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CHAPTER 1

TITLE

SECTION 1.01 TITLE. This Ordinance shall be known and may be cited as the "Salem Township Zoning Ordinance."

CHAPTER 2

PURPOSE, SCOPE AND LEGAL BASIS

SECTION 2.01 PURPOSE. This Ordinance is based upon the Salem Township Master Plan and is designed (1) to promote the public health, safety, morals and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to avoid the overcrowding of population; (4) to provide adequate light and air; (5) to lessen congestion on the public roads and streets; (6) to reduce hazards to life and property; (7) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and (8) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 2.02 SCOPE AND INTERPRETATION. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants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 adopted pursuant to the terms of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as it may be amended from time to time. (*Amended 05-08*)

CHAPTER 3

DEFINITIONS

SECTION 3.01 RULES APPLYING TO TEXT. The following listed rules of construction apply to the text of this Ordinance:

- (a) The particular shall control the general.
- (b) The headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- (e) A "building" or "structure" includes any part thereof.
- (f) The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- (g) The words "used" or "occupied", as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used", or "occupied".
- (h) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

SECTION 3.02 GENERAL DEFINITIONS. The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

ACCESS MANAGEMENT (ACCESS CONTROL). A technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access. Methods used include construction of frontage roads, service drives, and shared driveways, as well as medians or islands to restrict ingress and/or egress. (*Amended 7/28/93*)

ACCESSORY USE, BUILDING OR STRUCTURE. A use, building or structure which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to and located on the same lot as the principal use to which it is related. (*Amended 7/28/93*)

AGRICULTURE. The production, keeping, or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any hybrids thereof, including their breeding and grazing; bees and apiary products; fur animals; trees and forest products; fruits, including grapes, nuts, and berries; vegetables; nursery, floral, ornamental, and greenhouse products; aqua-culture; or lands devoted to a soil conservation or forestry management program. (*Amended 12-15-98*)

ALTERATIONS, STRUCTURAL. Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building. (Amended 7/28/93)

ANTENNA. Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communication signals.

ARCADE. Any place, premises, establishment or room set aside in a retail or commercial establishment in which are located for public use five or more coin operated amusement devices. This definition does not apply to coin operated amusement devices owned or leased to a private club, religious or fraternal organization which is not open to the public. (Amended 7/28/93)

ARTERIAL STREET. Defined by the Michigan Department of Transportation as streets where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function (i.e. limited). (Amended 7/28/93)

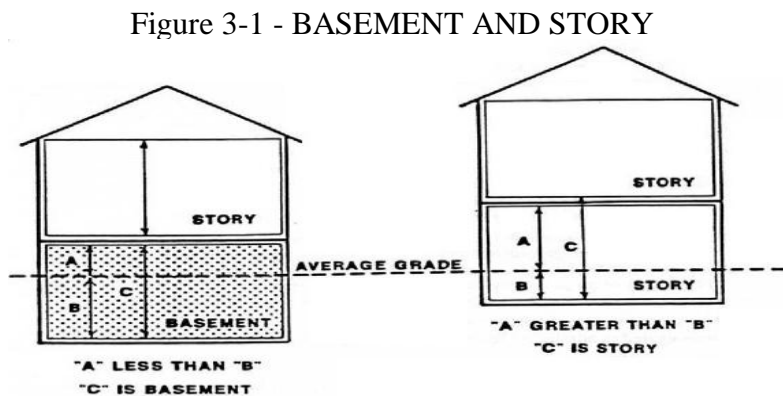
AUTOMOBILE REPAIR - MAJOR. General repair, rebuilding, or reconditioning of engines, or vehicles, collision service (including body repair and frame straightening), painting or upholstering; or vehicle steam cleaning and undercoating.

AUTOMOBILE REPAIR - MINOR. Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity; provided, however, there is excluded any repair or work included in the definition of "Automobile Repair-Major".

AUTOMOBILE SERVICE STATION. Buildings and premises for the primary purpose of the retail sales of gasoline, oil, grease, batteries, tires, and other operational fluids and accessories for the automobile, and the installation of such commodities, and for other minor automobile repair not to include auto refinishing, body work, dismantling of automobiles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair or service. (Amended 7/28/93)

BASE FLOOD. A flood having a one percent chance of being equaled or exceeded in any given year. This flood is also referred to as the 100 year flood. (Amended 7/28/93)

BASEMENT. (See Figure 3-1). That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. (Amended 7/28/94).



BED AND BREAKFAST ESTABLISHMENT. A private residence that offers sleeping accommodations to lodgers in fourteen (14) or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers; and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than thirty (30) consecutive days. (Amended 5/10/94)

BERM. A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes. (Amended 7/28/93)

BILLBOARDS AND SIGNS (See Signs)

BLUFF. The top of a steep bank rising from the ordinary high water mark on a lot or parcel. (Amended 2-08)

BUFFER STRIP. A strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing to serve as a visual barrier. (Amended 7/28/93)

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing or enclosing persons, animals or personal property, or carrying on business activities. This definition includes: mobile homes, tents, sheds, garages, greenhouses and other accessory structures. (Amended 7/28/93)

BUILDING ENVELOPE. The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built. A "Building Envelope" can also be a condominium structure. (Amended 7/28/93)

BUILDING HEIGHT. (See Figure 3-2). In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip and gambrel roofs. The height of an accessory building shall be determined as the distance between the peak and the ground floor of the accessory building. (Amended 7/28/93)

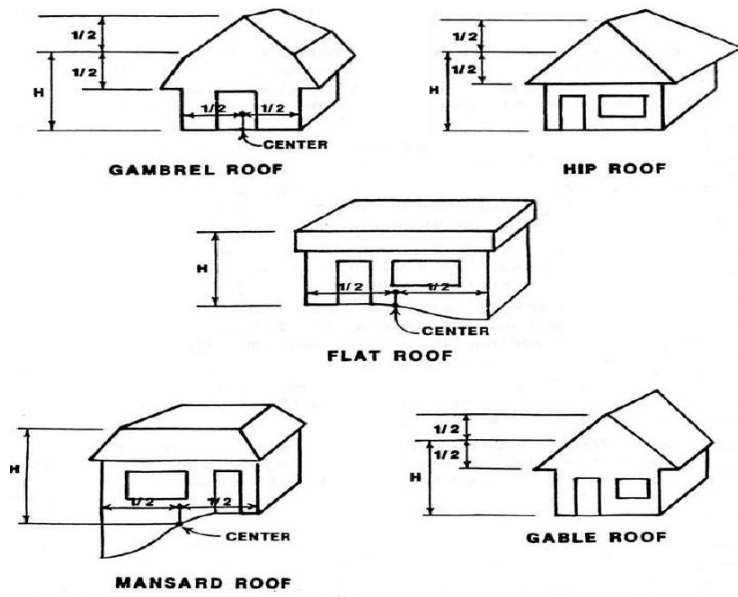
BUILDING INSPECTOR OR BUILDING OFFICIAL. An individual appointed by the Township Board delegated to administer the Salem Township Building Code Ordinance. (Amended 7/28/93)

BUILDING SETBACK LINE. A line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building, deck or porch shall be located from a property line, existing street right-of-way, easement line of an approved private street, or ordinary high water mark. Steps may be located within the building setback line. (Ref. Setback) (Amended 7/28/93)

BUILDING SITE (See Figure 3-3). In the context of a site condominium project, Building Site is the functional equivalent of a "lot" and is that portion (s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the project's Master Deed. Building Site shall be further defined as:

- a. A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by the Salem Township Zoning Ordinance as amended; or
- b. The contiguous limited common element under and surrounding a condominium unit or units that is or shall be assigned to the owner(s) of the condominium unit(s) for the owner(s) exclusive use and which, together with the condominium unit or building envelope meets the minimum area and yard requirements for lots as required by the Salem Township Zoning Ordinance as amended. (Amended 7/28/93)

FIGURE 3-2



CHILD CARE CENTER. A facility, other than a private residence, receiving one (1) or more children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. Child care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than three (3) hours, while persons responsible for the children are attending religious services. (Amended 7/28/93)

CHURCH OR SYNAGOGUE. A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses, such as Vacation Bible School, instruction, counseling, recreation, social events, and periodic humanitarian activities. (Amended 7/28/93)

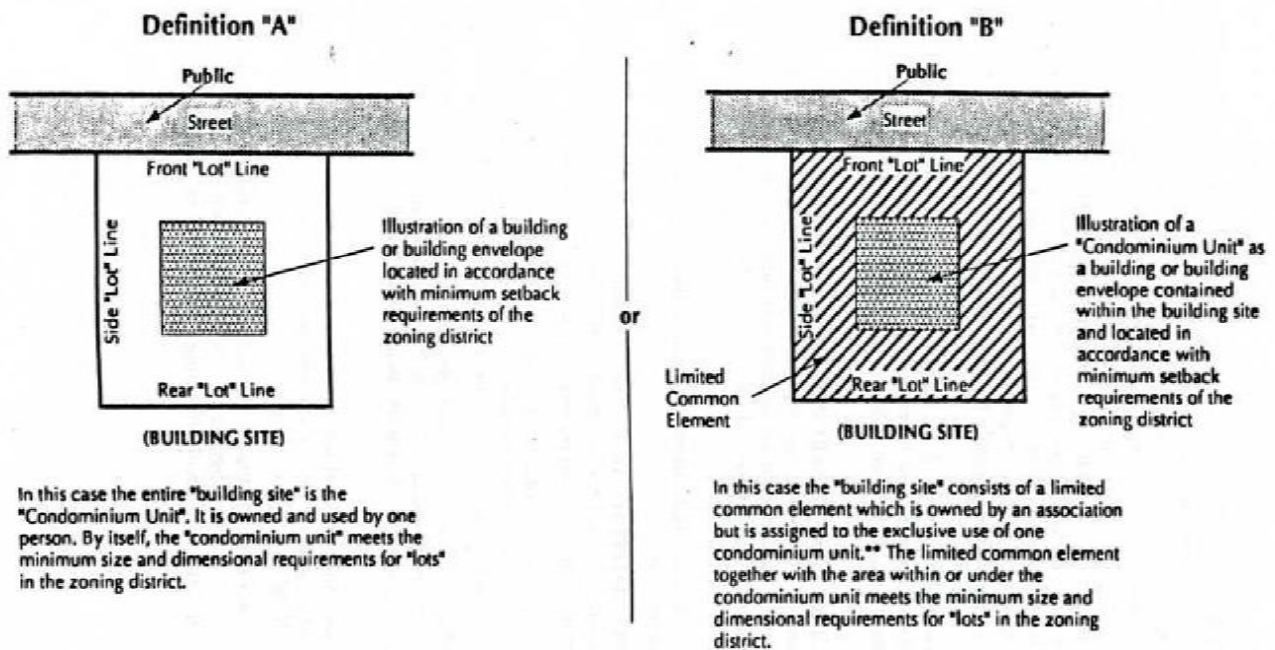
COMMERCIAL RECREATION ESTABLISHMENTS. A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary

recreational activities either indoors (within an enclosed building) or outdoors (outside of an enclosed building) operated as a business and open for use by the public for a fee. (Amended 7/28/93)

CO-LOCATION. The use of a single support structure, building and/or site by more than one wireless communication provider.

COMMON ELEMENT, LIMITED. An area which is appurtenant to a condominium unit and which is reserved in the master deed for the condominium project for the exclusive use of less than all of the owners of the condominium project. (Amended 7/28/93)

FIGURE 3-3 - EXAMPLES OF SINGLE FAMILY* "SITE CONDOMINIUM BUILDING SITES"



A site condominium building site or "lot" may encompass more than one building envelope and the use interest of the building site or lot may be shared between multiple buildings if the provisions of the zoning district in which the project is located provides for more than one principal use building on one lot. Examples include duplex and group housing structures as allowed in the multifamily residential districts. In such cases, each building envelope must be located in accordance with minimum building setback requirements of the zoning district.

* A portion of a limited common element that is contained in one building site and assigned for the shared use by an adjacent building site may be included in calculating minimum building site (lot) areas for one building site if the limited common element is dedicated on the master deed for the purposes of supporting: 1) A driveway used in common by no more than two condominium units; or 2) Underground utilities used in common by two or more condominium units.

COMMON LAND. A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and or occupants of individual building units in a subdivision or other planned development. (Amended 7/28/93)

COMMON OPEN SPACE. An unoccupied area within a development which is reserved primarily for the leisure and recreational use of all the planned unit development residents and generally owned and maintained in common by them, often through a homeowners association. (Amended 7/28/93)

COMPOSTING. The decomposition of organic materials, leaves, grass clippings, twigs, wood chips, and other vegetative matter into a humus-like substance which is useful as a soil conditioner. (Amended 7/28/93)

COMPREHENSIVE PLAN (Master Plan). A document containing the future development policies and map for Salem Township, together with supporting documentation, as most recently adopted or amended by the Salem Township Planning Commission pursuant to Act 168 of 1959, as amended. (Amended 7/28/93)

CONDOMINIUM PROJECT. Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978). (Amended 7/28/93)

CONDOMINIUM STRUCTURE. The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g., in a residential development, the condominium structure would refer to the house and any attached garage. A "Condominium Structure" can also be a "Building Envelope". (Amended 7/28/93)

CONDOMINIUM SUBDIVISION (SITE CONDOMINIUM). A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended. (Amended 7/28/93)

CONDOMINIUM SUBDIVISION PLAN. The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements. (Amended 7/28/93)

CONDOMINIUM UNIT. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. The term "condominium unit" may, in certain instances, be equivalent to the term "lot", for purposes of determining compliance of a condominium subdivision with provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio. (ref. Building Site). (Amended 7/28/93)

CONGREGATE HOUSING. A dwelling unit providing shelter and services for the elderly which may include meals, housekeeping and personal care assistance. Such a facility offers residents a semi-independent lifestyle, but does not provide the intensive personal care such as dispensing of medication and round the clock nursing care of a nursing home. (Amended 7/28/93)

DECELERATION LANE. An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning. (Amended 7/28/93)

DENSITY. The number of dwelling units situated on or to be developed per net or gross acre of land. (Amended 7/28/93)

DEVELOPMENT. Any manmade change to improved or unimproved real estate for any purpose, including but not limited to construction of buildings or other structures, mining, dredging, filling, paving or excavation (Amended 2-08)

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks or other uses. (Amended 7/28/93)

DRIVE-THROUGH RESTAURANT. A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating. (Amended 7/28/93)

DWELLING, MULTIPLE-FAMILY. A building designed exclusively for, and containing three (3) or more dwelling units. (Amended 7/28/93)

DWELLING, SINGLE-FAMILY. A detached building designed exclusively for, and containing one (1) dwelling unit only. (Amended 7/28/93)

DWELLING, TWO-FAMILY. A detached building designed exclusively for, and containing two (2) dwelling units only. (Amended 7/28/93)

DWELLING UNIT. A building, or enclosed portion thereof, designed for occupancy by one (1) family for residential purposes and having independent living, eating, sleeping, cooking, and sanitary facilities. A dwelling unit shall include both manufactured units (mobile homes and modular homes) and site built units. (Amended 7/28/93)

EARTH CHANGE. an artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

EASEMENT. A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity. (Amended 7/28/93)

ESSENTIAL PUBLIC SERVICES/PUBLIC UTILITIES. The erection, construction, alteration, or maintenance of utility systems whether underground, surface, or overhead. These systems include storm and sanitary sewer, water, electric, gas, telephone (including cellular) and cable television facilities and their required accessory facilities. (Amended 7/28/93)

FAMILY. An individual or a group of two or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than two additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit. (Amended 7/28/93)

FAMILY DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. (Amended 7/28/93)

FAMILY, FUNCTIONAL. A group of persons which does not meet the definition of "Family" herein, living in a dwelling unit as a single housekeeping unit and intended to live together as a group for the indefinite future. This definition shall not include any fraternity, sorority, club,

hotel, or other group of persons whose association is temporary or commercial in nature. (Amended 7/28/93)

Farm. A farm is a form of business enterprise intended for the production of raw agricultural products in which the entrepreneurial decisions (what shall we produce, how shall we produce it, for whom and for how much) are made by a family or other persons or entity engaged in the production of agricultural products, as described herein, for profit, and which provides a major source of income and capital for re-investment. A farm is further defined as all the contiguous, neighboring or associated land, along with the plants, animals, structures, ponds, machinery, equipment and other appurtenances which when taken collectively, functions as a single unit, for the commercial production of agricultural products. Stone quarries, gravel and sand pits, sawmills, retail sales, livestock auction houses, and meat and dairy processing plants are not considered farms or farm uses hereunder. (Amended 12-15-98)

FARMHOUSE. A dwelling unit currently or historically associated with a farm operation. (Amended 12-06)

FARMSTEAD. A farmhouse with the adjoining farm related buildings and land around it, or a portion of a former farm operation consisting of a farmhouse with the adjoining farm related buildings and land around it including barns, commodity sheds, machine sheds, silos, livestock buildings, cribs and similar out-buildings. (Amended 12-06)

FARM PARCEL OR TRACT. A parcel of substantially undeveloped land or tillable land which may or may not be used for, or in support of, commercial or non-commercial agricultural production and which contains a minimum of 20 acres. A parcel containing less than twenty acres of land may be termed a farm parcel if it includes such facilities as greenhouses, nurseries, orchards, apiaries, pens, ponds, stables or stanchions in support of commercial agriculture. (Amended 12-15-98)

FARM OPERATION. A condition or activity which occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, marketed produce at roadside stands or farm markets, noise odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial spraying and seeding, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides and the employment of and use of labor. (Amended 12-15-98)

Farm / AGRICULTURAL Products. Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber, fur or flora (Amended 12-15-98)

NON-FARM. A parcel or tract of land, or a structure, building, dwelling or other use which is not intended for farm related purposes or which does not meet the definition of farm as defined herein. (Amended 12-15-98)

FARM LABOR HOUSING. A tract of land, mobile homes, buildings, and other structures pertaining thereto which is established, occupied, or used as living quarters for migratory workers engaged in agricultural activities, including related food processing. (Amended 7/28/93)

FILTERED VIEW. The maintenance or establishment of woody vegetation of sufficient density to screen development from the riparian feature, to provide for bank stabilization and erosion control, to serve as an aid to infiltration of surface runoff and to provide cover to shade the water in a manner which still allows a partial view to the water feature. *(Amended 2-08)*

FLOOR AREA, GROSS. The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, court yards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise. *(Amended 7/28/93)*

FLOOR AREA, USABLE. For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors. *(Amended 7/28/93)*

FORESTRY OR NATURAL RESOURCES PROFESSIONAL. A person certified by the Society of American Foresters and/or licensed by the State of Michigan and or otherwise recognized by the State of Michigan who is by reason of his or her knowledge of the natural sciences, mathematics and principles of forestry and natural sciences, acquired by education and practical experience is qualified to engage in the practice of forestry. *(Amended 2-08)*

FOSTER CARE FACILITY. An establishment which provides supervision, assistance, protection or personal care, in addition to room and board, to persons. A foster care facility is other than a home for the aged or nursing home, licensed under Act No. 139 of the Public Acts of 1956, as amended, or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended. *(Amended 7/28/93)*

(a) Family Home - A facility which provides foster care to six (6) or fewer persons.

(b) Group Home - A facility which provides foster care to seven (7) or more persons.

GRADE, AVERAGE. (See Figure 3-4). The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

GRADE, FINISHED. The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure. *(Amended 7/28/93)*

GROSS SITE AREA. The total area of a development site including flood plains, wetlands, water bodies, and rights-of-way. *(Amended 7/28/93)*

GROUP DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty four (24) hour a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. *(Amended 7/28/93)*

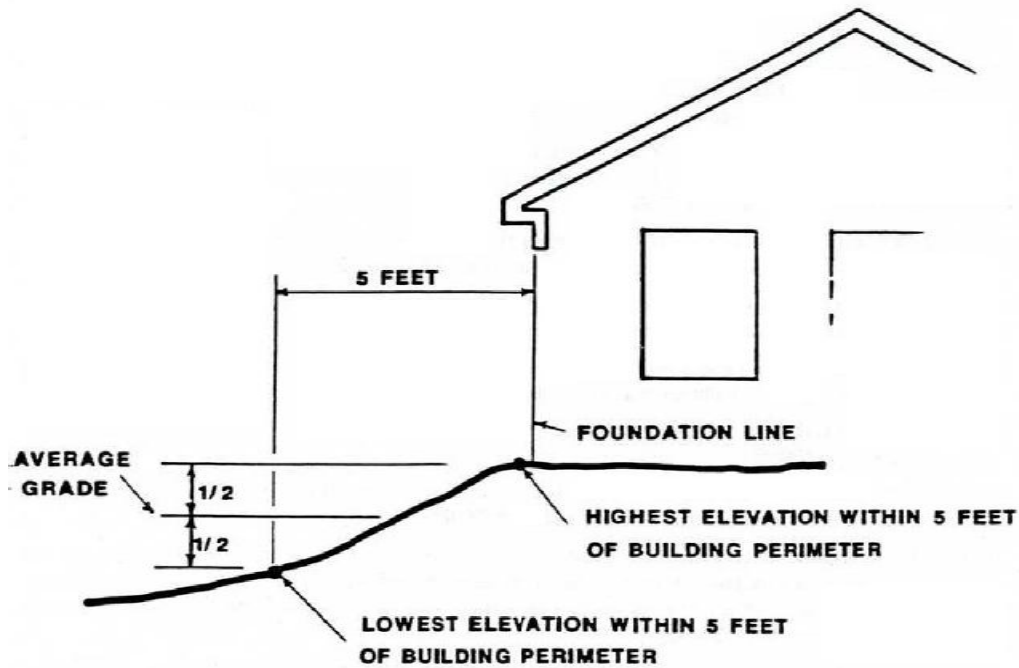


FIGURE 3-4

Average Grade

HEIGHT, TOWER. The distance measured from the finished grade of the parcel of land to the highest point on the tower or other structure, including the base pad and any antenna.

