer than fifty feet and no further than 100 feet from the active pit and un-reclaimed slope area.

- (c) A lockable gate shall be maintained to guard the entrance the mining area.
- (d) In addition to safety fencing that is required in areas of active operation, the Planning Commission may for good cause shown, require the installation of a security fence completely around all or any portion of the operation. When required, the security fence shall at a minimum consist of a “farm type” rectangular grid pattern woven wire fence having a minimum height of four feet. The use of barbed or electrically charged wire is prohibited.

SECTION 27.09 HOURS OF OPERATION.

- (a) Unless otherwise restricted by the Planning Commission as a condition necessary to minimize the adverse effects of the operation, site access by large vehicles or equipment and the repair and servicing of equipment shall be limited to the daylight period between 6:30 a.m. and dusk, Monday through Friday and 7:00 a.m. and 12:00 noon on Saturday.
- (b) Unless otherwise restricted by the Planning Commission as a condition necessary to minimize the adverse effects of the operation, all mining operations, including extraction, processing, washing and internal stockpiling materials and all site grading and truck loading shall be limited to the hours of 7:00 a.m. through 6:00 p.m. Monday through Friday, and 6:30 a.m. and 1:00 p.m. on Saturday.
- (c) No activities on the property shall occur on Sunday with the exception of emergency repair activity required to facilitate the commencement of operations on the following Monday morning.
- (d) The limitation of operations on legal holidays shall be the same as the limitations applicable to Sundays.
- (e) If the site is to be open to outside operators and contractors, signs shall be posted which clearly depicts the hours of operation. The sign shall further state that no dumping is allowed and shall contain the name and telephone number of the operator. The contact shall be made available 24 hours a day seven days a week.
- (f) The operator shall post and otherwise inform truckers and equipment operators that violation of the hours of operation and speed limit or the operation of trucks and equipment in an unsafe manner or other manner that causes undue noise, dust or other nuisance, may be cause for revoking the privilege of utilizing the operation.

SECTION 27.10 SITE EXCAVATION STANDARDS All excavation shall be to a level that is either not less than 5 feet above the average summer level of the ground water or to a water-producing depth of not less than 5 feet below the average summer level of the ground in the excavation. Until final restoration is accomplished, mined areas not submerged shall be graded (or back-filled with non-noxious, non- hazardous, non-flammable and non-combustible solids) to insure that the excavated area shall not collect stagnant water and not permit the same to remain therein.

SECTION 27.11 SITE RECLAMATION STANDARDS

- (a) If the reclamation plan provides for a permanent water area, upon completion of any phase of reclamation where a permanent water area is provided excavations shall be made to a water depth of at least ten (10) feet below the low water mark, for at least eighty percent (80%) of the entire water area. The water area shall be tested for water quality for body contact by the County Health Department prior to continuation of reclamation.
- (b) The surface area of all land not to be permanently submerged under water shall be graded and back filled as necessary so as to reduce peaks and depressions, and to produce a gently rolling surface that will minimize erosion due to rainfall, and which will produce a natural appearance in relation to the property in the area of the subject property.
- (c) Slopes shall be graded toward permanent water areas, if any, and to the pit floor in an operation without permanent water areas. The area shall not be graded to the exterior area of the property so as to create the potential of flooding on adjoining properties and roads. In no event shall a reclaimed slope have a grade in excess of a minimum ratio of one (1) foot vertical to three (3) feet horizontal. For permanent water areas, for a distance for not less than ten (10) feet nor more than fifty (50) feet, the submerged slopes shall be graded from the water's edge at a grade not in excess of a minimum ratio of one (1) foot vertical to six (6) feet horizontal.
- (d) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of six (6) inches sufficient to support vegetation. Vegetation shall be reclaimed by the use of by appropriate seeding of perennial grasses and ground cover or planting of shrubs or trees in all parts of the reclaimed mining area not to be submerged under the water, or within twenty-five (25) feet of the shoreline of a permanent water area. Reclamation shall be implemented in a manner so as to prevent washout and erosion.
- (e) In the event that filling of a mined area is necessary to complete reclamation, the fill material shall not consist of /or contain any organic waste, hazardous waste, industrial waste, or sludge and sewage residues, whether or not compounded, mixed, combined, bound or contained within any other material through any chemical or physical process or a combination thereof, or in any other fashion, and, moreover, such fill material shall not contain any other material which will, or is likely to, impair or harm the air, water and natural resources, and public trust therein, and/or the public health and safety. Any solid waste regulated by Act 64 of the Public Acts of 1979 shall not be used for fill and/or reclamation material of a mined area.
- (f) Upon cessation of mining operations by abandonment or otherwise as determined by the Planning Commission, the operator, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (g) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation

shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one half acre or more unless part of a larger operation where the Planning Commission has specified the timing and sequencing of reclamation. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for one 12-month consecutive period shall constitute justification for the Planning Commission to evaluate the operation for the purpose of determining whether the operator has terminated mining activity.

- (h) A performance bond, irrevocable letter of credit or cash may be required to be furnished to the Township Clerk in an amount as determined by the Planning Commission. The performance guarantee shall be used to guarantee rehabilitation and reclamation of mining the operation. The Planning Commission shall base its decision on whether to require the posting of a bond, letter of credit or cash and the amount of bond, credit or cash to be posted, on the size and extent of the mining operation. Any financing guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the zoning inspector of the Township and the Township Planning Commission.

SECTION 27.12 SUBMISSION OF OPERATIONAL AND RECLAMATION PLANS

No earth removal, quarrying, gravel processing, mining and related mineral extraction operation shall be allowed or commenced until a plan has been submitted and approved showing the manner in which compliance with the requirements of this ordinance will be secured and maintained by the applicant. Such plans shall include, among other things, the following:

- (a) A contour map of the tract of land involved in the operations, including dimensions of the land, access to abutting public streets and whether or not the roads are "all weather" roads, and additional roads, if any, to be constructed, and the location and nature of the land uses and improvements on adjoining property. The contours, location and nature of abutting improvements shall extend 300 feet onto all adjoining property.
- (b) The number of acres and the location of the entire operation contemplated and all phases and sequences of the mining operation to be operated.
- (c) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
- (d) The location of principal processing equipment, if any and the distance of any proposed excavation, mining, stockpiling or processing from the boundaries of the site
- (e) Soil tests shall be made internally to the operation and around the perimeter of the excavation site. In the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site, said soil tests must disclose conditions satisfactory for lateral support of adjacent premises as determined by the an engineer acceptable to the Township.
- (f) A plan showing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and other features that may show the bona fide nature of

the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the mining activities.

SECTION 27.13 PUBLIC HEARING.

After receiving an application for the grant of a special use permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same manner preceded by the same notice as set forth in Section 31.01 of this Ordinance.

SECTION 27.14 REVIEW CRITERIA

Following the hearing, said Planning Commission shall grant or deny the application and set forth its reasons for its decision. The decision shall be based upon A general and balanced consideration of the following:

- (a) The most advantageous use of the property in question including plans to reclaim the land in manner that will be compatible the surrounding land and the Master Land Use plan for the township.
- (b) The character of the area in question and its peculiar suitability, if any, for particular uses.
- (c) Conservation of property values, and the general and appropriate trend and character of development in the immediate area.
- (d) The protection and preservation of the general health, safety and welfare of the township
- (e) The scarcity or value of the minerals sought to be mined as compared with the effect of the proposed operations upon the adjacent community.
- (f) Whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of the previous operations.

SECTION 27.15 DECISIONS AND PERMITS

- (a) In making any decision, the Planning Commission shall have the authority to impose such additional conditions and safeguards, as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners.
- (b) The Planning Commission shall review all permits annually and the Planning Commission may limit the length of time that the special use permit is to be effective. It shall be empowered to renew or extend a special use permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. As part of its annual review the Planning Commission shall consider the adequacy of any posted surety (letter of credit) for the operation and shall require that the amount is adjusted as necessary to ensure proper reclamation and closure.
- (c) In addition to annual review, the Planning Commission may provide for the periodic field inspections of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.

- (d) After expiration of any initial permit period, the Planning Commission may renew the permit for such additional time as may be necessary in the event the removal of material to the extent indicated in the approval operation plan is not completed. The process for extension shall be the same as outlined for the review and authorization of the initial Special Use Permit.
- (e) No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area.
- (f) No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial or renewal and not less than 30 days have elapsed to correct the said violation.
- (g) The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.
- (h) The Commission may upon request of the applicant, or on its own initiative, modify the requirements of this permit upon such findings of need and justification and upon a formal Special Use Permit amendment being made under the same procedures used for adopting the initial permit.

SECTION 27.16 LIABILITY INSURANCE. Liability Insurance shall be a pre-condition to commencement of operations, and maintenance in full force and effect of insurance shall be a pre-condition to the right to continue operations. The applicant shall provide binders for personal injury and property damage insurance for the project to be carried by an insurance company licensed to do business in the State of Michigan during all times which any reclamation is left to be done, and during all times any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed remain on the site, said insurance to contain a hold-harmless clause regarding liability of the Township during any reclamation phase.

SECTION 27.17 REVIEW PROCEDURES AND ADDITIONAL REQUIRED INFORMATION. Application for the issuance of a permit to operate a mining or soil removal operation under the standards of this Chapter shall be made under the provisions of this Chapter, and Chapter 17 Special Land Uses. While the site plan content requirements of Section 19.06 shall be relied upon as the minimum informational requirements for site plans required as part of the application, the plans shall be designed to specifically satisfy the informational needs outlined in Section 27.12 of this Chapter. In addition, unless specifically waived by the Planning Commission, the applicant shall provide the following support information and documentation prior to the Planning Commission reaching its decision.

- (a) Documentation of Type and Need for the Resource Material. The need for the material being excavated and/or processed shall be quantified and verified so that the Planning Commission can weigh the value of the material being made available against the potential negative impacts of the operation in the proposed location. The types of information shall include:
 - (1) A characterization of the expected service area of the mining operation.
 - (2) Soil borings and a narrative describing the type and quantity of material to be mined.

- (3) The location, ownership and size of existing mining operations that produce the same material within the same service area.
 - (4) Projections as to the volume of material that will be needed in the service area as compared to the volume available.
 - (5) A listing of known or existing “local” projects that will be in need of the material or 5 to 10 year projections based on past usage. If possible such estimates and projections should be supported by expert testimony or signed letters from third parties or published reports.
 - (6) Any expert or third party opinions as to the financial or other positive or negative impacts on the construction industry if the proposed operation is or is not allowed.
- (b) Existing and Projected Roadway Conditions and Traffic. A written and graphic characterization of the expected haul routes and the proposed access to the site. This shall include:
- (1) An identification of expected primary and secondary routes that truck traffic will use when traveling to and from the site.
 - (2) A characterization of the routes including:
 - a Types of surface.
 - b Number of lanes and typical roadway width.
 - c Typical roadway speeds or speed limits.
 - d Known or potential trouble spots for heavy truck traffic including street intersections, hills, and curves
 - e Number and location of homes, schools, bus stops, day care operations, churches and businesses along the routes within one mile of the operation.
 - (3) Existing traffic volumes along appropriate segments of the anticipated primary and secondary haul routes.
 - (4) Projected traffic increases by type and route.
 - (5) Characterization of projected truck traffic by size, type and weight of trucks and direction of travel, empty and full on average and extreme daily and average annual basis.
 - (6) Expert analysis and testimony in general as to the adequacy of the routes for truck traffic
 - (7) Identification of documented or potential problems such as, inadequate clear vision, roadway width, steep grades, surface condition, maintenance or land use and traffic conflicts
 - (8) Expert analysis and identification of potential solutions to identified or documented problems in the form of roadway improvement, extra maintenance, traffic control devices, use or speed limitations or combinations of the above
- (c) Characterization of the proposed operation and site access in relation to the public street and street right of way.

- (1) Indicate the proposed location of proposed access (driveway or driveways) and their width, type of surface and other design features such as surface, deceleration and acceleration tapers, culverts, etc.
- (2) Indicate minimum sight distances.
- (3) Accurately depict the roadway conditions and width within 500 feet of each access drive including right of way width, roadway elevation and roadway location within the right of way.
- (4) A written statement from the applicable highway officials as to whether the proposed access to the site will meet or exceed their standards and if extraction operations or other operations will be allowed to occur within the road right of way, if requested or proposed and under what types of limitations.