HOME OCCUPATION. A gainful occupation traditionally or customarily carried out in the home or on residential property as a use incidental to the use of the home and premises as a place of residence. (Amended 12-06)

HOTEL. A series of attached, semi-detached, or detached rental units which provide lodging on a temporary basis, and are offered to the public for compensation. The term "hotel" shall include tourist cabins and homes, motor courts, and motels. A hotel shall not be considered or construed to be a multiple-family dwelling. (Amended 7/28/93)

INTENSIVE LIVESTOCK OPERATION. An agricultural activity entailing the confined feeding and/or production of livestock and involving 300 or more animal units or the following:

- a) 300 or more horses, cattle or bison at a density of 4 or more animals per acre.

- b) 1,200 or more swine, goats or sheep at a density of 20 or more swine or 10 or more sheep or goats per acre.
- c) 37,500 or more rodents, fowl or poultry.

One animal unit shall equal 1,000 pounds of live animal weight for the purposes of classifying animals not specifically referenced above. (Amended 7/28/93)

JUNKYARD. A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles, used building steel materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

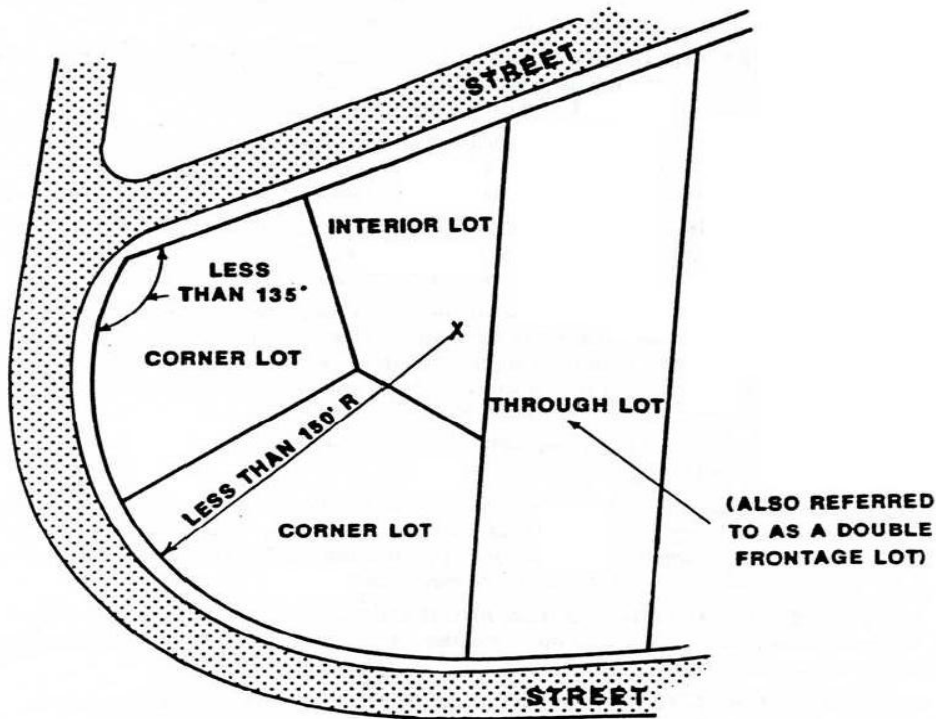
KENNEL. Any place where four (4) or more dogs four (4) months of age or older are kept temporarily or permanently for any reason other than veterinary medicine. Any lot or premises where four (4) or more dogs four (4) months of age or older are kept for purposes of breeding for sale or for providing boarding and/or training services to animals owned or contracted to others shall be considered a “commercial kennel”.(Amended 11-09)

LIVESTOCK. Animals including horses, cattle, bison, sheep, goats, swine, poultry, fowl, fur bearing rodents and other similar animals as may be domesticated for commercial production of food and fiber or breeding and recreational purposes. For the purposes of this ordinance, the name livestock may be used synonymously with the term farm animals, but does not include household or barnyard pets such as dogs and cats. (Amended 7/28/93)

LOT. (See Figure 3-5). A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a building site as defined herein as relating to a condominium subdivision; having frontage upon a public or private street and having sufficient size to comply with the requirements of this ordinance for minimum area, setbacks, coverage and open space. (Amended 7/28/93)

LOT, CORNER. (See Figure 3-5). Any lot having at least two (2) contiguous sides abutting upon one or more streets, public or private, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet.

Figure 3-5 - LOT TYPES

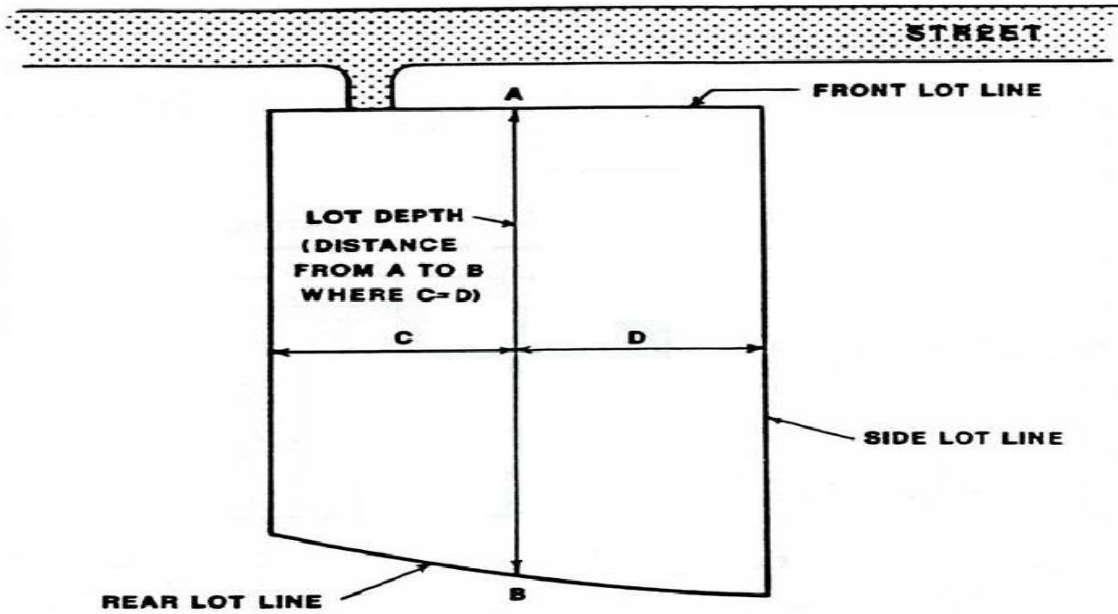


LOT, DEPTH. (See Fig. 3-6). The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the lot lines in the rear. (Amended 5/10/94) (Amended 7/28/93)

LOT, INTERIOR. (See Fig. 3-5). A lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street. (Amended 7/28/93)

LOT, THROUGH (also called double frontage). (See Fig. 3-5). An interior lot having frontage on two (2) more or less parallel streets. (Amended 7/28/93)

Figure 3-6 - LOT DEPTH



LOT AREA, GROSS. (See Fig. 3-7). The area contained within the lot lines or property boundary including street right-of-way if so included. (Amended 7/28/93)

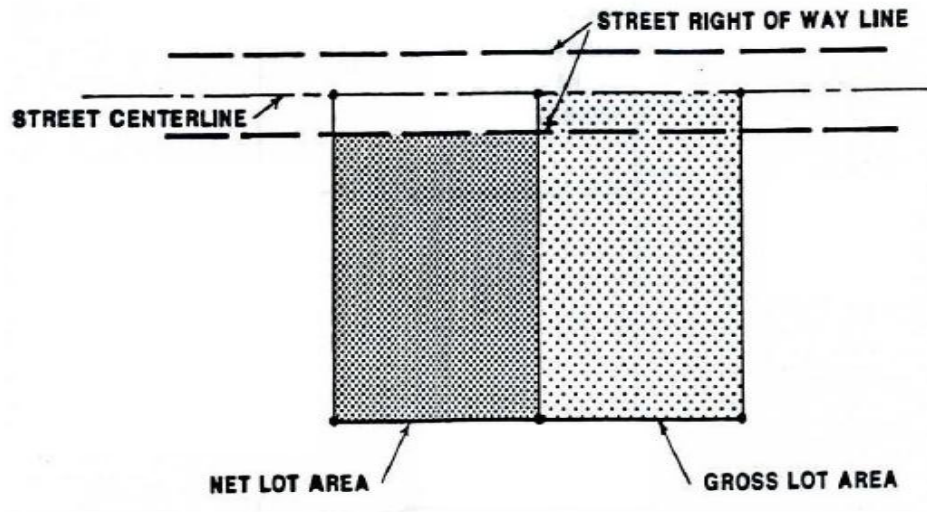


Figure 3-7 - NET AND GROSS LOT AREA

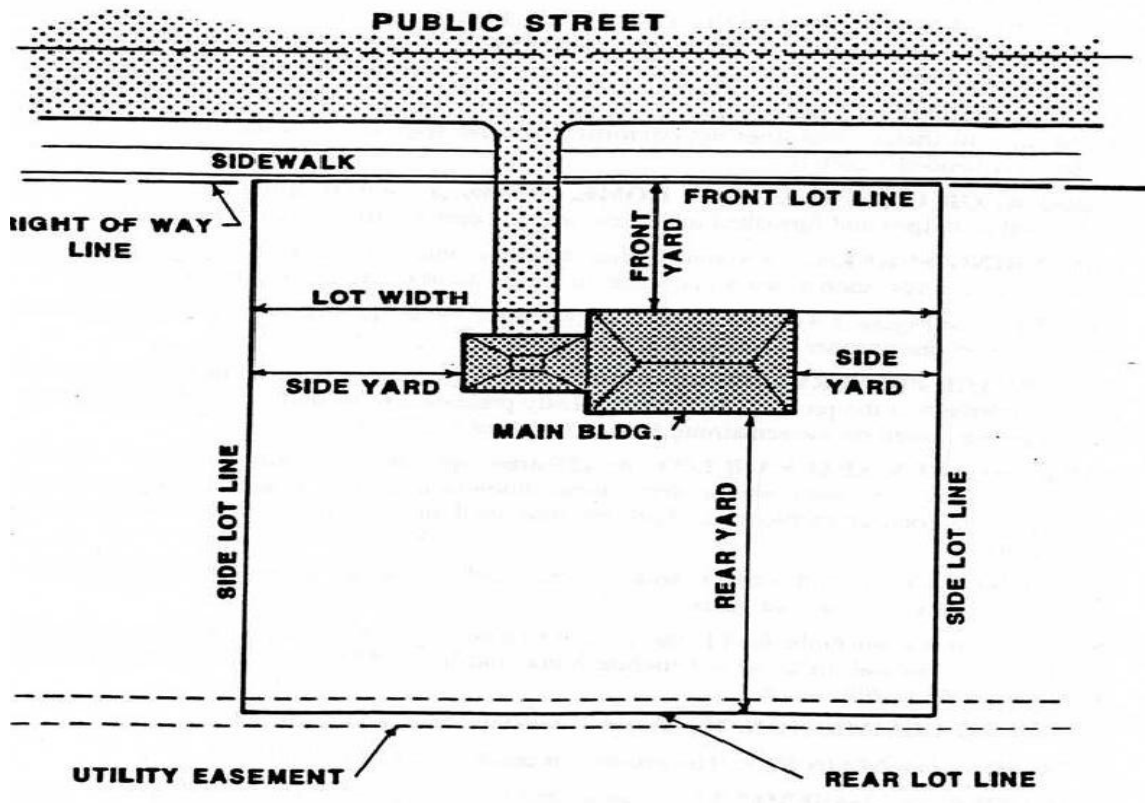
LOT FRONTAGE. The length of the front lot line as it abuts a public or private road right-of-way. (Amended 7/28/93)

LOT LINE, FRONT. (See Fig. 3-8). Front lot line shall mean the line separating a lot from the public or private street right of way. In all cases in which street widths have not been specifically recorded, the front lot line shall be considered to be thirty-three (33) feet from the center of the street. Corner lots and double frontage lots are assumed to have two front lot lines. (Amended 11-09)

LOT LINE, REAR. (See Fig. 3-8). That lot line which is most opposite and most distant from the front lot line. On corner lots, the rear lot line may be opposite either street frontage, but only one rear lot line shall be so designated. In such cases the owner shall have the privilege of selecting the rear lot line, provided that, in the opinion of the Zoning Administrator, such choice does not negatively influence existing or future development of the adjacent properties. The rear lot line of an irregular or triangular shaped lot shall be a property line at least ten (10) feet long, parallel or nearly parallel to and most distant from the front lot line. In cases where none of these definitions is applicable, the Zoning Administrator shall designate the rear lot line. (See Def. of Double Frontage Lot). (Amended 11-09)

LOT LINE, SIDE. (See Fig. 3-8). Any lot line other than a front or rear lot line. (Amended 7/28/93)

FIGURE 3-8
LOT LINES AND YARDS



LOT OF RECORD. A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds for Allegan County, Michigan; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the Office of the Register of Deeds. (Amended 7/28/93)

LOT WIDTH. (See Fig 3-8). The distance between straight lines connecting front and rear lot lines at each side of the lot, provided however, that in determining lot width of odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a

curved street wherein the lot lines converge toward the rear, the lot width measurement may be taken at the rear line of the principal building or thirty (30) feet behind the front setback line, parallel to the street or street chord. (Amended 5/10/94)

MANUFACTURED HOUSING. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units. (Amended 7/28/93)

MASTER DEED. The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved by-laws for the project and the condominium subdivision plan for the project. (Amended 7/28/93)

MINI-WAREHOUSE. A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares. (Amended 7/28/93)

MOBILE HOME. A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. A mobile home shall not include modular homes, motor homes, or travel trailers. (Amended 7/28/93)

- (a) Single Wide - a mobile home with a longitudinal width of no greater than sixteen (16) feet for its full length.
- (b) Double Wide - a combination of two (2) mobile homes designed and constructed to be connected along the longitudinal axis, thus providing double the living space of a conventional single wide unit without duplicating any of the service facilities such as kitchen equipment or furnace. (Amended 7/28/93)

MOBILE HOME CONDOMINIUM PROJECT. A condominium project where mobile homes are intended to be located upon separate sites which constitute individual condominium units. (Amended 7/28/93)

MOBILE HOME LOT. A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME PAD. That portion of a mobile home lot reserved for the placement of a mobile home, appurtenant structures or additions.

MOBILE HOME SUBDIVISION. A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

MODULAR HOME. A dwelling constructed to the Township's adopted building code which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed and assembled for permanent location on the lot. (Amended 7/28/93)

MOTEL. (See Hotel) (Amended 7/28/93)

MOTOR VEHICLE. Every vehicle which is self-propelled.

NONCONFORMING BUILDING OR STRUCTURE. A structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated (Amended 7/28/93).

NONCONFORMING USE. A use which existed prior to the effective date of this Ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located. (Amended 7/28/93)

NURSING OR CONVALESCENT HOME. A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire. (Amended 7/28/93)

OBSCURING SCREEN. A visual barrier between adjacent areas or uses. The screen may consist of structures, such as a wall or fence, or living plant material.(Amended 7/28/93)

OFFSET. The distance between the centerlines of driveways or streets across the street from one another. (Amended 7/28/93)

OPEN SPACE PRESERVATION PROJECT. A single family development where at least fifty (50) percent of the project site is permanently preserved in an undeveloped state and the dwellings are placed on the remaining land. (Amended 1-27-03)

ORDINARY HIGH WATER MARK. The line between upland and bottomland that persists through successive changes in the water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Delineation of the ordinary high water mark entails the identification of indicators on the bank of a lake or stream and the transition line between, aquatic vegetation (such as sedges and cattails) and terrestrial vegetation (perennial grasses and woody shrubs) or the scour line on exposed earth on the bank (from constant erosion) and terrestrial vegetation. On any stream where the ordinary high water mark cannot be found, the top of the lowest stream bank on either side of stream shall substitute. In braided channels, the ordinary high water mark or line of mean high water shall be measured so as to include the entire stream feature. (See Figure 3-9). On an inland lake that has a level established by law, it means the high established level. (Amended 2-08)

PARKING AREA, SPACE OR LOT. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. Parking area shall include access drives within the actual parking area.

PARKING BAY. A hard surface area adjacent and connected to, but distinct from, a street intended for parking motor vehicles.

PIER. Concrete posts embedded in the ground to a depth below the frost line at regular intervals along the longitudinal distance of a mobile home and intended to serve as a base for supporting the frame of the mobile home.

PLANNING COMMISSION. The Salem Township Planning Commission.

PRINCIPAL OR MAIN USE. The primary or predominant use of a lot.

PRIVATE ROAD EASEMENT: An easement which is granted exclusively for private access to abutting parcels of land and which contains or is intended to contain a private road. (Amended 5/10/94)

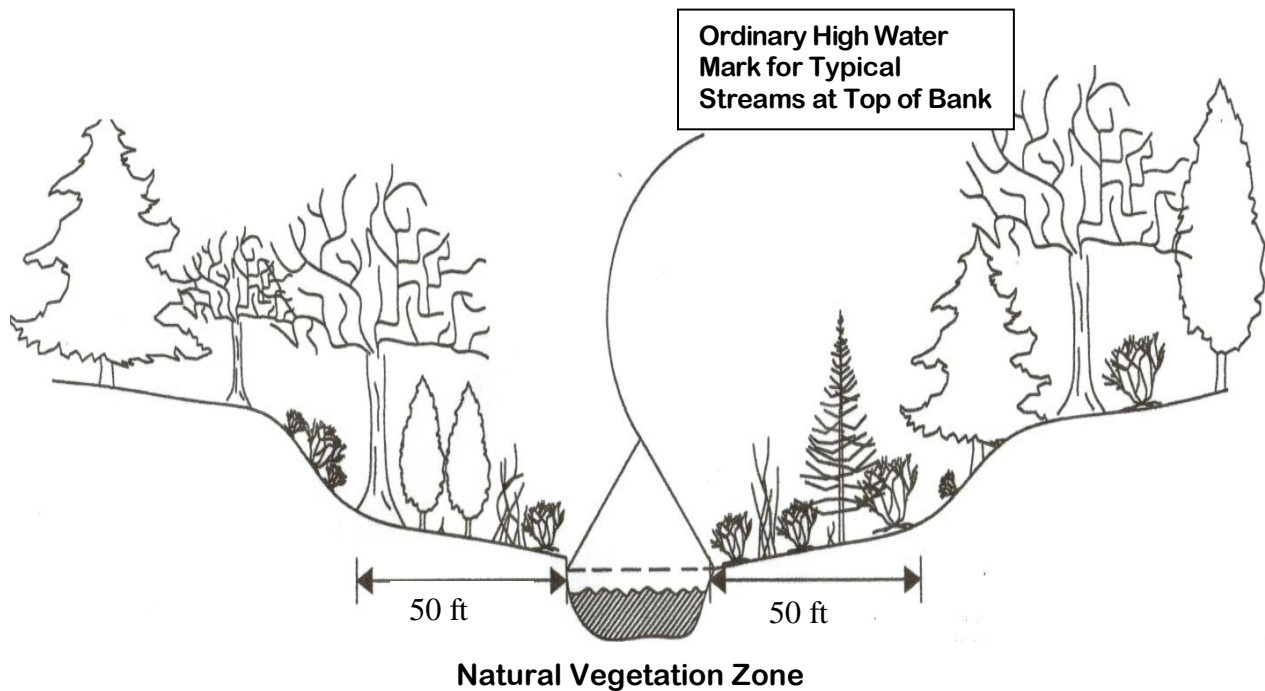


FIGURE 3-9

PRIVATE STREET. Any street for vehicular traffic which is privately owned and maintained and which provides the principal means of access to three or more lots or parcels which have been created or used for the purpose of non-farm related building or business development. Private streets are subject to the provisions of Section 11.25 (ref. also Driveways). *Note: A driveway serving two lots (a "joint driveway") will be classified as a private street and will be subject to the requirements of Section 11.25 if one or more of the lots served does not contain the required minimum lot frontage (lot width) on a public road.*

PRIVATE STREET EASEMENT (RIGHT-OF-WAY). An irrevocable easement running with the land granted to the owners of adjacent properties which contains or is intended to contain a private street which is not dedicated for general public use.

RECREATION VEHICLE PARK, PRIVATE. All lands and structures which are owned and operated by private individuals, a business or corporation which are predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities. (Amended 7/28/93)

RECREATIONAL VEHICLE OR UNIT. A vehicular type structure designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreational units of this type shall include, but shall not be limited to, the following: travel trailers, camping trailers, tent trailers, motor homes and truck campers. Recreational units shall also include, but shall not be limited to the following: boats, boat trailers, snowmobiles, snowmobile trailers, all terrain vehicles, dune buggies, horse trailers, and similar equipment. (Amended 7/28/93)

REFUSE STORAGE SPACE. Any exterior space which is not a principal use for containers, structures, or other receptacle intended for temporary storage of solid waste materials. (Amended 7/28/93)

RIGHT-OF-WAY. A street, alley or other thoroughfare or easement public or private permanently established for passage of persons or vehicles. (Amended 7/28/93 and 9/24/02)

ROADSIDE MARKET STAND. A temporary building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

Salvage. Material to be used for further use, recycling, or sale. (Amended 7/28/93)

Salvage Yard. (See Junkyard) (Amended 7/28/93)

Sanitary Landfill. A tract of land developed, designed, and operated for the disposal of solid waste in a manner consistent with the criteria established by Act 641 of 1978, as amended.

- (a) "Type II" means an on-land disposal facility designed and operated to accommodate general types of solid waste including, but not limited to, garbage and rubbish but excluding hazardous waste.
- (b) "Type III" means an on-land disposal facility designed and operated to accommodate large volumes of certain solid waste with minimal potential for ground water contamination. (Amended 7/28/93)

SATELLITE DISH ANTENNA. A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn; and has a minimum dimension of three (3) feet or greater. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extra-terrestrially-based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only satellite antennas), and satellite microwave antennas. (Amended 7/28/93)

SCRAP TIRE COLLECTION SITE. A property, other than a sanitary landfill, which has five hundred (500) or more scrap tires and is not associated with a retail operation. If the property is owned by a person who is in the business of selling tires at retail, and if 1,500 or more scrap tires are accumulated at that site, it is also considered a collection site. (Amended 7/28/93)

SETBACK, REQUIRED. The minimum unoccupied distance between a front, side, or rear lot line and the principal and accessory buildings, as required herein. Steps may be located within the building setback. Porches are considered as part of the building or structure and may not be located within the building setback. (Amended 7/28/93)

SIGNS/SIGN TERMS.

- (a) Sign Area - The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure. (Amended 7/28/93)
- (b) Billboard - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is

located or products not primarily sold, manufactured, processed or fabricated on such land.

- (c) Business Sign - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located, or products primarily sold, manufactured, processed, or fabricated on such land.
- (d) Portable Sign - A sign not permanently affixed to the ground, a structure, or building.
(Amended 7/28/93)
- (e) Real Estate Sign - Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.
- (f) Identifying Sign - Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house, hotel, or motels; or (3) only to inform the public as to the use of a parking lot.
- (g) Name Plate - A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

SIGHT DISTANCE. The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway. (Amended 7/28/93)

SITE PLAN. A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions. (Amended 7/28/93)

SPECIAL LAND USE. A use of land which may be permitted within a particular zoning district only if the applicable standards have been met. A special land use requires that a special land use permit be obtained after review of a site plan and a public hearing. (Amended 7/28/93)

STORY. (See Fig. 3-1) That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. (Amended 7/28/93)

STREAM BANK The portion of the stream channel cross section that restricts the lateral movement of water at normal bank-full levels often exhibiting a distinct break in slope from the stream bottom. (Amended 2-08)

STREET. A publicly or privately owned and maintained right-of-way which affords traffic circulation and access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway road or other thoroughfare, except an alley (Amended (9/24/02).

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

TOURIST HOME. A building, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. Tower includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like. Tower includes the structure thereof and any support thereto. *(Amended 1-18-00.)*

TOWNSHIP BOARD. The Salem Township Board.

TOWNSHIP. Salem Township, Allegan County, Michigan.

VARIANCE. A relaxation or modification of the requirements of this Ordinance as authorized by the Zoning Board of Appeals under the provisions of this Ordinance and Act 184 of 1943, as amended. *(Amended 7/28/93)*

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or 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. *(Amended 2-08)*

YARD. A required open space other than a court unoccupied and unobstructed by any building or structure or portion thereof from 30 inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the main wall of the building or structure. In the case of waterfront lots, the yard fronting on the street shall be considered the front yard. For corner lots abutting two intersecting public or private streets or any combination thereof which existed when the lot was initially created, the front yard shall extend across the frontage of both streets and required front yard depths (e.g. building setback) shall be established from each street's right-of-way line.

For corner or double frontage lots created subsequent to the lot's initial creation as a single frontage lot (such as where the development of a new public or private side street has resulted in the creation of a new corner lot situation) the minimum front yard depth requirement (e.g. required minimum setback) from the new street right of way shall be that of the previously applicable minimum required side yard or rear yard setback distance. *(Amended 11-09)*

YARD, REAR. A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building. In the case of corner lots, there shall only be one rear yard and *in* such cases the owner shall have the privilege of selecting the rear yard, provided that, in the opinion of the

Zoning Administrator such choice does not negatively influence existing or future development of the adjacent properties. (Amended 11-09)

YARD - SIDE. A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.

ZERO LOT LINE. (See Fig 3-10). The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line. (Amended 7/28/93)

ZONING ACT. . The Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as it may be amended from time to time. (*Amended 05-08*)

ZONING ADMINISTRATOR/ ZONING INSPECTOR. The Salem Township Zoning Official.

FIGURE 3-10 ZERO LOT LINE

CHAPTER 4

MAPPED DISTRICTS

SECTION 4.01 ZONE DISTRICTS. The Township of Salem is hereby divided into the following zoning districts: *(Amended 5/10/94 and 1/4/11)*

- (a) A-1 Agricultural Conservation District *(Amended 12/15/98)*
- (b) R-1 Agricultural and Rural Estate District *(Amended 1/4/11)*
- (c) R-2 Low Density Residential District
- (d) R-3 Medium Density Residential District
- (e) VR Village Residential
- (f) C-1 General Business District
- (g) I-1 Industrial District
- (h) RAP- Riparian Area Protection Overlay Zone *(Amended 2-08)*

SECTION 4.02 ZONING MAP. The locations 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 Salem Township, Allegan County, Michigan", which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as 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 or 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 a 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 AREAS 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 A-1 Zoning District.

CHAPTER 5A

A-1 AGRICULTURAL CONSERVATION DISTRICT

SECTION 5A.01 DESCRIPTION AND PURPOSE. It is recognized that the public health and welfare of the citizens of Salem Township, Allegan County, the state of Michigan, and the United States are greatly dependent upon the sustenance and economic benefits provided by agriculture. It has been found that unwarranted land fragmentation and the establishment of incompatible land uses depletes agricultural lands and hinders farm operations. The regulations of the “A-1” Agricultural Conservation District are intended to minimize land use conflicts, control the rate of land fragmentation and ensure that large aggregate areas within the Township are retained and conserved for long term agricultural use. The A-1 District is further established;

- (a) To provide for farming and agribusiness as the predominate and primary use in land areas well suited for the production of food and fiber.
- (b) To manage the conversion of agricultural land to non-farm development which when unregulated, unnecessarily increases the cost of public services to all citizens and results in the premature divestment in agriculture.
- (c) To encourage long-term investment in improvements needed to maintain and expand agricultural production by creating a stable environment for such production.
- (d) To permit services and uses which are necessary to support farming activities and to discourage the encroachment of urban and suburban services into agricultural areas.
- (e) To provide the basis for land tax assessments which reflect its existing agricultural nature and owing to these regulations, its limited use for other purposes.
- (f) To protect farmland from speculative increases in land values.
- (g) To conserve woodlands and wetlands which because of their natural physical features, are useful as water retention, surface water purification and groundwater recharge and as habitat for plant and animal life. Such qualities are inextricably linked to the agricultural and rural fabric of the land and have an important economic, aesthetic and scenic value which contributes to the character and quality of life of the Township.
- (h) To provide for a controlled amount of non-farm dwelling units in agricultural areas.
- (i) To minimize conflicts between agricultural activities and residences.

SECTION 5A.02 USE REGULATIONS. Land, buildings and structures in this Zoning District may be used for the following permitted uses: (Amended 11-09)

- (a) General dairy, livestock, poultry and crop farming operations, excluding intensive livestock operations together with farm buildings and other installations necessary to such farms.
- (b) Specialized crop production including but not limited to greenhouses, nursery stock, orchards, vineyards, apiaries, and blueberry operations.
- (c) Real estate, identifying and nameplate signs.
- (d) Farm ponds and private ponds accessory to a permitted principal use.
- (e) Principal and accessory farm dwellings (ref. Section 11.22)
- (f) Non-farm single family dwellings
- (g) Road side (seasonal) stands, subject to the following standards:

- (1) The stand shall be accessory to a contiguous farm operation for the display and sale of farm products grown on the same farm operation.
 - (2) Any structure or enclosure created and used for the stand shall be limited to 150 square feet of floor area.
 - (3) Any structure, enclosure, or display or sales area shall be located outside of the street right-of-way, or at least 35 feet from the street centerline, whichever is greater.
 - (4) Adequate road side or off-street parking shall be provided. No roadside parking shall be allowed within 200 feet of a street intersection
 - (5) The stand shall be permitted only during the local crop growing and harvesting season. All structures shall be removed except during the growing and harvesting season.
- (h) Type I Permitted Home Occupations as listed and regulated under the provisions of Section 11.28. A home occupation may only be permitted to involve a detached garage or other detached accessory building if approved as a special use. (*Amended 4-03*)
- (i) Non-commercial kennels and animal runs subject to section 11.21

SECTION 5A.03 SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section.

- (a) Type II Home occupations, as listed in accordance with the standards contained in Section 11.28. (*Amended 4-03*)
- (b) Removal and processing of topsoil, sand, gravel or other such minerals in accordance with Chapter 21(*Amended 1-27-03*).
- (c) Roadside (permanent) stands. In considering such authorization, the Planning Commission shall consider the following standards
 - (1) The size, nature and character of the building and/or structure to be utilized for the roadside stand;
 - (2) The type and kind of produce and goods to be sold at the roadside stand;
 - (3) The proximity of the roadside stand to adjoining properties;
 - (4) The time or season during which the roadside stand will operate;
 - (5) The parking facilities provided for the roadside stand;
 - (6) Any traffic congestion or hazards which would result from the roadside stand; and
 - (7) The effect of the roadside stand on adjoining properties and the surrounding neighborhood.
- (d) Migrant farm labor housing.
- (e) Churches.
- (f) Saw mills.
- (g) Commercial composting operations.
- (h) Farm related commercial services.
- (i) Tack shops.
- (j) Cemeteries.
- (k) Child or adult day care facilities caring for greater than six (6) individuals

- (l) Communication towers and antennas in excess of 50 feet subject to the provisions of section 15.04A (*amended 1-18-00*).
- (m) Bed & Breakfast establishment.
- (n) Airfields or landing strips subject to the following:
 - (1) The land areas beneath runway approaches shall be under the ownership or control of the owner or operator of the airfield. Ownership or control shall extend a minimum of 1,200 feet from each runway end and laterally 500 feet from the centerline of the runway. The above requirements may be modified if the landing strip is intended solely for the use of ultralight aircraft.
 - (2) The facility shall not exceed a Michigan Aviation System Plan (MASP) classification of U-1, offering service to small single engine utility aircraft. (3) The landing strip shall be of turf construction.
 - (4) Unless specifically waived by the Planning Commission, areas upon which airplanes taxi shall be at least two hundred (200) feet from any property line. The airfield must be of a size and location that will not require limitations on the height of structures on land that is not controlled by the airfield operator.
 - (5) The Planning Commission may require the fencing of appropriate areas to insure public safety. If required, such fencing shall be not less than six feet in height with suitable gating.
- (o) Equipment storage and/or maintenance yards, structures and establishments for petroleum and well field operators on parcels upon which such fields are in operation. (*amended 3-1-2018*)
- (p) Accessory buildings located in front yard areas (ref. Section 11.09). (q) More than one accessory farm dwelling (ref. Section 11.22).
- (r) Intensive livestock operations.
- (s) Temporary dwellings (ref. Section 11.07).
- (t) Open space Preservation projects as regulated by chapter 22 (*amended 1-27-03*).
- (u) Small rural enterprises that may be authorized in the Re-Use Of existing Farmsteads meeting the intent and standards of Section 15.04 (l). (1) Small scale wood, metal and plastics fabricating and assembly businesses
 - (2) Antique sales and service, excluding automobile
 - (3) Self-storage or mini storage facilities.
 - (4) Retail or service business associated with any aspect of the sales, distribution, service or maintenance of Agricultural Products.
 - (5) Other business uses identified as special uses in this Section 5A.03. (*Amended 12-06*)
- (v) Riding stables where horses are boarded or rented (*Amended 11-09*)
- (w) Commercial kennels (*Amended 11-09*)
- (x) Veterinary services (*Amended 11-09*)
- (y) Rural Events Facilities, upon properties over ten acres in size and with frontage and access upon a public road Right of Way. The Planning commission may waive specific parking and landscaping requirements from Chapters 12 and 26 if it determines that an applicant's plan provides adequately for the general health, safety and welfare while preserving a "rural atmosphere" aesthetic.

SECTION 5A.04 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories. All other buildings and structures shall not exceed their usual and customary heights.

SECTION 5A.05 AREA REGULATIONS. Unless otherwise provided under provisions of this ordinance no building or structure nor any enlargement thereof shall be hereafter erected except in the conformance with the following yard, lot area, and building coverage requirements (*Amended 1-27-03*).

- (a) Front Yard - There shall be a front yard of not less than fifty (50) feet, except that any structure located on a lot fronting on a County primary road shall have a setback of not less than one hundred (100) feet. (Ref. Section 11.13, Additional Setbacks for Buildings and Structures Adjacent to Major Streets.)
- (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 –
 - (1) Minimum Lot area-For all newly created lots in the A-1 District, the minimum lot area shall be 43,560 square feet (1 acre).
 - (2) Maximum lot area- For all newly created lots in the A-1 District, the maximum lot area shall be 87,120 square feet (2 acres). The maximum lot area requirement may only be exceeded under the following circumstances:
 - (a) An increased lot area is needed to accommodate a septic system as required by the Allegan County Health Department, or
 - (b) The Zoning Administrator determines that an increased lot area will enable the incorporation of natural or other physical features as a boundary and the total lot area will not exceed 3 net buildable acres.
- (e) Lot width –The minimum lot width shall be 200 feet.

SECTION 5A.06 ELIMINATED (9/2018)

SECTION 5A.07 ELIMINATED (9/2018)

SECTION 5A.08 MINIMUM FLOOR AREA. Each single-family dwelling unit shall have minimum usable floor area as follows:

- (a) One story - Eight hundred sixty-four (864) square feet.
- (b) Two story - One thousand (1000) square feet
Ground floor - Six hundred fifty (650) square feet

Note: Ground Floor Area - In determining the minimum ground floor area for dwelling units, the calculation may include the floor areas contained on more than one level provided that the levels are separated by no more than three feet of elevation difference (see definition of basement). (Amended 10/96)

SECTION 5A.09 ACCESSORY BUILDINGS. Reference Section 11.09

CHAPTER 6

R-I AGRICULTURAL AND RURAL ESTATE DISTRICT (Amended 09-11-18 Ordinance No 9-11-18-2)

SECTION 6.01 DESCRIPTION AND PURPOSES. This district is intended to support farming and other agricultural activities, while also allowing a controlled degree of residential development within an extensive pattern of natural open space and farming activity. The District serves as a transition between the A-1 District and zoning districts that are allowed to develop more intensively. Under provisions contained in this Chapter, a landowner has the by right option to increase residential development potential by retaining at least 35% of the property as open space and placing dwellings on the remaining portion. *(Amended 01-04-11)*

SECTION 6.02 USE REGULATIONS. Land, buildings or structures in this Zoning District may be used for the following permitted uses: *(Amended 7/28/93 and 01-04-11)*

- (a) Farms for both general and specialized farming, except intensive livestock operations, together with farm dwellings and buildings and other installations necessary to such farms. *(Amended 7/28/93 and 01-04-11)*
- (b) Specialized crop production including but not limited to greenhouses, nurseries, orchards, vineyards, apiaries or blueberry farms. *(Amended 01-04-11)*
- (c) Single family dwellings.
- (d) Farm ponds and private ponds accessory to a permitted principal use. *(Amended 7/28/93)*
- (e) Real estate, identifying and nameplate signs.
- (f) Open space preservation projects as regulated by Chapter 22 *(Amended 1-27-03)*.
- (g) Type I Permitted Home Occupations as listed and regulated under the provisions of Section 11.28. A home occupation may only be permitted to involve a detached garage or other detached accessory building if approved as a special use. *(Amended 4-03)*
- (h) Non-commercial kennels and animal runs subject to Section 11.21

SECTION 6.03 SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section. *(Amended 7/28/93 and 01-04-11)*.

- (a) Two family dwellings. *(Amended 7/28/93)*
- (b) Type II Home occupations, as listed in accordance with the standards contained in Section 11.28. *(Amended 4-03)*
- (c) Removal and processing of top soil, sand, gravel or other such minerals in accordance with Chapter 21. *(Amended 1-27-03)*
- (e) Roadside stands subject to the standards provided in Section 5.02A
- (f). *(Amended 7/28/93)*
- (g) Commercial kennels. In considering such authorization, the Planning Commission shall consider: *(Amended 7/28/93)*
 - (1) the size, nature and character of the kennel;
 - (2) the proximity of the kennel to adjoining properties;
 - (3) the possibility of noise or other disturbance for adjoining properties and the surrounding neighborhood on account of the operation of the kennel;
 - (4) potential traffic congestion on account of the kennel; and
 - (5) the nature and character of the buildings and structures to be utilized for the kennel operation.
- (h) Intensive livestock operations. *(Amended 7/28/93)*
- (i) Campgrounds. *(Amended 7/28/93)*

- (j) Golf courses and country clubs. *(Amended 7/28/93)*
- (k) Churches. *(Amended 7/28/93)*
- (l) Shooting ranges. *(Amended 7/28/93)*
- (m) Automobile and animal racing facilities. *(Amended 7/28/93)*
- (n) Saw mills. *(Amended 7/28/93)*
- (o) Commercial composting operations. *(Amended 7/28/93)*
- (p) Farm related commercial services. *(Amended 7/28/93)*
- (q) Tack shops. *(Amended 7/28/93)*
- (r) Cemeteries. *(Amended 7/28/93)*
- (s) Self storage or mini warehouse facilities. *(Amended 7/28/93)*
- (t) Nursing homes and senior citizen centers. *(Amended 7/28/93)*
- (u) Child or adult day care facilities caring for greater than six (6) individuals. *(Amended 7/28/93)*
- (v) Communication towers and antennas in excess of 50 feet subject to the provisions of section 15.04A. *(Amended 1-18-00)*
- (w) Riding stables where horses are boarded and/or rented. *(Amended 7/28/93)*
- (x) Bed and Breakfast establishments. *(Amended 5/10/94)*
- (y) Air field or landing strips subject to the following: *(Amended 5/10/94)*
 - (1) The land areas beneath runway approaches shall be under the ownership or control of the owner or operator of the airfield. Ownership or control shall extend a minimum of 1,200 feet from each runway end and laterally 500 feet from the center line of the runway. The above requirements may be modified if the landing strip is intended solely for the use of ultralight aircraft.
 - (2) The facility shall not exceed a Michigan Aviation System Plan (MASP) classification of U-1, offering service to small single engine utility aircraft.
 - (3) The landing strip shall be of turf construction.
 - (4) Unless specifically waived by the Planning Commission, areas upon which airplanes taxi shall be at least two hundred (200) feet from any property line. The airfield must be of a size and location that will not require limitations on the height of structures on land that is not controlled by the airfield operator.
 - (5) The Planning Commission may require the fencing of appropriate areas to insure public safety. If required, such fencing shall be not less than six feet in height with suitable gating.
- (z) Equipment storage and/or maintenance yards, and structures and establishments for building trades, heavy equipment and petroleum and well field operators and contractors. *(Amended 1-97)*.
- (aa) Conservation subdivisions as may be permitted under the provisions of Chapter 23. *(Amended 1-27-03)*
- (bb) Small rural enterprises that may be authorized in the Re-Use Of existing Farmsteads meeting the intent and standards of Section 15.04 (l).
 - (1) Small scale wood, metal and plastics fabricating and assembly businesses.
 - (2) Antique sales and service, excluding automobile.
 - (3) Self-storage or mini storage facilities.
 - (4) Retail or service business associated with any aspect of the sales, distribution, service or maintenance of Agricultural Products.
 - (5) Other business uses identified as special uses in this Section 6.02A. *(Amended 12-06)*
- (cc) Athletic fields and public parks. *(Amended 01-04-11)*