The above informational needs are in addition to the information required to address the evaluation of the proposal's on-site operational and reclamation components.

SECTION 27.18 APPLICABILITY TO EXISTING SITES AND OPERATIONS. A special use permit shall not be required for the continuation of an earth removal and mining operation already existing on the effective date of this ordinance, if it is determined that the operation has retained its legal non-conforming status in accordance with the provisions of Chapter 30. Such active, legal non-conforming operations, or portions thereof considered active, shall nonetheless be required to begin adhering to the operational and reclamation standards contained herein. The reactivation of inactive operations having lost their legal non-conforming status and all vertical, horizontal and processing expansions to existing active legal non-conforming operations shall require the issuance of a special use permit. No earth removal or mining site or portion thereof that has been inactive for a period of 12 months prior to the effective date of this ordinance shall be considered a legal non-conforming use.

CHAPTER 28

CONDITIONAL REZONING

SECTION 28.01 INTENT. It is recognized that there are certain instances where it could be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, when certain conditions are voluntarily proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

SECTION 28.02 APPLICATION AND OFFER OF CONDITIONS.

- (a) An owner of land may voluntarily offer conditions in writing relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- (b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- (c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (d) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- (e) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- (f) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- (g) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

SECTION 28.03 PLANNING COMMISSION REVIEW. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Chapter 33 of this Ordinance, may recommend approval, approval with recommended changes or denial of the

rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

SECTION 28.04 TOWNSHIP BOARD REVIEW. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Chapter 28 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may, in accordance with Section 401 of the Zoning Enabling Act, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and/or otherwise proceed in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

SECTION 28.05 APPROVAL.

- (a) If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written "Statement of Conditions" acceptable to the owner and conforming in form to the provisions of this Section. The "Statement of Conditions" shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- (b) The Statement of Conditions shall:
 - (1) Be in a form recordable with the Allegan County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - (2) Contain a legal description of the land to which it pertains.
 - (3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - (4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - (5) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the Township with the Allegan County Register of Deeds.
 - (6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- (c) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

- (d) The approved Statement of Conditions or an affidavit or memorandum giving notice thereof shall be filed by the Township and with the Allegan County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- (e) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

SECTION 28.06 COMPLIANCE WITH CONDITIONS.

- (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- (b) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

SECTION 28.07 TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning takes effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

SECTION 28.08 REVERSION OF ZONING. If the approved development and/or use of the rezoned land does not occur within the time frame specified under Section 28.07 above, then the land shall revert to its former zoning classification as set forth in Section 405 of the Zoning Enabling Act, as amended. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

SECTION 28.09 SUBSEQUENT REZONING OF LAND.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 28.08 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall

cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Allegan County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

SECTION 28.10 AMENDMENT OF CONDITIONS. During the time period for commencement of an approved development or use specified pursuant to Section 28.07 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.

The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

SECTION 28.11 TOWNSHIP RIGHT TO REZONE. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, as amended.

SECTION 28.12 FAILURE TO OFFER CONDITIONS. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Eff. 12-28-11

CHAPTER 29 RESERVED FOR FUTURE USE

CHAPTER 30

NONCONFORMING USES, BUILDINGS OR STRUCTURES

SECTION 30.01 INTENT AND PURPOSE. The intent and purpose of this chapter is to provide regulations concerning land uses, buildings and structures which were lawful prior to the adoption of this Ordinance, or prior to any relevant amendment thereof. Under the terms of this chapter, land uses, buildings and structures which were lawful at the time of the adoption of this Ordinance or of any amendment thereto, may continue, even though such land use, building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