- (dd) Veterinary services. *(Amended 01-04-11)*
- (ee) Accessory Farm Dwellings. *(Amended 01-04-11)*
- (ff) Temporary Dwellings *(ref. Sec. 11.07). (Amended 01-04-11)*
- (gg) Accessory buildings located in the front yard areas. *(Amended 01-04-11)*
- (hh) Seasonal/Migrant Farm labor camps. *(Amended 01-04-11)*
- (ii) Rural Events Facilities, upon properties over ten acres in size and with frontage and access upon a public road Right of Way. The Planning commission may waive specific parking and landscaping requirements from Chapters 12 and 26 if it determines that an applicant's plan provides adequately for the general health, safety and welfare while preserving a "rural atmosphere" aesthetic. *(Amended 09-18)*

SECTION 6.04 HEIGHT REGULATIONS. *(Amended 01-04-11)* No residential building or structure shall exceed thirty-five (35) feet in height or two and one-half (2 1/2) stores. All other buildings and structures shall not exceed their usual and customary heights. *(Amended 7/28/93)*

SECTION 6.05 AREA REGULATIONS. *(Amended 99-2018)* 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 fifty (50) feet. *(Ref. Section 11.13, Additional Setbacks for Buildings and structures adjacent to major streets. Amended 7/28/93)*
- (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 principal buildings, there shall be two (2) side yards of not less than fifty (50) feet each. *(Amended 7/28/93).*
- (c) Rear Yard - There shall be a rear yard of not less than fifty (50) feet.
- (d) Lot Area- The minimum lot area shall be not less than one acre. *(Amended 09-18)*
- (e) Lot Width- The minimum lot width shall be two hundred (200) feet. *(Amended 09-18)*

SECTION 6.06 MINIMUM FLOOR AREA. *(Amended 01-04-11)* Each single and two-family dwelling unit shall have minimum usable floor area as follows:

- (a) One story - Eight hundred sixty-four (864) square feet.
- (b) Two story - One thousand (1000) square feet Ground floor - Six hundred fifty (650) square feet Note: Ground Floor Area - In determining the minimum ground floor area for dwelling units, the calculation may include the floor areas contained on more than one level provided that the levels are separated by no more than three feet of elevation difference (see definition of basement). *(Amended 10/96)*

SECTION 6.07 ACCESSORY BUILDINGS. *(Amended 01-04-11)* Reference Section 11.09. *(Amended 7/28/93)*

SECTION 6.08 ELIMINATED *(09-18)*

CHAPTER 7

R-2 LOW DENSITY RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for low density residential uses together with required recreational, religious and educational facilities.

SECTION 7.02 USE REGULATIONS. Land, buildings or structures in this Zoning District may be used for the following permitted use: (Amended 7/28/93)

- (a) Single family dwellings.
- (b) Two family dwellings.
- (c) Real estate, identifying and name plate signs.
- (d) Open space preservation projects as regulated by Chapter 22 (*Amended 1-27-03*).
- (e) Type I Permitted Home Occupations as listed and regulated under the provisions of Section 11.28. A home occupation may only be permitted to involve a detached garage or other detached accessory building if approved as a special use. (*Amended 4-03*)

SECTION 7.02A SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section. (Amended 7/28/93)

- (a) Private and public schools, libraries, museums, art galleries and similar uses. (Amended 7/28/93)
- (b) Parks, playgrounds, community centers, and public administrator, or public service buildings. (Amended 7/28/93)
- (c) Churches. (Amended 7/28/93)
- (d) Type II Home occupations, as listed in accordance with the standards contained in Section 11.28. (*Amended 4-03*)
- (e) Golf courses and country clubs. (Amended 7/28/93)
- (f) Private ponds accessory to the permitted principal use. (Amended 7/28/93)
- (g) Nursing homes and senior citizen housing. (Amended 7/28/93)
- (h) Child and adult day care facilities involving caring for six or more individuals. (*Amended 7/28/93*)
- (i) Communications towers and antennas in access of 50 feet subject to the provisions of Section 15.04A (*Amended 1-18-00*).

SECTION 7.03 HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height or two and one half (2-1/2) stories.

SECTION 7.04 AREA REGULATIONS. (*Amended 01-04-11*) Unless otherwise provided in this ordinance, 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 thirty (30) feet. (Ref. Section 11.13, Additional Setbacks for Buildings and Structures Adjacent to Major Streets.) (Amended 7/28/93)

- (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.
- (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 fifty (50) feet.
- (d) Lot Area and Width (Single Family) - The minimum lot area and width for a single family dwelling shall be 40,000 square feet) and one hundred (100) feet, respectively; provided, however, that the minimum frontage for lots served with public sewer or a private community wastewater collection and treatment system may be reduced to ninety (90) feet at the front building line and the lot areas may be reduced to twenty five thousand (25,000) square feet. . *(Amended 01-04-11)*
- (e) Lot Area and Width (Two Family) - The minimum lot area and width for a two family dwelling shall be sixty thousand (60,000) square feet and one hundred fifty (150) feet, respectively; provided, however, that the minimum frontage for lots served with public sewer private community wastewater collection and treatment system may be reduced to ninety (125) feet at the front building line and the lot areas may be reduced to thirty five thousand (35,000) square feet. *(Amended 01-04-11)*
- (f) Existing Lots of Record- Any lot classified as a legal conforming lot of record prior to January 4, 2011 shall continue to be classified as a legal conforming lot of record even though its lot area, lot width and/or street frontage does not comply with the above lot area, lot width and street frontage requirements.. *(Amended 01-04-11)*

SECTION 7.05 MINIMUM FLOOR AREA. Each single family dwelling unit shall have minimum usable floor area as follows:

- (a) One story - Eight hundred sixty-four (864) square feet.
- (b) Two story - One thousand (1000) square feet
Ground floor - Six hundred fifty (650) square feet

Note: Ground Floor Area - In determining the minimum ground floor area for dwelling units, the calculation may include the floor areas contained on more than one level provided that the levels are separated by no more than three feet of elevation difference (see definition of basement). (Amended 10/96)

SECTION 7.06 ACCESSORY BUILDINGS. Reference Section 11.09. (Amended 7/28/93)

CHAPTER 8

R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 8.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for medium density one and two family and low density multi-family residential and Permitted Uses. (Amended 7/28/93)

SECTION 8.02 USE REGULATIONS. Land, buildings or structures in this Zoning District may be used for the following purposes only: (Amended 7/28/93)

- (a) Any permitted use allowed in the R-2 Zoning District.
- (b) Multi-family dwellings.
- (c) Nursing homes, senior citizen housing and similar group housing.
- (d) Athletic fields and public parks. (Amended 7/28/93)
- (e) Type I Permitted Home Occupations as listed and regulated under the provisions of Section 11.28. A home occupation may only be permitted to involve a detached garage or other detached accessory building if approved as a special use. (Amended 4-03)

SECTION 8.02A SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section.

- (a) Type II Home occupations, as listed in accordance with the standards contained in Section 11.28. (Amended 4-03)
- (b) Any Special Use eligible for consideration in the R-2 District subject to the same conditions as outlined in Section 7.02A. (Amended 7/28/93)
- (c) Hospitals. (Amended 7/28/93)
- (d) Mobile home parks, subject to conformance with all applicable state regulations governing mobile home parks. (Amended 7/28/93)
- (e) Communication towers and antennas in excess of 50 feet subject to the provisions of section 15.04A. (Amended 1-18-00)

SECTION 8.03 HEIGHT REGULATIONS. No building or structure shall exceed thirty five (35) feet in height or two and one half (2 1/2) stories in height.

SECTION 8.04 AREA 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 thirty (30) feet. (Ref. Section 11.13, additional setbacks for buildings and structures adjacent to major streets). (Amended 7/28/93)
- (b) Side Yard - There shall be total side yards as follows:
 - (1) For single and two family dwellings, the total side yards shall be not less than twenty (20) feet; provided, however, that no side yard shall be less than seven (7) feet.

- (2) For multi-family dwellings and all other permitted uses, each side yard shall be not less than twenty (20) 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 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 eight thousand five hundred (8,500) square feet and eighty-five (85) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public water and sewer shall be fifteen -thousand (15,000) square feet and one hundred twenty-five (125) feet, respectively. (Amended 7/28/93)
- (e) Lot Area and Width (Two Family) - The minimum lot area and width for a two family dwelling shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively; provided, however, that the minimum lot area and width for lots not served with public water and sewer shall be thirty thousand (30,000) square feet and one hundred twenty-five (125) feet, respectively. (Amended 7/28/93)
- (f) Lot Area and Width (Other than One and Two Family) - The minimum lot width shall be one hundred fifty (150) feet. The minimum lot area for multi-family dwellings shall be four thousand five hundred (4,500) square feet per dwelling unit; provided, however, that the minimum lot area for multi-family dwellings not served with public sewer and water shall be ten thousand (10,000) square feet per dwelling unit. The minimum lot area for all other permitted uses shall be fifteen thousand (15,000) square feet. (Amended 7/28/93)

SECTION 8.05 MINIMUM FLOOR AREA. Each single family and two family dwelling shall have minimum usable floor area as is required in the R-2 District. Each multi-family dwelling shall have minimum usable floor area as follows: One bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.

SECTION 8.06 ACCESSORY BUILDINGS. Reference Section 11.09. (Amended 7/28/93)

CHAPTER 8 A

VR -VILLAGE RESIDENTIAL DISTRICT

(Entire Chapter Amended 5/10/94)

SECTION 8A.01 DESCRIPTION AND PURPOSE. This Zoning District is intended to apply to the existing homes and parcels within the established Burnips Village area. It is established to accommodate residential uses together with required recreational, religious and educational facilities in such previously established community centers and is not intended as a district to be used in the development of emerging concentrations located elsewhere in the Township.

SECTION 8A.02 USE REGULATIONS. Land, buildings or structures in this Zoning District may be used for the following permitted use:

- (a) Single family dwellings.
- (b) Two family dwellings.
- (c) Real estate, identifying and name plate signs.
- (d) Private and public schools, libraries, museums, art galleries and similar uses.
- (e) Parks, playgrounds, community centers, and public administration, or public service buildings.
- (f) Churches.
- (g) Communication towers and antennas exceeding 50 feet subject to the provisions of section 15.04A. (*Amended 1-18-00*)
- (h) Type I Permitted Home Occupations as listed and regulated under the provisions of Section 11.28. A home occupation may only be permitted to involve a detached garage or other detached accessory building if approved as a special use. (*Amended 4-03*)

SECTION 8A.02A SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section.

- (a) Type II Home occupations, as listed in accordance with the standards contained in Section 11.28. (*Amended 4-03*)
- (b) Nursing homes and senior citizen housing.
- (c) Child and adult day care facilities involving care for six or more individuals.
- (d) Two, three and four family dwelling unit conversions from an existing single family structure.
- (e) Bed & breakfast establishments

SECTION 8A.03 HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height or two and one half (2-1/2) stories.

SECTION 8A.04 AREA 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 thirty (30) feet. (Ref. Section 11.13, Additional Setbacks for Buildings and Structures Adjacent to Major Streets.)

- (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.
- (c) Rear Yard - There shall be a rear yard of not less than twenty-five (25) feet.
- (d) Lot Area and Width (Single Family) - The minimum lot area and width for a single family dwelling shall be thirteen thousand (13,000) square feet and seventy (70) feet, respectively.
- (e) Lot Area and Width (Two Family) - The minimum lot area and width for a two family dwelling shall be fifteen thousand (15,000) square feet and one hundred (100) feet, respectively.

SECTION 8A.05 MINIMUM FLOOR AREA. Each single family and two family dwelling shall have minimum usable floor area as is required in the R-2 District. Each multi-family dwelling shall have minimum usable floor area as follows: One bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.

SECTION 8A.06 ACCESSORY BUILDINGS. Reference Section 11.09.

CHAPTER 9

C-1 GENERAL BUSINESS DISTRICT

SECTION 9.01 DESCRIPTION AND PURPOSE. This Zoning District is for the general business needs of the community including retail, personal and business services and limited wholesaling, and warehousing of goods.. When any of these types of enterprises are permitted, they are to be regulated in a manner that will protect any abutting residential districts. *(Amended 05-08)*

SECTION 9.02 USE REGULATIONS. Land, buildings or structures in this Zoning District may be used for the following purposes only: *(Amended 5/10/94)*

- (a) Wholesale and retail sales business conducted completely indoors and those non-residential uses which are permitted in the Residential Zoning Districts, except as specifically provided otherwise in this Zoning District. *(Amended 5/10/94)*
- (b) Amusement enterprises, Indoor. *(Amended 5/10/94)*
- (c) Antique shop, resale shop and auction houses not involving livestock, provided all articles for sale are displayed or stored indoors. *(Amended 5/10/94)*
- (d) Bakery goods store.
- (e) Bank, loan and finance offices, including drive-in branches.
- (f) Barber or beauty shop.
- (g) Bowling alley, including bars and restaurant.
- (h) Business or trade school.
- (i) Candy store, soda fountain and/or ice cream store, party store. *(Amended 5/10/94)*
- (j) Clinic-dental and medical including laboratory.
- (k) Diaper, linen, and towel supply clothes cleaning, laundry, dry cleaning, custom and self-service.
- (l) Electrical supplies - wholesale and storage.
- (m) Exterminator service.
- (n) Factory and mill supplies.
- (o) Florist and gift shop, with or without nursery.
- (p) Frozen food locker.
- (q) Funeral home and ambulance service.
- (r) Hotels and motels.
- (s) Juke box and vending machine service and distribution.
- (t) Locksmith.
- (u) Nursery school and day nursery.
- (v) Offices and professional studios, including dance, photographic, taxidermy, art, and music. *(Amended 5/10/94)*
- (w) Parcel delivery station.
- (x) Parking lot.
- (y) Pet shop, excluding treatment or boarding of animals*(Amended 05-08)*
- (z) Retail and convenience printing and publishing, including processes related thereto. *(Amended 5/10/94)*
- (aa) Plumbing and heating shop, provided all operations and storage areas are completely enclosed in a building.

- (bb) Radio, television and similar electronic repair and broadcasting studios. (Amended 1/18/00)
- (cc) Restaurants and eating places including bars, grills, cocktail lounges and drive-ins; without dancing or floor shows. (Amended 5/10/94)
- (dd) Special tools and gauges - checking, sales and service.
- (ee) Tailor and/or dress maker, shoe repair shop. (Amended 5/10/94)
- (ff) Theater (5/10/94)
- (gg) Travel agency.
- (hh) Business sign, real estate sign, identifying sign, name plate. (Amended 5/10/94)
- (ii) Taxidermist. (Amended 05-08)

SECTION 9.02A SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section. (Amended 5/10/94)

- (a) Amusement enterprises, Outdoor.
- (b) Auto wash.
- (c) Automobile and other vehicle sales.
- (d) Automobile repair shop or garage, including major repair operations.
- (e) Bus stations.
- (f) Contractor yards.
- (g) Crating and packing service.
- (h) Lodge hall, private club, veterans' club.
- (i) Machine shop.
- (j) Ornamental iron work and fence service.
- (k) Sign painting and servicing shops provided all operations and storage are completely enclosed in a building.
- (l) Communications towers and antennas in excess of 50 feet subject to the provisions of Section 15.04A. (Amended 1-18-00)
- (m) Gasoline service stations. (Amended 3-04)
- (n) Small animal veterinary clinics. (Amended 05-08)
- (o) Commercial kennels. (Amended 05-08)
- (p) Retail and wholesale sale of bulk LP gas. (Amended 05-08)

SECTION 9.03 REQUIRED CONDITIONS.

- (a) With the exception of automobile parking, loading and refuse service areas, or unless otherwise specifically approved under the provisions of this ordinance, all business, service or processing shall be conducted wholly within a completely enclosed building. (Amended 05-08)
- (b) All goods produced on the premises shall be sold at retail on the premises where produced. (Amended 05-08)

SECTION 9.04 HEIGHT REGULATION. Unless otherwise provided for by this ordinance, no building or structure shall exceed thirty-five (35) feet in height.

SECTION 9.05 AREA 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. *(Entire section amended 05-08)*

(a) Front Yard—

- (1) Where all the frontage on the same side of a street between two intersecting streets is located in a C-1 Zoning District and where a setback has been established on at least fifty percent (50%) of the developed frontage, then this established setback shall determine the required front yard. In all other cases, there shall be a front yard of not less than fifty (50) feet as measured from the right of way line, provided that for lots abutting a county primary road this distance shall be increased to 125 feet as measured from the street centerline.
- (b) Except as may be permitted by special use No accessory buildings or structures shall be located closer to the front property line than the principal building is located.

(b) Side Yard -

- (1) There shall be two side yards each being a minimum of ten (10) feet provided that the requirements of 9.06(h) are met and further provided that where the side of a lot in a C-1 Zoning District abuts upon the side of a lot in any residential or A-1 Zoning District *(Amended01-04-11)*, each side yard shall be not less than twenty-five (25) feet.
- (2) There shall be a side yard of not less than forty (40) feet on the street side of a corner lot, provided that for corner lots butting two county primary roads this distance shall be increased to one hundred twenty five (125) feet as measured from the street centerline of each street.
- (3) No accessory buildings shall be located closer to the in side property line than the principal building is located.

(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 Residential Zoning District, A-1 Zoning District, *(Amended01-04-11)* there shall be a rear yard for principal and accessory buildings of not less than fifty (50) feet.
- (2) In all other cases, there shall be a rear yard of not less than thirty (30) feet except that accessory building may be allowed not less than five (5) feet from the rear lot line.

(d) Green belt and Screening - Side yards and rear yards adjoining any lot in an R or AG Zoning District shall at minimum be protected by a greenbelt installed in accordance with the provisions of Section 26.07. Where necessary, additional screening may be required under the provisions of Section 26.12

(e) Lot Area - The minimum lot area shall be forty thousand (40,000) square feet; provided, however, that all private sewage disposal systems not connected to a public sewer must be eighty thousand (80,000) square feet and must be approved by the Allegan County Health Department. The minimum lot width shall be two hundred (200) feet.

SECTION 9.06 SITE DEVELOPMENT STANDARDS. *(Entire section added 05-08)*

- (a) Site Plan Review under the provisions of Chapter 14 is required for Uses Permitted by Right and for all Special Land Uses.

- (b) Measures for control of storm water drainage shall be as provided under the terms and standards adopted by the Allegan County Drain Commission and as amended from time to time. Said standards are adopted herein by reference.
- (c) In its consideration of site plans for permitted uses and special land uses, the Planning Commission may require additional measures for the screening and buffering of land uses, so as to avoid or moderate potentially adverse impacts on adjacent or nearby lands or the public streets. Such additional screening and buffering measures may include landscaping, fencing, revised placement of buildings and other facilities.
- (d) Off-street parking areas shall be set back at least ten (10) feet from the street right-of-way line and not less than twenty (20) feet when abutting A-1 and residential districts (*Amended 01-04-11*). When abutting C or I zoned property, side and rear yard parking and loading areas shall be setback at least five (5) feet unless there are recorded reciprocal use arrangements with respect to each property. In such cases parking and travel lanes may extend to the property line. Parking shall be provided in accordance with the requirements of Chapter 12.
- (e) Loading areas shall not be located in the front yard or face the street unless the lot has double frontage and no other options exist.
- (f) Signs shall be regulated in accordance with the requirements of Section 11.12
- (g) Site landscaping shall be installed and maintained in accordance with the provisions of Chapter 26.
- (h) Fire Apparatus Accessibility: Each use shall be provided with 20 feet wide unobstructed fire lanes. The fire lanes shall be capable of enabling fire apparatus accessibility to within two hundred (200) feet of all exterior points of a building and shall be positioned no closer to the building than 1.5 times the height of the adjacent building wall. Fire lanes located on adjacent property may be considered as meeting this standard when there is a recorded reciprocal provision for such with respect to each of the properties.
- (i) Site access shall be regulated under the provisions of Section 11.29

SECTION 9.07 BUILDING MATERIALS STANDARDS. (*Entire section added 05-08.*) Unless otherwise approved by the Planning Commission, all principle buildings and those accessory buildings facing the street shall be of masonry, pre-cast concrete, or factory finished metal construction. 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 twenty five percent (25%) of the surface of balance of any first floor (or its equivalent height of twelve (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 steel frame and metal clad buildings shall be constructed to the minimum requirements established by the Metal Building Manufacturers Association and all such buildings shall be adequately protected on the interior and exterior from damage by vehicles and operations.

The Planning Commission may approve pole construction other materials in consideration of the following standards:

- (a) Whether or not the finished treatment will establish a negative precedent or otherwise is incompatible 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.

Appeals of facade determinations may be made to the Zoning Board of Appeals

Chapter 9A

VC VILLAGE COMMERCIAL DISTRICT (*Entire Chapter Adopted 7-12-16, Effective 8-2-2016*)

Section 9A.01 DESCRIPTION AND PURPOSE. This Zoning District is for the general business needs of the Burnips Village including retail, personal and business services and limited wholesaling and the warehousing of goods. When any of these types of enterprises are permitted, they are to be regulated in a manner that will protect any abutting residential districts.

SECTION 9A.02 USE REGULATIONS. Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- a) Wholesale and retail sales businesses conducted completely indoors and those non-residential uses which are permitted by right in the Residential Zoning Districts, except as specifically provided otherwise in this Zoning District.
- b) Antique shops, resale shops, and auction houses not involving livestock, provided all articles for sale are displayed or stored indoors.
- c) Bakery goods stores
- d) Banks, loan and finance offices, including drive-in branches
- e) Barber or beauty shops
- f) Business or trade schools
- g) Business signs, real estate signs, identifying signs, name plates
- h) Candy stores, soda fountains and/or ice cream stores, party stores
- i) Clinics – dental and medical
- j) Drop off/pick up centers for diaper, linen, and towel supply, clothes cleaning, laundry and dry cleaning
- k) Electrical supplies – wholesale and storage
- l) Factory and mill supplies
- m) Florist and gift shops, without nursery
- n) Frozen food lockers
- o) Funeral homes
- p) Juke box and vending machine services and distribution
- q) Locksmiths
- r) Nursery schools and day nurseries
- s) Offices and professional studios, including dance, photography, taxidermy, art, and music
- t) Package and parcel pick up centers
- u) Parking lots
- v) Pet shops, including grooming, excluding treatment or boarding of animals
- w) Retail and convenience printing and publishing, including processes related thereto
- x) Plumbing and heating shops, provided all operations and storage areas are completely enclosed in a building
- y) Radio, television, and similar electronic repair and broadcasting studios
- z) Restaurants and eating places that do not serve alcohol
- aa) Single family or two family homes

- bb) Structures of mixed uses including residential and the commercial permitted uses as outlined in this Section and Section 9.A.02
- cc) Tailor and/or dressmakers, shoe repairs
- dd) Theaters
- ee) Travel agencies

SECTION 9A.02A SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use outlined in this section.

- (a) Ambulance services
- (b) Amusement enterprises, Indoor
- (c) Automobile repair shops or garages, including major repair operations
- (d) Banquet facilities
- (e) Bus stations
- (f) Communications towers and antennas in excess of 50 feet subject to the provisions of Section 15.04A
- (g) Contractor yards
- (h) Gasoline service stations
- (i) Hotels and motels
- (j) Lodge halls, private clubs, veterans' clubs
- (k) Ornamental iron work and fence services
- (l) Restaurants and eating places that serve alcohol and drive-ins without dancing or floor shows
- (m) Self-storage and mini-storage facilities
- (n) Sign painting and servicing shops provided all operations and storage are completely enclosed in a building
- (o) Small animal veterinary clinics

SECTION 9A.03 REQUIRED CONDITIONS

- (a) With the exception of automobile parking, loading, and refuse service areas, or unless otherwise specifically approved under the provisions of this ordinance, all business, service, or processing shall be conducted wholly within a completely enclosed building.

SECTION 9A.04 HEIGHT REGULATIONS. Unless otherwise provided for by this ordinance, no building or structure shall exceed thirty-five (35) feet in height.

SECTION 9A.05 AREA REGULATION. 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

- (1) Where at least 50% of the frontage on the same side of a street between two intersecting streets is located in a VC Zoning District and where there is an established common setback, then this established setback shall determine the required front yard unless it is in the road right-of-way. In all other cases, there shall be a front yard of not less than twenty-five (25) feet as measured from the right-of-way line.
- (2) Except as may be permitted by special use (SUP), no accessory buildings or structures shall be located closer to the front property line than the principal building is located.

(b) Side Yard

- (1) There shall be two side yards, each being a minimum of five (5) feet provided that where the side of a lot in VC Zoning District abuts upon the side of a lot in any R or A-1 Zoning district, each side yard shall be not less than ten (10) feet.
- (2) There shall be a side yard of not less than twenty-five (25) feet on each street side of a corner lot.
- (3) No accessory building shall be located closer to the side yard property line than the principal building is located.

(c) Rear Yard

- (1) Where the rear of a lot in VC Zoning District abuts the side yard of a lot in any R Zoning District, or A-1 Zoning district, there shall be a rear yard for principal and accessory buildings of not less than 15 feet.
- (2) In all other cases, there shall be a rear yard of not less than ten (10) feet except that accessory buildings may be allowed not less than five (5) feet from the rear lot line.

(c) Greenbelt and screening – Side yards and rear yards adjoining a lot in an R or AG Zoning District shall be buffered and screened from adjacent Districts as deemed appropriate through Site Plan Review.

(d) Lot Area – The minimum lot area shall be twelve thousand five hundred (12,500) square feet. The minimum lot width shall be sixty (60) feet.

SECTION 9A.06 SITE DEVELOPMENT STANDARDS

- (a) Site Plan Review under the provisions of Chapter 14 is required for uses permitted by right and for all special land uses.
- (b) Measures for control of storm water drainage shall be provided under the terms and standards adopted by the Allegan county Drain Commission and as amended from time to time. Said standards are adopted herein by reference.

- (c) In consideration of site plans for permitted uses and special land uses, the Planning Commission may require additional measures for the screening and buffering of land uses, so as to avoid or moderate potentially adverse impacts on adjacent or nearby lands or the public streets. Such additional screening and buffering measures may include landscaping, fencing, revised placement of the buildings, other facilities, and other structures when uses are adjacent to any district other than Village Commercial.
- (d) Off-street parking areas shall be set back at least five (5) feet from the street right-of-way line and not less than five (5) feet from all other property lines unless there are recorded reciprocal use arrangements with respect to each property.
- (e) Signs shall be regulated in accordance with the requirements of Section 11.12.
- (f) Parcels within this District are exempt from Greenbelt requirements in Section 26.07 due to limited size. However, site landscaping shall be installed and maintained in accordance with the presented and approved Site Plan.
- (g) Site access shall be regulated under the provisions of Section 11.29.

CHAPTER 10 I-1 INDUSTRIAL DISTRICT

(Entire Chapter Amended 05-08)

SECTION 10.01 DESCRIPTION AND PURPOSE. The intent of the I-1 Industrial Zoning District is to permit the continuation and expansion of existing uses in the district and to provide rural employment opportunities for new uses that are generally small- scale and low impact. Unless served by public utilities, a new or expanded use in the I-1 District may not exceed the capacity of the site itself to provide adequate water and absorb waste water.

SECTION 10.02 USES PERMITTED BY RIGHT. For land and/or buildings, the permitted uses of the I-1 Zone are as follows: (Amended 5/10/94)

- (a) Fabrication, processing, packaging, treating and assembling from previously prepared materials in the production of the following provided that any production utilizing drop hammers or stamping machines shall be regulated as a special use(ref. Sec. 10.02A);
 - (1) Apparel and other finished products made from fabrics, leather goods, fur, canvas and similar materials.
 - (2) Electrical appliances and electrical instruments, including radios, computers and similar items.
 - (3) Engineering, measuring, optic, medical, lenses, photographic, and similar instruments.
 - (4) Food and kindred products, including prepared meats, dairy, fruit, vegetables, seafood, grain, baked goods, confectioneries, fats and oils and beverages.
 - (5) Furniture and fixtures.
 - (6) Jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, signs and displays, and similar manufacturing establishments.
 - (7) Lumber and wood products including millwork, prefabricated structural wood products and containers, excluding saw mills.
 - (8) Paperboard containers, building paper, building board, and bookbinding.
 - (9) Plastic products and parts including, but not limited to, automotive components.
 - (10) Printed and published material.
 - (11) Products utilizing bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metal or stones, shell, textiles, tobacco, wire, yarns and sheet metal.
 - (12) Textile mill products including woven fabric, knitted goods, yarn and thread dyeing and finishing, floor coverings and other textile goods.
- (b) Auto and truck repair shops.
- (c) Construction, heating, cooling, plumbing and similar contractors, including retail showrooms, excluding contractors yards.
- (d) Crating and packing service.
- (e) Dry cleaning and laundry.
- (f) Extermination services. (Amended 5/10/94)
- (g) Factory and mill supplies. (Amended 5/10/94)
- (h) Frozen food locker. (Amended 5/10/94)
- (i) Machine, metal bending and welding shops.
- (j) Government Service maintenance facilities.

- (k) Ornamental iron work and fence service. (Amended 5/10/94)
- (l) Sign painting and servicing shops.
- (m) Special tools and gauges; checking, sales and service. (Amended 5/10/94)
- (n) Tool and die and screw machine shops.
- (o) Truck terminals including maintenance and service facilities.
- (p) Warehousing, distribution, storage or transfer buildings, excluding the storage of bulk materials and petroleum or related products and garbage or rubbish which shall be regulated as special uses (ref. Sec. 10.03).
- (q) Wholesale establishments for automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
- (r) Billboards, business signs, real estate signs, identifying signs, and name plate signs as regulated in Sec. 11.02

SECTION 10.03 SPECIAL USES. The following uses may be permitted as special land uses when approved by the Planning Commission. Such uses are subject to the provisions and general standards outlined in Chapter 15 and any specific standards pertaining to the particular use as outlined in this section. (Amended 7/28/93)

- (a) Asphalt, concrete and ready mix concrete production plants.
- (b) Archery and firearm ranges, outdoor and indoor, to include retail sales of firearms and related products. (Amended 4/9/2013)
- (c) Auction houses, automotive auctions (indoor and outdoor).
- (d) Auto Wash. (Amended 7/28/93)
- (e) Banks, credit unions, savings and loan establishments and finance offices including drive thru facilities and ATMs.
- (f) Bulk storage, processing, and wholesale and retail sale of landscape materials, such as bark, mulches, wood chips, stones, topsoil, and similar materials
- (g) Communications towers and antennas in excess of 50 feet subject to the provisions of section 15.04A. (Amended 1-18-00)
- (h) Contractors yards
- (i) Child care centers as an accessory use to the principal use.
- (j) Essential service buildings and structures.
- (k) Manufacturing enterprises involving the use of stamping machines, punch presses, drop hammers, or reciprocating hammers if located at least five hundred (500) feet from residentially-zoned property and the operational standards of Section 10.7 are met.
- (l) Kennels, Commercial.
- (m) Lumberyards and other building material supply establishments.
- (n) Petroleum, chemical or natural gas sales or storage yards (excluding gasoline service stations) when located at least one thousand (1000) feet from any residence or any R-1, R-2 or R-3 District or residential PUD.
- (o) Sawmills, portable or stationary.
- (p) Solid waste transfer and recycling stations located at least five hundred (500) feet from any R (residential) or A-1 zoned property (Amended 01-04-11).
- (q) Business, trade and technical schools.

- (r) 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.
- (s) Truck fueling stations, commercial.
- (t) Mixed use establishments that consist of uses permitted by right or special use within the Industrial and General Commercial District. *(Added 11/14/2017 eff. 12/2/2017)*

SECTION 10.04 HEIGHT REGULATIONS. Three (3) stories or forty-five (45) feet, whichever is lesser.

SECTION 10.05 AREA 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 - There shall be a building setback line of not less than fifty (50) feet as measured from the street right of way line, provided that for lots butting a county primary road this distance shall be increased to 125 feet as measured from the street centerline.
- (b) Side Yards - Except as provided in Section 10.05(b) there shall one side yard, unoccupied by buildings, structures and mechanical appurtenances of not less than ten (10) feet and a second such side yard equal to or greater than 1.5 times the height of the exterior building wall. The Planning Commission may allow twenty (20) foot setbacks in each side yard if the requirements of 10.05(i) are met by alternative arrangements. Alternative arrangements may include joint use and emergency access agreements with adjacent properties. In cases where a side yard abuts a Residential, Agriculture or Commercial District there shall be a side yard of not less than fifty (50) feet.
- (c) Rear Yard – Except as necessary to comply with Section 10.05(i) there shall be a rear yard of not less than fifty (50) feet and that in cases where a yard abuts a Residential or Agriculture District there shall be a rear yard of not less than seventy five (75) feet.
- (d). Lot Area and Width - The minimum lot area shall be forty thousand (40,000) square feet and the minimum lot width shall be two hundred (200) feet respectively; provided , however that the minimum lot area and width for lots not served with public water and sewer shall be eighty thousand (80,000) square feet and two hundred (200) feet respectively.

SECTION 10.06 SITE DEVELOPMENT STANDARDS.

- (a) Site Plan Review under the provisions of Chapter 14 is required for Uses Permitted by Right and for all Special Land Uses.
- (b) On a lot or parcel adjacent to a lot or parcel in any residential zone, or adjacent to a residential use, no building shall be closer to the lot line than a distance equal to two times the height of the building.
- (c) Measures for control of storm water drainage shall be as provided under the terms and standards adopted by the Allegan County Drain Commission and as amended from time to time. Said standards are adopted herein by reference.
- (d) In its consideration of site plans for permitted uses and special land uses, the Planning Commission may require additional measures for the screening and buffering of land uses, so as to avoid or moderate potentially adverse impacts on adjacent or nearby lands or the public

streets. Such additional screening and buffering measures may include landscaping, fencing, revised placement of buildings and other facilities.

- (e) Off-street parking areas shall be set back at least 20 feet from the street right-of-way line and when adjacent to AG-1 and R (residential) districts (Amended 01-04-11). When abutting C or I zoned property, side and rear yard parking and loading areas shall be setback at least five (5) feet unless there are recorded reciprocal use arrangements with respect to each property. In such cases parking and travel lanes may extend to the property line. Parking shall be provided in accordance with the requirements of Chapter 12.
- (f) Loading docks and bays should be oriented to the side or rear and shall not face the street unless the lot has double frontage and no other options exist.
- (g) Signs shall be regulated in accordance with the requirements of Section 11.12
- (h) Site landscaping shall be installed and maintained in accordance with the provisions of Chapter 26.
- (i) No accessory buildings shall be located closer to the in the front or side property line than the principal building is located.
- (j) Fire Apparatus Accessibility: Each use shall be provided with 20 feet wide unobstructed fire lanes. The fire lanes shall be capable of enabling fire apparatus accessibility to within 200 feet of all exterior points of a building and shall be positioned no closer to the building than 1.5 times the height of the adjacent building wall. Fire lanes located on adjacent property may be considered as meeting this standard when there is a recorded reciprocal provision for such with respect to each of the properties.
- (k) Site access shall be regulated under the provisions of Section 11.29.

SECTION 10.07 OPERATIONAL STANDARDS

- (a) Process emissions. All industrial and other activities shall be conducted in such a manner that there are no serious adverse effects on other properties or the public streets by reason of noise, smoke, fumes, dust, vibration, glare, odor or other adverse effects.
- (b) Outdoor furnaces. Use of outdoor wood fired furnaces and the burning or incineration of waste material is prohibited, whether open burning or burning within an incinerator, furnace, or other device.
- (c) Waste discharge. No use or operations shall directly or indirectly discharge waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and waste treatment and disposal shall be subject to the approval of state and county health and environmental requirements.
- (d) Outdoor activities. Unless specifically authorized, all activities, other than parking, loading and storage, shall be conducted wholly within enclosed buildings.
- (e) 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 public street and shall otherwise only be permitted in areas approved in advance as part of the site plan approval. All goods or materials stored outside which could be visible from a public road, or which are located adjacent to or across 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 firefighting capabilities.

- (f) 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.
- (g) 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.
- (h) 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.
- (i) Other requirements. All uses shall conform to all other Township, County, State and Federal regulations pertaining to its operations.

SECTION 10.08 BUILDING MATERIALS STANDARDS. Unless otherwise approved by the Planning Commission, all principle buildings and those accessory buildings facing the street shall be of masonry, pre-cast concrete, or factory finished metal construction. 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 twenty five percent (25%) of the surface of balance of any first floor (or its equivalent height of twelve (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 steel frame and metal clad buildings shall be constructed to the minimum requirements established by the Metal Building Manufacturers Association and all such buildings shall be adequately protected on the interior and exterior from damage by vehicles and operations. The Planning Commission may approve pole construction and other materials in consideration of the following:

- (1) Whether or not the finished treatment will establish a negative precedent or is otherwise incompatible with surrounding properties in terms of color or overall image.
- (2) The relative scale of the building in terms of height and area.
- (3) 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. Appeals of facade determinations may be made to the Zoning Board of Appeals.

CHAPTER 11

GENERAL PROVISIONS

These general provisions shall pertain to all Zoning Districts as applicable.

SECTION 11.01 THE EFFECT OF ZONING. Zoning applies to every building, structure or use. No building, structure or 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 11.02 RESTORATION OF UNSAFE BUILDINGS. 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 11.03 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 its noncompliance with such minimum requirements.
- (b) Existing Lots of Record
- (1) If a lot in an Agricultural or Residential Zoning District, which is platted or parcel otherwise of record as of the effective date of this Ordinance, does not comply with the area and/or width requirements of its Zoning District, then such lot may be used for one family use only and then only if such one family use is first authorized by the Planning Commission as a special use; provided, however, that a lot which is platted or otherwise of record as of the effective date of this Ordinance which is located in a A-1, R-1, R-2, R-3 or VR Zoning District may be used for one family use only without authorization from the Planning Commission as a special use if
- (a) the lot has a minimum lot area of 12,000 square feet and if there is compliance with all yard requirements for the zoning district in which the lot is located; or
- (b) if there is compliance with any specific exception to the area and/or width requirements of the particular zoning district in which the lot is located.
- In considering such authorization, the Planning Commission shall consider the following standards:
- (c) the size, character and nature of the residential building and accessory buildings to be erected and constructed on the lot;
- (d) the effect of the proposed use on adjoining properties and the surrounding neighborhood;
- (e) the effect of the proposed use on light and air circulation of adjoining properties;

- (f) the effect of any increased density of the intended use on the surrounding neighborhood; and
 - (g) available parking for the intended use.
- (2) *If a lot in a Commercial or Industrial Zoning District, which is platted or otherwise of record as of the effective date of this Ordinance, does not comply with the area and/or width requirements of the Commercial or Industrial Zoning District, then such lot may be used only if first authorized by the Planning Commission as a special use; provided, however, that a lot which is platted or otherwise of record as of the effective date of this Ordinance may be used for a commercial or industrial use without authorization of the Planning Commission as a special use if the lot has a minimum area of twelve thousand square feet and if there is compliance with all yard requirements for the Commercial or Industrial Zoning District.*
- (3) In considering such authorization, the Planning Commission shall consider the following standards:
- (a) the size, character and nature of the commercial building and accessory buildings to be 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;
 - (d) the effect of increased density of the intended use on the surrounding neighborhood; and
 - (e) available parking for the intended use.
- (4) Where two (2) or more such non-complying 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 with the minimum requirements of this Ordinance.
(Amended 7/28/93)
- (c) Exceptions - The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building. Antennas and towers exceeding 50 feet in height may be permitted if approved as a special use under the terms of Chapter 15. *(Amended 1-18-00)*

SECTION 11.04 ESSENTIAL SERVICE. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical

substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any Zoning District.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- (a) Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
- (b) Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform to the general character of the architecture of the surrounding neighborhood.

SECTION 11.05 REQUIRED YARD OR LOT. All lots, yards, parking areas, or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the Zoning District in which they are located. In addition, no lot or parcel of less than five acres in size shall be created with a depth which is greater than four times the lot width as measured in accordance with the definitions of lot width contained in Chapter III. (Amended 5/10/94)

SECTION 11.06 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 or vibration beyond the lot on which the use is located.

SECTION 11.07 TEMPORARY USES, STRUCTURES AND DWELLINGS.

- (a) Upon application, the Zoning Inspector 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 Inspector 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 Inspector 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 Inspector 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 of real property in a new subdivision or housing project.
- (c) Permits for the placement of mobile homes for temporary occupancy on property where a principal dwelling has been damaged or destroyed by fire, wind, flood or Act of God may be issued by the Zoning Administrator subject to the following criteria: (Amended 10/96)
 - (1) Domestic water supply and toilet facilities as approved by the Allegan County Health Department are provided.
 - (2) The mobile home shall be of a type of quality conforming to or exceeding the "Mobile Home Construction and Safety Standards", as promulgated by the United States Department of Housing and Urban Development, (24 CFR 3280), as

amended. All plumbing and electrical connections shall meet BOCA requirements.