SECTION 30.02 CONTINUANCE OF NONCONFORMING USES,

- (a) Except where specifically provided to the contrary, and subject to the provisions of this Chapter, the lawful use of any building or structure or of any land or premises, lot or parcel which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto and is otherwise lawful.
- (b) A nonconforming use shall not be enlarged, expanded or increased so as to increase or enlarge the nature or extent of the nonconformity, unless the continuance, expansion, enlargement or reestablishment of the use is permitted in accordance with this Section and Sections 30.03, 30.04 and 30.05 of this Chapter, as applicable.
- (c) A nonconforming use shall not be changed to another nonconforming use, except that the Planning Commission, may approve a special use permit to change to another nonconforming use, if the Planning Commission determines that the proposed other nonconforming use will be more conforming than the nonconforming use then existing. In granting a Special Use Permit for such use, the Planning Commission may impose reasonable terms and conditions on the proposed use.
- (d) If the nonconforming use of any land or structure shall terminate for a continuous period of any time exceeding one year, such use shall not be re-established and any future use of the land and structure shall be in conformity with this ordinance.
- (e) If a nonconforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a nonconforming less restrictive use.
- (f) Nothing in this ordinance shall require any change in the erection or intended legal use of any building, the construction of which shall have been diligently prosecuted with 30 days preceding the passage of this ordinance and which is complete within three months following passage; provided, a written declaration of such use is filed with the township clerk or zoning administrator thirty days from the effective date of this ordinance.

SECTION 30.03 CONTINUANCE AND EXPANSION OF NONCONFORMING BUILDINGS OR STRUCTURES.

- (a) Continuance. Except where specifically provided to the contrary and subject to the provisions of this Chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendments, may be continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.
- (b) Restoration and Maintenance. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made, but it shall not be structurally altered to permit the use of such building or structure beyond its natural life.
- (c) Expansion. Structure or buildings nonconforming by reason of height, area and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled or modernized provided:
 - (1) There is compliance with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization; and
 - (2) The Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming portion of the building or structure.

Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.

- (d) Re-construction after change. Unless damaged by fire, wind, act of God, or public enemy a nonconforming building or structure or portion thereof shall not be re-established after it has been changed to a conforming or more conforming building or structure.
- (e) Re-construction after damage or destruction. In the event any nonconforming building or structure is damaged by fire, wind, act of God, or public enemy, it may be rebuilt or restored if the cost thereof does not exceed one half of the value of the nonconforming building or structure after the rebuilding or restoration is completed; provided, however, that the Planning Commission may approve the re-establishment of such nonconforming building or structure damaged beyond fifty (50) percent of replacement cost, as a special land use but only to the extent necessary to provide a reasonable use of the building or structure. In considering the approval of any such re-establishment of a nonconforming building or structure, the Planning Commission may impose reasonable terms and conditions.

SECTION 30.04 NONCONFORMING SINGLE FAMILY RESIDENTIAL STRUCTURES AND USES WITHIN THE C-1 and I-1 DISTRICTS. Single family residential structures located on lots within the C-1 General Business and I-1 Industrial Districts which were established as of the effective date of this Ordinance shall remain eligible for use as a single family dwelling subject to the following provisions:

- (a) Additions to or the repair or reconstruction of such structures and accessory buildings shall be governed by the height and area regulations pertaining to principal and accessory residential buildings located in the R-2 district.

- (b) Any non-conforming single family dwelling or attached residential accessory building located on any lot or parcel located within the C-1 or I-1 District as of the effective date of this section which is destroyed or damage by fire, wind, act of God or the public enemy, must within a period not to exceed twenty four (24) months after the date of the event causing the damage or destruction, be repaired or rebuilt and the residential use re-established.

SECTION 30.05 EXPANSION OF COMMERCIAL AND INDUSTRIAL NON-CONFORMING USES WITHIN THE C-1 and I-1 DISTRICTS. The use of any land or premises or building or structure thereon which is not a single family residential in nature but is otherwise classified as legally nonconforming for reasons of its' use, shall hereafter only be extended or enlarged if such extensions or enlargement is authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall at a minimum consider the following:

- (a) Whether the expansion will substantially extend the probable duration of such non-conforming use and the implications and consequences of such extended duration on the district and the adjacent land uses, if any.
- (b) The "General Discretionary Standards" applicable to all special land uses outlined in Section 17.03

If authorized, no expansion or enlargements or the aggregation of expansions or enlargements may exceed fifty (50) percent of the area of the original nonconforming use. All structural and parking and loading expansions or enlargements must comply with the height, area and site development standards applicable to the underlying zoning district or to the applicable height, area and site development standards of district or districts in which the non-conforming use is otherwise permitted, whichever are the more stringent requirements (ref. Sec. 30.03(c)).