- (3) The mobile home shall conform to all setback requirements applicable to accessory buildings in the applicable zoning district except that the Zoning Administrator may authorize placement within the front yard.
 - (4) The permit shall specify that the mobile home is temporary and that the permit shall expire after a period of one (1) year. Two (2) ninety (90) day extensions may be granted.
 - (5) An occupancy permit for the rehabilitated or reconstructed dwelling unit shall not be issued until the temporary mobile home has been removed or performance guarantee for its removal is deposited with the Township Clerk.
- (d) Temporary structures such as tents used in conjunction with short term outdoor events are permitted subject to the following criteria: *(Amended 10/96)*
- (1) On and off-site traffic circulation is not disrupted, adequate off street parking is maintained and traffic hazards are minimized.
 - (2) The structure is not placed within 10 feet of an adjoining property or within the public or private street right-of-way.
 - (3) The structure must be anchored according to manufacturer's specifications.
 - (4) If the structure is erected by a business or non-profit organization, it shall be in support of a special event of limited, short term duration. The temporary structure shall be located on the same lot or parcel as the sponsoring business or organization or an adjacent parcel under the control of the subject business or organization by means of ownership, lease or rental.
 - (5) If the temporary structure is to be erected on the same premises for a period of time in excess of 24 consecutive hours or for a total of more than 16 non-consecutive hours within a 48 hour period, a permit must be obtained from the Zoning Administrator. The permit shall specify the maximum duration that temporary structure may be in place and shall further specify any other terms necessary to preserve public health, safety and welfare.
- (e) A mobile home for use as a temporary accessory dwelling may be permitted in the A-1, R-1 and R-2 districts *(Amended 01-04-11)* when authorized as a special use by the Planning Commission, subject to the following conditions: *(Amended 10/96)*
- (1) The mobile home shall be for the purpose of housing partially disabled or aged family members or other individuals having been assigned to the legal guardianship of the occupants of the permanent principal dwelling located on the same lot or parcel. Such individuals shall be capable of independently caring for themselves but require the occasional assistance or supervision of the family. The dwelling shall not be part of a profit or not for profit business or organization that necessitates licensing or other certification by an agency of the State of Michigan.
 - (2) The mobile home shall be on the same lot as the permanent dwelling. This mobile home shall be separated from the permanent dwelling by a minimum of twenty (20) feet. In addition the mobile home must be situated on the site so as to satisfy the minimum front, side and rear yard setback requirements of the district for principal dwellings. The need for an additional driveway access to serve the accessory dwelling should be avoided.

- (3) The mobile home shall be connected to a domestic water well and septic tank system approved by the Allegan County Health Department;
- (4) The mobile home shall comply with the standards enumerated in Section 11.23 of this ordinance except that the Planning Commission may in its discretion, waive the requirements of Section 11.23, sub-sections (i) and (I) and excepted further, the minimum width requirement for such dwellings shall be fourteen (14) feet, and the minimum floor area shall be six hundred and twenty (620) square feet of floor area as initially sited.
- (5) Temporary accessory dwellings meeting the criteria contained in this section shall not be considered accessory farm dwellings and are exempted from the provisions of Section 11.22 Accessory Farm Dwellings. A temporary accessory dwelling may be converted to a farm accessory dwelling if all of the standards of Section 11.22 are met and the total number of accessory farm dwellings allowed under that section is not exceeded.

Upon favorable findings relative to the above standards, deposit of a performance guarantee (if deemed necessary) and payment of a fee or fees as established by the Township Board, the Planning Commission may authorize a Special Use Permit for the temporary accessory mobile home dwelling. The permit shall be revocable and subject to annual review by the Zoning Administrator.

The Zoning Administrator shall upon review, annually certify in the record, conformity with the standards and conditions of paragraph (1) of this sub-section 11.07(e) and any other conditions imposed at the time the permit was granted. If the Zoning Administrator finds that one or more of the standards or conditions are not met being met, a written report will be provided to the Planning Commission. If after notification in accordance with the procedures of Section 15.05, and a public hearing, the Planning Commission also finds that one or more of the standards or conditions are not met, the Planning Commission may act to revoke the special use permit. The mobile home shall be required to be removed within ninety (90) days after the date of receipt of a notice by the proprietor of the property on which the dwelling located. The notice shall be forwarded by certified mail.

SECTION 11.08 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 AG or R 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. (Amended 7/28/93)

SECTION 11.09 ACCESSORY BUILDINGS.

- (a) In any Zoning District, an accessory building may be erected detached from the permitted principal building or an integral part of the permitted principal building. If attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. In all V-R, R-2 and R-3 Districts, the architectural character of all accessory buildings shall be compatible and similar to the principal building. (Amended 7/28/93)

- (b) Detached accessory buildings shall not be located closer than five (5) feet to the rear or side lot line in any V-R, R-2 or R-3 District or closer than ten (10) feet to the rear or side lot line in any A-1 or R-1 District. *(Amended 01-04-11)*. Accessory buildings shall not be located closer than forty (40) feet to the waters' edge in the case of a waterfront lot (except that pump houses may be located within forty (40) feet of the waters' edge if they do not exceed three (3) feet in height) and shall not occupy more than thirty percent (30%) of any required rear yard space. *(Amended 7/28/93)*
- (c) Unless exempted under sub paragraph (f) of this section, in any V-R, 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. *(Amended 7/28/93)*
- (d) In the A-1 or R-1 Zoning Districts *(Amended 9/30/2012)* detached accessory buildings or garages of up to 2400 square feet are permitted between the street right-of-way and the principal use building provided the accessory building is a minimum of 250' from the road right-of-way, and complies with the minimum side yard setbacks for the principal use building. However, if it does not meet all of these conditions, it may be permitted between the street right-of-way and the principal use building when authorized as a Special Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following: *(Amended 7/28/93)*
 - (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.
- (e) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as 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) A garage 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 an accessory building and if it is located not less than ten (10) feet from the right-of-way line. *(Amended 7/28/93)*
- (g) No accessory building or structure shall include residential or living quarters for human beings except as allowed under the provisions of SECTION 11.07(e), TEMPORARY DWELLINGS and SECTION 11.22, ACCESSORY FARM DWELLINGS *(Amended 10/96 and 1-18-00)*.

SECTION 11.09A ACCESSORY BUILDINGS: CONSTRUCTION PRIOR TO A PRINCIPAL BUILDING OR USE:

Notwithstanding the provisions of Section 11.09, the issuance of a building permit for any building which is intended to serve as an accessory building shall not precede the issuance of a building or zoning permit for a permitted principal use building on any lot or parcel located in a V-R, R-2 or R-3 Zoning District.

Within the A-1 and R-1 Districts (*Amended 01-04-11*), the issuance of a building permit for a building intended to serve as an accessory building may only precede the issuance of a building permit for a permitted principal use building if the following conditions are met:

- (a) The size of the accessory building will be limited to one square foot of total floor area for each 100 square feet of lot area, (excluding street right-of-way) up to a maximum of 1500 square feet of floor area.
- (b) The minimum front yard setback for the accessory building is 100 feet.
- (c) A sketch plan must be submitted to the building inspector at the time of building permit application indicating the proposed location of the future principal building, the proposed accessory building and its relationship to property lines, water features and street access. The sketch plan must take into account existing topography and vegetation, and the need for a domestic well, and septic system to serve the future principal building.
- (d) The accessory building, coupled with the physical constraints of the site, will not preclude the ability to situate a principal use building on the premises in compliance with setback and yard area requirements for the zoning district.
- (e) The building may not be connected to a water, wastewater or septic system prior to the construction of the principal building.
- (f) Exterior lighting shall be limited to wall mounted units. Illumination shall be directed downward or shielded from nearby residents.
- (g) The building will not be used to operate or support a business located on or off premises

(Amended 1-18-00)

SECTION 11.10 PRINCIPAL BUILDING ON A LOT. Unless otherwise permitted by this Ordinance in R-1, R-2, R-3 and VR Residence Zoning Districts, no more than one (1) principal building shall be placed on a lot. (Amended 7/28/93) (Amended 5/10/94)

SECTION 11.11 DOUBLE FRONTAGE LOTS. Buildings on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

SECTION 11.12 SIGNS. (*Amended in its entirety 8/8/2017*)

A. Purpose and Intent. This Article is intended to regulate the size, number, location and manner of display of signs in the Township consistent with the following purposes:

- 1. To protect and further the health, safety and welfare of residents, property owners, and visitors.
- 2. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- 3. To conserve and enhance community character.
- 4. To promote uniformity in the size, number, or placement of signs within zoning 7 districts.

5. To promote the economic viability of commercial areas by minimizing visual clutter, and allowing for placement of signs to safely direct motorists to their destination.
6. To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the communication rights of businesses and other non-business uses.
7. To recognize that special circumstances or events may create a need for temporary signage for a limited and reasonable period of time.
8. The purpose of this Article does not include the regulation of the content or any information included on the sign.

B. Substitution Clause. Signs which contain non-commercial speech are permitted anywhere that advertising or business signs are permitted subject to the same regulations applicable to such signs. The owner of any sign which is otherwise allowed by this Article may substitute non-commercial language in lieu of any other commercial or non-commercial language. This substitution may be made without any additional approval or permitting. The purpose of this provision is to prevent an inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message.

C. Definitions

1. **Commercial Establishment:** A business operating independent of any other business located in a freestanding building; in a strip mall, a business completely separated from other businesses by walls from the ground up and with a door which may regularly be used by the public for exclusive ingress and egress to that business; in an enclosed structure with a shared climate controlled area, a business completely separated from other businesses by walls from the ground up and with a door or entrance which may regularly be used by the public for exclusive ingress and egress to that business and which may be closed to the public even while the common area is open to the public; and in an office building, a business holding itself out to the public as a single entity, independent of other businesses or persons.
2. **Directional Sign:** A sign used primarily to give information about the location of either the driver of motorized vehicles or possible destinations. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.
3. **Electronic Reader Board/Digital Display Sign:** A sign or portion thereof that displays electronic, digital, pictorial, or text information in which alphanumeric characters, graphics, or symbols are 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. Such signs can include computer programmable, microprocessor controlled electronic displays, and video display signs. 8
4. **Festoons:** A chain or garland of flowers, leaves, or ribbons, hung in a curve as a

decoration.

5. Freestanding Sign: a sign installed independently upon its own base, foundation, posts, or poles. Types of freestanding signs include but are not limited to ground signs and pole signs.
6. Government Sign: A sign erected, permitted by, or required to be erected by a government agency.
7. Ground Sign: A freestanding sign supported by a base or foundation which rests directly on the ground. The width of the base shall be at least 50% of the width of the sign in order to be a ground sign.
8. Identification Sign: A sign intended to communicate information about services and facilities. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.
9. Illuminated Sign: A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with the sign, or a sign illuminated by a light shielded so that no direct rays from it are visible from any public right-of-way or from the abutting property.
10. Inflatable Sign: Any three-dimensional object, including a tethered balloon, capable of being filled with air or gas depicting a container, figure, product, or product trademark, whether or not such object contains a message or lettering.
11. Mansard: A sloped roof or roof-like façade architecturally comparable to a building wall.
12. Mansard Sign: A sign that is mounted, painted on, or attached to a mansard.
13. Manual Sign: A sign on which the letters or pictorials are changed by hand.
14. Mural: A design or representation painted or drawn on a wall.
15. Pennant: A flag or cloth that tapers to a point.
16. Permanent Sign: A sign installed on a support structure, not intended to be moved or removed, but to remain for an indefinite period of time.
17. Pole Sign: a freestanding sign which is supported by a structure, poles, or braces which are less than fifty (50) percent of the width of the sign.
18. Projecting Sign: A display sign which is attached directly to the building wall that extends more than 15 inches from the face of the wall and projects in such a way that the message is not parallel to the wall to which it is attached.
19. Roof Line: The top of a roof or parapet wall, whichever is higher, but excluding any

cupolas, chimneys, or other minor projections.

20. Roof Sign: A sign erected above the roof line of a building.
21. Rotating Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changeable copy.
22. Sidewalk Sign: An A-frame sign which is portable and designed to be placed on the sidewalk in front of the use it advertises. This may also be called a “Sandwich Board Sign.”
23. Sign: A device, structure, fixture, or placard that is intended for purposes of attracting attention.
24. Streamers: A long, narrow strip of material used as a decoration or symbol.
25. Temporary Sign: A sign not permanently attached to the ground, a structure, or a building. Temporary signs may include banners, portable signs, and any other signs displayed for a limited period of time.
26. Traffic Warning Sign: A sign that indicates a hazard ahead on a road that may not be readily apparent to a driver, bicyclist, or pedestrian. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.
27. Video Sign: A sign which displays moving images as on a television screen.
28. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of a wall to which it is attached.
29. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

D. **Signs Prohibited:** A sign not expressly permitted by this Section is prohibited. Specifically, the following types of signs are expressly prohibited:

1. Any sign, including window signs, which have flashing, moving, oscillating, scrolling or blinking lights. This prohibition excludes electronic reader boards and digital display signs, which are permitted.
2. Roof signs.
3. Rotating signs.
4. Searchlights, laser lights, strobe lights, and lights of a similar nature.

5. Signs which are spray painted, unpainted plywood, particle board, or in general disrepair.
6. Signs maintained by or for services, businesses, attractions, activities, lessors, owners that are no longer in operation shall not be permitted. A sign that remains after the operation ceases shall be considered abandoned and the sign face shall be removed or replaced with a blank face within 60 days after written notification from the Township to the sign owner, the property owner where the sign is located, or any other party having control over the sign.
7. A sign using the words “stop,” “danger,” or other words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse a vehicle driver. Although this is a content- based distinction, these signs must be prohibited to prevent public confusion, risks to safety, and traffic collisions.
8. Any sign placed within the right-of-way or alley, except as expressly permitted by the Allegan County Road Commission, Michigan Department of Transportation, or the Township Board.

E. Exempt Signs

The following signs shall be exempt from the provisions of this Section. However, Sections 11.12.F and 11.12.H shall apply to all signs, including those listed below.

1. Signs which are 1.5 square feet or less in area. No more than one such sign shall be allowed for every 10 lineal feet of road frontage per parcel. Signs located within the required front yard shall be at least 10 feet apart.
2. Directional, identification, traffic warning, or government signs, provided the size of each sign does not exceed four square feet and three feet in height and each sign is located at least five feet from any lot line

F. Requirements for Permitted Signs

1. All permanent signs require a building permit. All signs using electrical power require an electrical permit.
2. All signs including signs which do not require a permit are subject to the requirements of this Section, Section I, and all other applicable requirements of this Ordinance.
3. All signs including supports and structural members shall be properly maintained as originally approved and shall not be allowed to become unsightly or a safety hazard through disrepair or as a result of the weather.
4. Signs may be internally or externally illuminated. The source of the light shall be fully shielded and directed to prevent the source of light from shining directly at

traffic or onto adjoining property.

5. A light pole, utility pole, or other support structure not specifically designed as sign support structure, shall not be used for the placement of any sign unless specifically approved for such use.
6. A sign shall not interfere with or obstruct the view of drivers or those on foot or bicycle, or create any type of safety hazard or distraction to vehicle drivers.
7. A sign shall not by reason of its position, shape, color, or other characteristic, interfere with, obstruct or be confused with an official traffic sign, signal, or device, or constitute a nuisance per se.
8. A wall sign shall not extend beyond the edge of the wall to which it is affixed or extend above the roof line of a building.
9. A sign and its supporting mechanism shall not extend beyond the lot lines of the property on which it is located.
10. A window sign may consist of illuminated letters including neon lights.
11. To assist emergency personnel in case of an emergency, all on site signs identifying a building or specific use shall have displayed thereon the address number of the property on which the building or use is located. The address number shall be displayed in a block text having a minimum height of four inches and a color that contrasts with the color of the background on which the address number is displayed.

G. Regulations for Electronic Reader Boards and Digital Display Signs

1. An electronic reader board shall not consist of more than 75% of the allowable sign area except for signs which are 32 square feet or less in area.
2. The dwell time, defined as the interval of change between each individual messages, shall be at least six seconds and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less to change the message.
3. An electronic reader board shall not have any flashing, blinking, scrolling, alternating, sequentially lighted, animated, rolling, shimmering, sparkling, bursting, dissolving, twinkling, fade-in/fade-out, oscillating, moving text or images, or simulated movement of text or images.
4. An electronic reader board shall not exceed a maximum illumination of 6,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits (candelas per square meter) between dusk to dawn as measured at the sign's face at maximum brightness. However, even if the sign complies with the illumination requirements above, the sign shall not be of such intensity or brilliance as to impair the

vision of or be a distraction to a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle; or be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

5. Prior to the issuance of a sign permit for an electronic reader board, the applicant shall provide to the Township Zoning Administrator certification from the manufacturer of the sign that the illumination settings for the sign comply with the maximum illumination requirements of this Section.
6. An electronic reader board shall be equipped with a brightness control sensor that allows for the brightness to be adjusted either manually or automatically.
7. An electronic reader board sign shall not have a white background in order to reduce glare.
8. An electronic reader board is allowed as a window sign and shall comply with the requirements for electronic reader boards as set forth in this Article. Any flashing or strobe type lights within a building or structure which are visible from the exterior of the building or structure are prohibited.
9. Any premises or parcel on which a changeable message sign is located may also display a temporary sign in accordance with the requirements of this Section.

H. Sign Measurement

1. The area of a sign is 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 the sign is placed. Where a sign has two or more faces, the combined area of all faces shall be included in determining the area of the sign, except that where two 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.
2. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

I. Non-Conforming Signs

1. Continuance. A non-conforming sign may be continued, and shall be maintained in good condition. A non-conforming sign may receive normal maintenance and its message may be changed, but shall not be:
 - a. Replaced by another sign, except one that conforms to the provisions of this Article.

- b. Structurally altered so as to prolong the life of the sign.
 - c. Expanded or relocated.
 - d. Re-established after damage or destruction, if the estimated expense of reconstruction exceeds 50% of the estimated replacement cost.
3. Removal. A non-conforming sign shall be removed:
- a. If it has been abandoned.
 - c. If required by the Planning Commission in connection with approval of a Special Land Use Permit for the property

J. Regulations for Temporary Signs

- 1. A temporary sign may be installed concurrent with the event and removed upon the end of the event, for a total time period of no more than sixty (60) days.
- 2. Temporary signs may be installed for no more than two (2) periods of sixty (60) days per calendar year, separated by a minimum period of thirty (30) days.
- 3. Signs shall be anchored in a safe and secure manner. The anchoring of signs by tying or attaching weighted objects (such as cinder blocks or tires) is prohibited.
- 4. The sign shall not be located within any road or street right-of-way or public or private sidewalk except for sandwich board signs as regulated herein.
- 5. A sign shall not be displayed if it is torn, bent, faded, not upright, unreadable, or otherwise unsightly in disrepair.
- 6. Temporary signs held by a person shall not be displayed in the road right of way and shall not hamper the visibility of a driver on or off the site.
- 7. Temporary signs shall only be internally illuminated.
- 8. An electronic reader board/digital display sign may serve as a temporary sign and shall comply with the requirements of Section 11.12.H

K. Permitted Signs in the Agricultural (AG) and Rural Estate (R-1) Zoning Districts

- 1. One permanent freestanding sign per parcel with the following maximum sizes:
 - a. On parcels over five (5) acres in size: thirty two (32) square feet
 - b. On parcels over one acre but less than five acres in size: sixteen (16) square feet
 - c. On parcels less than one acre in size: eight (8) square feet
- 2. On non-residential parcels, one additional freestanding or wall sign may be permitted

by Special Use with the maximum size to be determined by the planning commission based upon the Special Use criteria in Section 15.03.

3. Temporary signs are permitted as follows:
 - a. Temporary Signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 32 square feet.
 - a. Temporary signs shall comply with the requirements of Section 11.12.K.
4. Additional Signs. One or two permanent ground signs may be provided at each entrance to a subdivision, condominium or mobile home park. The area of one sign shall not exceed 32 square feet and the total area of two signs shall not exceed 48 square feet. The sign must be setback at least ten (10) feet from the right-of-way line of any street. No sign shall exceed six feet in height.
5. Electronic Changeable Message Signs are permitted by Special Use for commercial uses within the Agricultural District, subject to Section 11.12.H

L. Permitted Signs in the R-2, R-3 and Village Residential (VR) Zoning Districts

1. One permanent freestanding sign per parcel, with a maximum size of eight (8) square feet.
2. On non-residential parcels, one additional freestanding or wall sign may be permitted by Special Use with the maximum size to be determined by the planning commission based upon the Special Use criteria in Section 15.03.
3. Temporary signs are permitted as follows:
 - a. Temporary Signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 16 square feet.
 - b. Temporary signs shall comply with the requirements of Section 11.12.K.
4. Additional Signs. One or two permanent ground signs may be provided at each entrance to a subdivision, condominium or mobile home park. The area of one sign shall not exceed 32 square feet and the total area of two signs shall not exceed 48 square feet. The sign must be setback at least ten (10) feet from the right-of-way line of any street. No sign shall exceed six feet in height.

M. Permitted Signs in the Village Commercial (VC) Zoning Districts:

1. Wall Signs:

The sign shall not exceed fifteen (15) percent of the front face of the building or the face of the building upon which it is installed, whichever is smaller.

- i. All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.
 - ii. A wall sign may be internally illuminated.
- 2. Projecting Signs:
 - i. The sign shall not exceed fifteen (15) square feet
 - ii. The sign shall not project closer than one (1) foot from the road Right of Way.
 - iii. The sign shall not be less than ten (10) feet in height at its lowest point.
- 3. Freestanding Signs may be permitted by Special Use with the maximum size to be determined by the planning commission based upon the Special Use criteria in Section 15.03.
- 4. Temporary signs are permitted as follows:
 - a. Temporary signs are permitted, provided that the square footage of a single sign or the total square footage of all temporary signs shall not exceed 24 square feet and six (6) feet in height.
 - b. Temporary signs shall comply with the requirements of Section 11.12.K.
 - c. Sidewalk signs are subject to the following regulations:
 - iv. One sign is permitted for each public entrance to the use or commercial establishment.
 - v. The sign shall not exceed eight square feet per side and no more than four feet in height.
 - vi. Signs shall be placed directly in front of the use or commercial establishment using the sign but no more than five feet from the public entrance doorway. The sign shall not be placed in a designated parking space or in a manner which obstructs pedestrian circulation or interferes with the opening of doors of parked vehicles and buildings.
 - vii. The sign shall not be lighted.
 - viii. The sign shall not be displayed during non-business hours.
- 5. Electronic Changeable Message Signs are permitted by Special Use, subject to Section 11.12.H

N. Permitted Signs in the General Commercial (C-1) and Industrial Zoning Districts

- 1. One permanent freestanding sign as regulated by Table 1 of this Section.

2. Where two or more businesses are located in the same building or on the same lot, signage for each business shall be combined on one sign. The maximum sign area shall be 32 square feet. The sign area shall not exceed fifty (50) square feet.
3. Wall Sign. Each commercial establishment shall be permitted a single wall sign on each wall that fronts on a public or private street as follows:
 - a. The maximum sign area permitted is fifteen (15) percent of the front face of the building or the face of the building upon which it is installed, whichever is smaller.
 - b. All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.
 - c. A wall sign may be internally illuminated.
4. Temporary signs are permitted as follows:
 - a. Temporary signs are permitted provided that the total square footage of all temporary signs shall not exceed 32 square feet and six (6) feet in height.
 - b. Temporary signs shall comply with the requirements of Section 11.12.K.
 - c. Sidewalk signs are subject to the following regulations:
 - i. One sign is permitted for each public entrance to the use or commercial establishment.
 - ii. The sign shall not exceed eight square feet per side and no more than four feet in height.
 - iii. Signs shall be placed directly in front of the use or commercial establishment using the sign but no more than five feet from the public entrance doorway. The sign shall not be placed in a designated parking space or in a manner which obstructs pedestrian circulation or interferes with the opening of doors of parked vehicles and buildings.
 - iv. The sign shall not be lighted.
 - v. The sign shall not be displayed during non-business hours.
5. Electronic Changeable Message Signs, subject to Section 11.12.

SECTION 11.13 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO MAJOR STREETS. Notwithstanding any other provision of this Ordinance, no building or structure shall be hereafter constructed, erected or enlarged on a lot abutting a major thorough- fare (County

primary), unless a minimum of one hundred feet of building setback measured from the street centerline is maintained. (Amended 7/28/93)

SECTION 11.14 MINIMUM STREET FRONTAGE AND LOT WIDTH: *(Amended 10-96)*

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 except that minimum street frontage may be reduced 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.
- (b) When a lot has frontage on an approved private street end having at least sixty six (66) feet of width the minimum length of frontage on the end line shall be twenty five (25) feet. Reference Section 11.25(c) for standards relating to private street ends.

In each instance where a lot frontage reduction has been allowed under (a) or (b) above, minimum lot width must 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. In all cases minimum lot width shall be maintained between the front and rear building lines of the principal building, or 30 feet behind the front line of the building, whichever is the greater distance.

SECTION 11.15 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 11.16 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 its 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 11.17 REMOVAL OF NATURAL RESOURCES *(Ref. Chapter 21, Amended 1-27-03)*

SECTION 11.18 DUMPING RUBBISH, WASTE MATERIAL AND WASTE WATER. It shall be unlawful throughout the Township to permit waste water from sinks or other similar drains, and sewage to drain onto the land, yard, or other spaces from dwellings, business places of all types, and accessory buildings thereto, and to throw any such waste water and sewage onto said

land; and it shall be unlawful for any person or organization to throw or dump empty cans, food containers, broken or whole bottles, crockery or utensils of any kind, automobile bodies or parts, old tires, old stoves, discarded furniture or household furnishings and utensils, junk, parts of any machinery or appliances or any litter, flammable matter or substances, offal, ashes, clinkers, cinders, night soil, or any other similar waste objects, used concrete, bricks, and other forms of masonry, either upon land owned, occupied or used by any individual or company or upon any land in any public place, or privately owned of another, unless such place has been designated as a public dumping ground by the Township; and it shall be unlawful to drain any waste water, water containing waste or foreign substances or otherwise contaminated, or any sewage, raw or treated, from any dwelling or business place of any kind or from any accessory building, either by open ditch or by pipes or by throwing or dumping the same into any ditch, creek or stream, of any kind in the Township.

SECTION 11.19 BASEMENT DWELLINGS. It shall be unlawful to occupy a basement, as defined in this Ordinance, as a dwelling unit. Exceptions are provided in the AG and R-1 Zoning Districts for buildings which meet the following requirements: a minimum of eight hundred sixty-four (864) square feet of usable floor area; a vertical use of one (1) foot of roof pitch for every three (3) feet of vertical span (4:12 roof); and at least three (3) walls have a minimum exposure of four (4) feet with the fourth wall exposed for its entire height.

SECTION 11.20 KEEPING OF DOMESTICATED FARM ANIMALS. The keeping of domesticated farm animals within a Commercial or Industrial District is prohibited. Within any Residential or Agricultural Zoning District the keeping or raising of domesticated livestock and fowl may be permitted on the same lot or parcel where a residence is located, provided that:

- (a) A structure or fence is used to enclose and confine the animals to the premise. The enclosed area 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.
- (b) All buildings or structures in which the animals are housed and all feeding and waste handling facilities or areas must be located at least 50 feet from all residential dwellings, streams or other water bodies, property lines, and street rights-of-way.
- (c) Within the V-R, R-2, and R-3 Zoning Districts the keeping of domesticated farm animals

is subject to the following additional standards and limitations:

- (1) Cattle, horses, and bison: A minimum lot area of three acres is required and there shall be no more than one animal for the first three 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 three 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 40 animals for each additional acre up to a maximum of 200 animals.
- (d) Within the A-1 and R-1 Zoning Districts (*Amended 4-03 and 01-04-11*) 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

subject to the following provisions.

- (1) Cattle, horses, and bison: A minimum lot area of three acres is required and there shall be no more than one animal for the first three acres and one additional animal for each additional acre for a total of no more than three such animals on the first five acres. For parcels containing more than five acres a maximum number of animals is not specified herein. Adherence to the best management practices for the keeping of such animals as proscribed by the Michigan Department of Agriculture is required.
 - (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 three acres and one additional animal for each additional one half acre for a total not to exceed seven animals on the first five acres. For parcels containing more than five acres, a maximum number of such animals are not specified herein. Adherence to the best management practices for the keeping of such animals as proscribed by the Michigan Department of Agriculture is required.
 - (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 up to a maximum of 200 animals for the first 5 acres. For parcels containing more than five acres a maximum number of such animals is not specified herein. Adherence to the best management practices for the keeping of such animals as proscribed by the Michigan Department of Agriculture is required.
- (e) Within any Open Space Preservation project authorized under Chapter 22 or any Conservation Subdivision approved under the provisions of Chapter 23, the keeping of domestic animals shall be governed by the standards of 11.20(a), (b) and (c) above unless at the time of the projects approval, alternative terms or conditions were specified relative to the use of common or preserved open space (*Amended 1-27-03*). The provisions of this Section do not apply to keeping of homing pigeons which are exempted from regulation by state statute or the keeping of ordinary household pets (ref. Section 11.21, ref. also Section 11.26). (*Amended 7/28/96*)

SECTION 11.21 NON COMMERCIAL KENNELS AND ANIMAL RUNS. For the purpose of this Section, a non commercial kennel shall mean a facility used to house four or more domestic pets, 4 months of age or older. An animal run is a fenced area designed specifically to contain one or more domestic pets in an outdoor yard area, which is not used in conjunction with facilities to house four or more animals on the same premises. Non-commercial kennels and fenced animal runs may be permitted in the A-1 and R-1 Districts, subject to the following provisions. (*Amended 7-28-93, 12-15-98 and 1-04-11*)

- (a) The facilities shall not involve the business of boarding, medical care or grooming of any animal not owned or licensed by the property owner or renter.
- (b) The lot or parcel of land on which a kennel is to be located (4 or more animals) shall be a minimum of one (1) acre in size.
- (c) A kennel structure and any pen or run associated with a kennel shall be located in the rear or side yard and kept a minimum of fifty feet from the property line or one hundred (100)

feet from any adjacent off premise residential structure, which ever is the greater distance.

- (d) The kennel facility shall be enclosed by a fence or a wall, constructed with suitable materials, and to a height that will contain the animals on the premises and prevent the public or stray animals from obtaining entrance to the enclosure and gaining contact with the animals lodged in the facility.
- (e) Kennel facilities shall have floors that are well drained and shall be constructed of materials that are easily cleaned.
- (f) At any given time, there shall be a maximum limit of six (6) animals, each over the age of four (4) months of age, allowed to be kept at a non-commercial kennel.
- (g) On parcels less than one acre, kennels are not permitted and any animal run or other fenced areas constructed specifically to contain three or fewer animals shall be located in the side or rear yard a minimum of 25 feet from the property line. (Amended 7/28/93)

SECTION 11.22 ACCESSORY FARM DWELLINGS. *(Amended 01-04-11)* Single family accessory Farm Dwellings for use by not more than 4 full-time or part time farm employees or family members of farm operators shall be permitted in conjunction with a principal single family farm dwelling structure in the A-1 and R-1 Districts, subject to the following provisions: *(Amended 7/28/93)*

- (a) Only one such detached single family dwelling or one attached dwelling unit shall be permitted by right on each premises and the use of the accessory dwelling shall be limited to use as the residence of farm employees, or Family members of the owner or the lessee of the farm operation. Legal evidence or affidavit of such shall be required to be submitted to the Zoning Administrator prior to the issuance of a building permit for an accessory dwelling. Up to two additional farm accessory dwellings or dwelling units may be permitted as special uses, subject to the provisions of this section and Chapter 15.
(Amended 01-04-11)

- (b) The premises shall be the principle address of the owner or leaseholder of the property. (c) The accessory dwelling may be erected as an integral part of the principle farm dwelling or as an integral part of an otherwise permitted farm accessory building such as an attached or detached garage, or barns, or as a free standing single family dwelling unit. If

the structure is a free standing single family dwelling unit, it shall, in all ways, conform to the standards for single family homes in the district and be situated so as to be able to comply with the setbacks and yard area requirements for single family homes should the dwelling be sold for non-farm related dwelling purposes at a later date. In such instances, the sale of such a dwelling and parcel shall be subject to the density controls applicable to district in which it is located. *(Amended 01-04-11)*

- (d) If an accessory dwelling unit is attached to the principal dwelling, the minimum square footage of habitable floor area provided in the accessory dwelling shall be 280 sq. feet for one person and 400 sq. feet for two persons. The maximum amount of floor area allowed in an attached accessory dwelling shall be 650 sq. feet. *(Amended 01-04-11)*

- (e) In such instance that the accessory dwelling unit is to be a part of an otherwise permitted accessory building; the habitable floor area shall not comprise more than 50% of the total floor area of an accessory structure.
- (f) Whether a unit is attached as an integral part of the principle dwelling structure or as part of an attached or detached accessory building or as a free standing single family dwelling, the accessory dwelling shall be equipped with its own domestic water supply, sanitary facilities approved by the Allegan County Health Department, food preparation facilities, and means of outdoor entrance and exit. *(Amended 01-04-11)*
- (g) If attached to or integrated within the principle dwelling structure, only one front entrance to the structure shall be visible from the front yard and there shall be no external evidence of occupancy by more than one domestic unit (family). The floor area of the accessory dwelling shall not be calculated in achieving the minimum required floor area for the principle dwelling unit. *(Amended 01-04-11)*
- (h) All building additions made to an existing structure to facilitate the provision of an accessory dwelling shall be done in a manner that conforms architecturally to the existing structure. *(Amended 7/28/93)*

SECTION 11.23 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE OF MOBILE HOME PARKS. All dwelling units located outside of mobile home parks shall comply with the following requirements: *(Amended 7/28/93)*

- (a) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- (b) The minimum width of any single family dwelling unit in the A-1 and R-1 District shall be fourteen (14) feet. In any R-2 or R-3 district the minimum width shall be shall be twenty-two (22) feet. Such width shall be maintained for at least sixty-seven percent (67%) of its length, measured between the exterior parts of the walls having the greater length. *(Amended 01-04-11)*
- (c) 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 the area 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. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions, 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 wall as required in subsection (e).
- (d) If a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanisms, undercarriage or chassis.
- (e) If a dwelling is a mobile home, as defined herein, 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 to underneath the mobile home. One (1) access door shall be permitted 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. (*Amended 10-96*)

- (f) All dwellings shall be connected to a sewer system and water supply system approved by the Allegan County Health Department.
- (g) All dwellings shall provide steps or porch areas, permanently positioned in the ground of permanently attached to the foundation, where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (h) All additions to dwellings shall meet all of the requirements of this Ordinance.
- (i) 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.
- (j) 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 subsection (12) hereof.
- (k) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township.
- (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.

SECTION 11.24 SITE CONDOMINIUM SUBDIVISIONS (Amended 7/28/93)

- (a) *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 Salem Township Zoning Ordinance may be permitted in a site condominium project.

The purpose of this Section is to ensure that plans for developments within Salem 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 Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is also the intent of this Section 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.

- (b) *SITE CONDOMINIUM REVIEW AND APPROVAL PROCEDURES.* Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

- (1) **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 all Planning Commissioners, the Township Supervisor, Township Planner, and Township Engineer:

- (a) 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.
- (b) A statement regarding the provision of sewer service and water supply. ***During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant about the following:***

- (c) General requirements of this Section and other applicable provisions of the Zoning Ordinance.
- (d) Planned or anticipated sites of parks and recreation areas and other

- public uses.
- (e) Utility system capabilities.
- (f) Planned or anticipated public improvements, including streets, utility extensions, and the like.
- (g) 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.
- (h) 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.

- (2) **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:

- (a) Allegan County Health Department
- (b) Allegan County Road Commission
- (c) Allegan County Drain Commission
- (d) Michigan Department of Natural Resources and Environment. *(Amended 01-04-11)*
- (f) Michigan Department of Transportation
- (e) 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.
- (g) Gas and electrical utility corporations serving the area.
- (h) The applicable Intermediate School District and the individual School District affected by the project.

- (3) **Step II Preliminary Review By Planning Commission.**

- (a) **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:
 - (i) The applicant's name, address, and phone number.
 - (ii) 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.
 - (iii) The name, address, and phone number(s) of the owner(s) of record if different than the applicant.
 - (iv) The legal description, address and tax parcel number(s) of the property.
 - (v) Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing etc.
 - (vi) Gross and net size of the parcel in acres.

- (vii) Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - (viii) A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - (ix) A copy of any preliminary agreements which may be required before Final Plan approval is granted.
 - (x) 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.
- (b) 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.
 - (c) The application and plans shall be submitted at least twenty (20) days before the next regularly scheduled meeting of the Planning Commission.
 - (d) 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.
 - (e) *Planning Commission Step II Review. 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 17.06 of this Ordinance. *(Amended 05-08)*

In reviewing the Preliminary Plan, the Planning Commission shall give particular attention to the requirements of Section 11.24, Subsection (c) contained herein. 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:

- (i) Recommend denial of the Preliminary Plan, setting forth the reasons in writing, or
- (ii) 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.

- (4) **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.
- (a) 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:
 - (i) That the general terms and conditions under which Step II approval was granted will not be changed by the Township.
 - (ii) That the building site sizes, number and orientation, and street layout have been approved.
 - (b) 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.
 - (c) 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.
- (5) **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.
- (6) **Final Plan Approval**
- (a) 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:
 - (i) 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.
 - (ii) A copy of all final agreements and the Master Deed which is to be recorded with the Allegan County Register of Deeds.
 - (iii) 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.
 - (b) If all submissions are found acceptable, the Clerk shall submit the same to the Township Board at its next regular meeting for approval.
 - (c) 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.
 - (d) If the Final Plan is rejected, the Clerk shall notify the applicant stating the reasons for denial.
 - (e) 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.
- (7) **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
 - (i) 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.
 - (ii) 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.
 - (iii) 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.

(iv) 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.

(c) *SITE CONDOMINIUM SUBDIVISION PLANS.*

(1) 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:

- (a) 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.
- (b) 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.
- (c) North arrow, scale, contour interval, and legend when appropriate.
- (d) Contour elevations adjusted to USGS datum at not more than five (5) foot intervals.
- (e) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.
- (f) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.
- (g) The lot lines, intended layout, and intended use of the entire property owned or represented by the developer. The following shall be included:

- (i) Street and stub street right-of-way -- location, width and curve radii.
 - (ii) Proposed street names.
 - (iii) 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.
 - (h) The location and dimensions of all existing or proposed easements or open space reserves, including electrical and telephone easements.
 - (i) 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.
 - (j) Statements regarding:
 - (i) Intent to utilize public or private water or sewage facilities.
 - (ii) Zoning and lot size requirements.
 - (iii) Zoning requirements for front, side and rear yards.
 - (iv) Size and type of street in accord with Allegan County Road Commission standards or any adopted Salem Township private street regulations (ref. Section 11.25).
 - (v) Intent to install gas, sidewalks, street lights, and shade trees.
 - (vi) Use of waterways, rivers, streams, creeks, lakes or ponds.
 - (k) The location of all general and limited common elements.
 - (l) The use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the Master Deed.
 - n). Identification of the limits of any required "natural vegetation zone" and/or "transition zone" adjacent to a riparian feature, as established by the Riparian Area Protection standards contained in Chapter 25. *(Amended 2-08)*
- (2) **Final Plan.** The Final Plan for a Site Condominium Subdivision shall include:
- (a) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Township.
 - (b) One (1) copy of the final Master Deed intended for recording.
 - (c) Performance or installation agreements for any improvements not controlled or regulated by other agencies, such as sidewalks, streetlights, or shade trees.
 - (d) One (1) copy of any financing arrangements between the Township and the proprietor for the installation of required improvements, if any.
- (d) *SITE CONDOMINIUM SUBDIVISION LAYOUT, DESIGN, AND REQUIRED IMPROVEMENTS*
- (1) **Conformance With Zoning.** All land uses and building sites within a site condominium subdivision project shall be subject to the requirements of the Salem Township Zoning Ordinance for that zoning district in which it is located.

- (2) **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, if subsequently adopted after the effective date of this Section, with private streets constructed under the standards of Salem Township.
- (3) **Water, Sanitary Sewer, Storm Drainage and Private Utilities.**
- (a) 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.
 - (b) All telephone, electric, gas and cable television utilities, when provided, shall be installed underground within easements dedicated for such use.
 - (c) Storm drainage collection, retention and detention facilities shall be constructed to Allegan County Drain Commission standards and recommendations.
- (4) **Other Required Improvements.**
- (a) 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.
 - (b) 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.
- (5) **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.
- (6) **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.
- (7) **Protected and uninhabitable Areas** -For properties affected by the Riparian Area Protection Overlay Zone as delineated on the "Riparian Areas Protection Overlay Map," and the Official Zoning Map of Salem Township, master deed provisions and restrictive covenants shall include the following statement: "There shall be no clearing, grading, placement of fill, construction or disturbance of vegetation within any lot (unit), out-lot, park or common area labeled "natural

vegetation zone" or "transition zone" as it appears on the exhibit (insert letter designation) drawings of this development except as permitted by Chapter 25 of the Salem Township Zoning Ordinance." (*Amended 2-08*)

(e) *VARIANCES*

- (1) **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.
- (2) **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.

SECTION 11.25 PRIVATE STREETS. All private streets and certain shared or joint driveways (those serving lots 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 III, also Section 11.27 Driveways): (*Amended 10/96, 12/15/98 and 9-24-02*)

(a) **Definitions:** For purposes of this section, the following terms are defined as follows:

- (1) **Existing Private Street:** is a private street or a private street system which is used to provide access to lots, buildings or dwelling units existing as of the effective date of this Ordinance.
- (2) **Existing Lot:** is a lot which, as of the effective date of this Ordinance, meets at least one of the following conditions:
 - (a) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Allegan County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Allegan County Register of Deeds;
 - (b) The lot has been assigned its own permanent parcel number by the Allegan County Property Descriptions and Mapping Department and is individually assessed and taxed on that basis; or
 - (c) The lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the Allegan County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCLA 559.101 et seq.) and other applicable laws and ordinances.
- (3) **Existing Building** or an existing dwelling unit is a building or dwelling unit for which a building permit has been issued by the Township as of the effective date of this Section.

(b) ***Easements and Relationship to Adjoining Property:*** .(Amended 11-09)

- (1) Private streets shall be situated within a private street easement having a width of at least 66 feet
- (2) The area of a private easement shall not be included in the calculation for determining minimum lot size.
- (3) Any private street easement and any private street not yet constructed within a private street easement that is located less than 30 feet from an adjoining property not under the control or ownership of the private street developer shall require the issuance of a special use permit prior to its creation or construction (Ref. Sec 11.25 subsection (g) paragraph (2) Additional and Prequalifying Standards and Procedures). .(Amended 11-09)

(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 11.14 for minimum lot width requirements):
 - (a) The frontage shall be continuous and at least equal to the minimum lot width required for the subject zoning district, or
 - (b) The lot shall 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.
- (2) **Street Extensions And Lot Subdivision:** Additional lots may be created with the required frontage on an existing private street. If an existing private street or joint driveway is to be extended, the existing street or joint driveway segment as well as any new segment shall be improved to meet the standards of this Section.

(d) ***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 Fewer than Eleven (11) 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: Length 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 11.25(d)(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) **Additional Standards For Private Streets Serving More Than 10 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. The above standard may be waived and all or portions of the street constructed to the Allegan County Road Commission standards for local roads only if one or more of the following conditions will exist:

- (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 250 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 under the provisions of section 11.27(b), resulting in an average driveway spacing of 250 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,

Approval of a modification as allowed herein shall be granted by the Zoning Administrator or Planning Commission as appropriate under the review procedures contained or referenced in this section.

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.

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.

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.

- (4) **Additional Standards.** Ref. Sub-Section F (2) below for additional standards and conditions relative to residential development subject to special use approval.
- (e) ***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 Road Commission to each dwelling served by the private road shall be conspicuously placed adjacent to the driveway serving a dwelling.
- (f) ***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 and subject to Chapter XIX.
 - (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.
- (g) ***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 for a copy of the permit application shall be forwarded 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) **Additional or Pre-qualifying Standards and Procedures:** (Amended 11-09)
- (a) The design and construction of private streets serving multi-family developments or any residential development subject to approval by special use permit is subject to review under Chapter 14, Site Plan review and/or Chapter 15 and any conditions imposed by the Planning Commission under those provisions.
 - (b) Any private street easement and any private street not yet constructed within a private street easement that is located less than 30 feet from an adjoining property not under the control or ownership of the private street developer shall require the issuance of a special use permit prior to its creation or construction. In the review of an application for a private street proposed within 30 feet of an adjoining property, the Planning Commission shall consider the following, in addition to the Discretionary Standards of Section 15.03. (Amended 11-09)
 - (1) The existing and permitted uses located on the adjoining land. (Amended 11-09)
 - (2) The existing and proposed topography, drainage, and vegetation within the street easement and existing structures topography and vegetation within 100 feet of the private street easement. (Amended 11-09)
 - (3) Expected traffic volumes and the likely impact that the vehicles will have on the adjacent property. (Amended 11-09)
 - (4) Techniques for minimizing the expected impacts including, but not limited to, berming and grading tree and shrub plantings, fencing and increasing the distance from the adjacent property. (Amended 11-09)
- (3) **Approval to Construct:** If the Zoning Administrator finds that the application meets the requirements of this section or 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 11.26 WILD ANIMALS, KEEPING OF. Notwithstanding the provisions of Section 11.20, it is the intent of this Section to prohibit the keeping, selling, boarding, housing, possession and maintenance of wild animals within the Township, either temporarily or permanently except under the conditions enumerated below.

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 that is incapable of being completely domesticated.

- (a) The keeping of the 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, or public or private wildlife park or preserve, or hunting preserve as may be licensed or authorized by the Michigan Department of Natural Resources and Environment. and as may be authorized in the A-1 or R-1 Districts as special land uses. *(amended 01-04-11)*
- (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. *(Amended 5/10/94)*

SECTION 11.27 DRIVEWAYS. (Ref. Chapter III Definitions) 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 11.29, driveways serving not more than two lots or parcels that are 250 feet in length or greater and which serve a dwelling or other principle non-farm building situated more than 250 feet from an accessible point on a public or private street, shall be subject to the following standards (Ref. also Section 11.25 Private Streets) *(Amended 10-96, 9-24-02 and 05-08)*

(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 two (2) 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 five (25) feet in width and may be situated on one or both 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 the provisions of Section 11.14 b), each lot served by a joint driveway must have the required minimum street frontage (lot width) on a public or private street (ref. Section 11.14). A driveway serving two lots (a "joint driveway") will be classified as a private street and will be subject to all of the requirements of Section 11.25 if one or more of the lots served do not contain the required minimum lot frontage (lot width) on a public road.

(3) Expansion: Driveways serving 3 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 11.25. 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.

- (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 11.29 and to the review by the Planning Commission under Chapter 14, Site Plan review and/ or Chapter 15. Such driveways are subject to additional conditions as may be imposed under those provisions. *(Amended 05-08)*
- (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 and all of the provisions of Sections 17.02, 17.03, 17.04 and 17.05 shall apply.

SECTION 11.28 HOME OCCUPATIONS *(amended 12-06)*

- (a) For purposes of this section, a home occupation is a gainful occupation traditionally and customarily carried out in the home or on a residential property, as a use that is incidental to the use of the home and premises as a place of residence.
- (b) A home occupation may be permitted in the A-1, R-1, R-2, R-3, or VR Districts only in association with a dwelling and in accordance with this section. *(Amended 01-04-11.*
- (c) Type I Permitted Home Occupations. Type I home occupations shall be permitted by right, and are authorized without a zoning permit. To be classified as a Type I home occupation, the occupation shall be conducted entirely within a residential dwelling and/or an attached garage accessory to the dwelling and shall at all times comply with the following standards and conditions:
 - (1) The home occupation shall be carried out only by persons occupying the dwelling as a principal residence 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. The appearance of the structures shall not be altered for such purpose and 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, or construction, the generation of traffic or waste or by the emission of sounds, vibrations, light, particulates or odors. No storage or display outside of the dwelling or attached building shall be visible from the street or adjacent properties.
 - (3) Within the A-1, R-1 Districts, one sign, not exceeding eight square feet may be used to identify home occupations therein. For home occupations permitted within the R-2, R-3 or VR Districts, signs identifying the use shall not be permitted. *(Amended 01-04-11*

- (4) The maximum floor area devoted to the home occupation shall be limited to 500 square feet or 25 percent of the gross floor area of the dwelling unit and attached accessory building combined, whichever is the lesser amount.
 - (5) There shall be no selling of goods, merchandise, supplies or products, except on an occasional basis, provided that orders previously made by telephone or at a sales event off the premises may be filled on the premises.
 - (6) If used, combustible, toxic or hazardous material must be used and stored in a safe manner and in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
 - (7) 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.
 - (8) As a result of a home occupation, there shall not be any appreciably greater motor vehicle or pedestrian traffic than would be normal for residential uses in the zoning district in which the use is located.
 - (9) There shall be adequate off-street parking spaces. On street parking, or parking within the street right of way is prohibited.
 - (10) Deliveries and shipments by commercial vehicles shall be on an occasional or incidental basis.
 - (11) Home occupations are subject to approval of the building inspector and all additional permitting and inspections relative to enforcement of building construction, electrical, plumbing and mechanical. Such permitting shall be based upon the actual building occupancy and the use and occupancy standards contained in such codes, irrespective of zoning classification.
- (d) Type I Home Occupations: The following list of uses shall be considered Type I home occupations when carried out in compliance with the standards and conditions of Section 11.28 (c) above.
- (1) Architect, engineer and interior design and similar professions
 - (2) Beauty salons and barber shops.
 - (3) Attorney, book keeping, accounting, financial planning and similar professions.
 - (4) Cabinet making and carpentry work.
 - (5) Computer programming and other computer related work.
 - (6) Consulting and counseling services.
 - (7) Drafting and illustration services.
 - (8) Dress making, sewing and tailoring.
 - (9) Furniture upholstery.
 - (10) Gun dealer and gun repair service.

- (11) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work, candle making and jewelry making.
 - (12) 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.
 - (13) Office of minister, priest or other member of the clergy.
 - (14) Office of building contractor or building trades persons (excluding equipment parking).
 - (15) Office of a sales person, sales representative or manufacturers representative.
 - (16) Painting, sculpturing and writing.
 - (17) Private tutoring.
 - (18) Secretarial services.
 - (19) Storage and distribution of direct sale products, such as home cleaning products, cosmetics, food containers and the like.
 - (20) Television and other small appliance repair.
 - (21) Telephone answering service and telephone solicitation work.
 - (22) Travel booking service.
 - (23) Watch repair.
- (e) Un-listed, but similar home occupations. In addition to the above Type I permitted home occupations, those which are similar in nature and effect to those specifically listed in this section may also be permitted if the use is similar to a home occupation that is specifically listed.
- In determining whether a proposed home occupation is similar to one listed in subsection (d), the Zoning Administrator must find that the likely effects of the home occupation upon adjacent and nearby lands would be within the scope of the effects likely to result from one or more of Type I home occupations that are specifically permitted in this section and therefore would not have appreciable adverse effects upon the residential nature of the property and upon adjacent and nearby lands and the uses thereof.
- (f) Type II Home Occupations: Activities and Uses requiring Approval as Special Uses. The following home occupations (*ref. definition of Home Occupation*) may be permitted in the A-1, R-1, R-2, R-3, and VR Districts if approved by the Planning Commission as a special use under Chapter 14 of this ordinance. (*Amended 01-04-11*)
- (1) A home occupation involving the use of a detached accessory building and/or one that would exceed the floor area limitations for Type I Home Occupations.
 - (2) A home occupation involving more than one non-resident worker and/or one involving workers using the site as a regular base of operation for work or service provided of-site. The Planning Commission may authorize additional associates, employees or

assistants (who do not reside within the dwelling) where such persons by way of their activities and interaction on site would not cause traffic congestion or parking problems or otherwise materially change or impair the residential character of the neighborhood or lead to the creation of a spot business zone.

- (3) Gymnastics and dance instruction.
 - (4) Bed and breakfast establishments.
 - (5) Veterinarian's office or clinic in the A-1, and R-1 Districts, but only if located on parcels of land of at least 3 acres.
 - (6) Child or adult day care for more than 6 but not more than 12 unrelated individuals.
- (g) Prohibited Uses: The following uses shall not be eligible for consideration and approval as Type II home occupations.
- (1) New or used vehicle, boat, RV or similar sales.
 - (2) Automobile repair or salvage.
 - (3) Pyrotechnic and explosives manufacture, processing or storage.
- (h) Standards for Type II Home Occupations: In considering the special use authorization of any Type II home occupation the Planning Commission must find that the use shall remain compliant with all of the following standards:
- (1) The home occupation will be and remain incidental and secondary to the use of the premises as a dwelling.
 - (2) The nature of the home occupation shall be substantially in keeping with the residential or other permitted use of the property such as farming.
 - (3) The likely effects of the home occupation upon adjacent and nearby lands shall be within the scope of the effects likely to result from other uses permitted by right and occurring in the district and similar home occupations that are specifically permitted in this section.
 - (4) The home occupation will have no appreciable adverse effects upon adjacent and nearby lands and the uses thereof as a result of increased traffic, noise, vibrations, smoke, dust, odors, heat or glare or as a result of the storage or use of combustible toxic or hazardous materials.
 - (6) All of the standards of Section 11.28(d), notwithstanding those limits on the number of allowable on-site employees and assistants, the use of detached accessory buildings and maximum floor area.
- (i) Conditions: When authorizing a Special Use permit for a Type II Home Occupation the Planning Commission may impose restrictions and limitations upon the use, relating, but not limited to, consideration of the following:
- (1) The hours of operation.
 - (2) The floor area of the use.

- (3) The area, height, bulk, and location of any accessory building.
- (4) The outdoor storage or display of goods, inventory or equipment and the screening thereof.
- (5) The manner of storage or use of combustible toxic or hazardous materials on the premises.
- (6) Machinery or electrical activity that may interfere with nearby radio or television reception or create noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (7) Motor vehicle and/or pedestrian traffic and its circulation on and off site.
- (8) The amount of off-street parking provided, and the location and surfacing and drainage thereof.
- (9) The number of permitted associates, employees or assistants whether working on-site or performing duties principally off-site.

SECTION 11.29 STREET ACCESS STANDARDS. *(Entire section added 05-08)* The purposes of these provisions are to protect health and safety, to preserve public roadway capacity and efficiency, to promote community character and to ensure orderly development.

- (a) **Applicability:** These provisions shall apply to all commercial, industrial, multi-family and special land uses, to all land within the C-1 and I-1 Zoning Districts and to all site condominium and subdivision developments created for residential, commercial or industrial purposes.

The Planning Commission shall review all applicable site plans and special land uses and all proposed site condominium or platted subdivisions with respect to the provisions contained herein, pertaining to vehicle access and circulation. In approving any such use or development the Planning Commission shall have the authority to:

- (1) Limit the number of driveways per use or parcel.
 - (2) Require the creation of internal access off a private road perpendicular to the public road.
 - (3) Require a frontage road or service drive for adjacent uses and contiguous parcels.
 - (4) Require that parking lots on adjacent lots and parcels be connected.
 - (5) Require that driveways for adjacent uses, lots and parcels be shared, and
 - (6) Stipulate the location of driveways to ensure that they are appropriately aligned with opposing driveways.
- (b) In determining the degree of access control measures necessary, the following factors shall be considered:
- (1) The type and location of uses on the site.
 - (2) The location, size and design of existing and proposed parking areas.
 - (3) Expected traffic generation and the existing and projected traffic volume on adjacent roadways.
 - (4) Compatibility between adjacent land uses.
 - (5) Land ownership patterns and location of lot lines.
 - (6) Topography and sight distance along adjacent roadways and on the site.

- (7) Distance from intersections.
- (8) Location of driveways opposite the site.
- (9) Width of roadway and number of lanes.
- (c) The following regulations shall apply:
 - (1) A use or parcel shall not be denied reasonable access.
 - (2) Cross easements connecting parking lots of contiguous parcels and/or front or rear service drives providing access between uses or parcels shall be required where appropriate. Such cross access shall be illustrated on approved site plans/development plans.
 - (3) The number of driveways allotted for a lot, parcel or use regulated hereunder shall be permitted based on the amount of road frontage for the parcel or use as follows:

<u>SREET FRONTAGE</u>	<u>DRIVEWAYS PERMITTED</u>
Less Than 250 Feet	1
251 To 600 Feet	2
More Than 600 Feet	3

Additional driveways serving a commercial, industrial or special use will not automatically be provided upon the dividing of a parcel(s) which has an existing driveway(s). Additional driveways) may be allowed if traffic generation is projected to be more than six hundred (600) vehicles per day and/or volumes are anticipated to cause traffic congestion during the morning or afternoon peak hour of roadway travel. Traffic projections and peak hour analysis shall be based on accepted trip generation rates provided in the ITE Trip Generation Manual, 7th Edition or later and/or professional analysis of the proposed used.

- (4) A right turn lane and taper may be required for driveways with anticipated right-turn inbound traffic volumes in excess of forty (40) vehicles during the hours of 4:00 p.m. and 6:00 p.m. or one thousand (1,000) vehicles per day. All driveways and turn lanes shall be constructed in accordance with the standards of the Allegan County Road Commission.
- (5) The placement of a driveway shall be determined by the following criteria if it is to be located near an intersecting street.
 - (a) A driveway shall not be located in the clear vision area of an intersection as established by the Allegan County Road Commission or Michigan Department of Transportation.
 - (c) A driveway serving a multi-family, commercial, office, or industrial use shall be spaced at least two hundred (200) feet from another driveway serving the same or similar use on the same side of the street and shall be appropriately aligned with opposing driveways to minimize turning conflicts in the street.
- (6) The Planning Commission shall based on consideration of the factors in the preceding section, have the authority to waive or modify these requirements when strict adherence to them would result in unreasonable access to the site.

(Entire section added 05-08)

SECTION 11.30: WIND ENERGY SYSTEMS *(entire section added 3/27/2012)* The purpose of this section is to establish standards and procedures by which the installation and operation of a WES shall be regulated within the Township, in order to promote the safe, effective, and efficient use of wind energy.

A. Definitions:

1. Wind Energy System (WES)- shall mean any combination of the following:
 - a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a vertical or horizontal shaft;
 - b) A surface area such as a blade, rotor or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
 - c) 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;
 - d) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
 - e) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
 - f) A windmill traditionally used to pump water shall not be considered a Wind Energy System
2. On Site Use Wind Energy System- A WES the purpose of which is to provide energy to only the property where the 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.
3. Single WES for Commercial Purposes- A single WES placed upon a lot or parcel with the intent to sell or provide electricity 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.
4. Wind Farm- Clusters of two or more WED placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WED are located. The WES may or may not be owned by the owner of the property upon which the WED is placed.
5. Utility Grid Wind Energy Systems-A WES designed and constructed to provide electricity to the electric utility grid.
6. Structure Mounted WES- A WES mounted or attached to an existing structure or building.
7. Interconnected WES- A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.
8. 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.
9. 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.
10. Nacelle- In a wind turbine, the nacelle refers to the structure that houses all of the generating components, gearbox, drive train and other components.
11. 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.

12. Applicant- The person, firm, corporation, company, Limited Liability Corporation or other entity that applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the owner of the WES and jointly and severally with the owner and operator or lessee of the WES if different from the owner.

B. Wind Energy Systems Allowed as a Permitted Use: Any On Site Use Wind Energy System including structure mounted WES which is 90 feet or less in total height shall be a permitted use in all zoning districts, subject to the following:

1. The maximum height of any WES shall be 90 feet. The height of the WES having horizontal shafts shall be measured with the blade in vertical position.
2. A WES shall be set back from all lot lines a distance which is at least equal to 1.25 times the height of the WES as measured from the lot line to the base of the tower and no portion of the WES, including the guy wire anchors, shall be located within or above the required front, side, or rear yard setback.
3. A structure mounted WES shall have a distance from the nearest property line that is at least equal to 1.25 times the height of the WES, as measured from the point of attachment to the structure or 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 ten (10) feet.
4. A permit from Salem Township shall be required to construct and operate an On Site Use WES that is 90 feet or less in total height. A permit shall be issued after an inspection of the WES by an authorized agent of the Township where the inspection finds that the WES complies with all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions. The WES shall not operate nor remain on the property unless a permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.
5. An On Site Use WES may provide electrical power to more than one dwelling unit, provided the dwelling units are located on property or properties on which the WES is located.
6. Decommissioning and Removal Required- The applicant shall certify and provide written assurance that the WES shall not be abandoned in place and shall be removed within one (1) year of decommissioning.
7. Any WES shall have a setback from overhead electrical transmission lines of at least 1.25 times the combined height of the ground mounted or structure mounted towers with the blades in a vertical position.

C. Wind Energy Systems Requiring a Special Use Permit: Any On Site Wind Energy System which is over 90 feet in height: A detailed site plan including the following items.

1. All requirements contained in Chapter 15- Special Uses.
2. A location map of the proposed WES sufficient to show the character of the area surrounding the WES.
3. Location and height and contour elevations of all existing and proposed buildings, structures, electrical lines, towers, guy wires and anchors, security fencing, and any other above-ground structures existing or proposed for the parcel or parcels containing the WES and the distances to them also show the same for any of the

above items located within 1000 feet of the parcel or parcels

4. Land uses within 1000 feet of the parcel or parcels
 5. Access drives and proposed maintenance agreements
 6. A detailed lighting plan
 7. Security measures proposed for the site
 8. Standard drawings by a registered engineer showing compliance with all construction codes.
 9. The applicant shall perform and provide to the Planning Commission an analysis of potential shadow flicker.
 10. Any additional information as may be required by the Planning Commission.
- D. Standards for All Wind Energy Systems:** All WES shall comply with the following:
1. Sound Pressure Level
 - a) On Site wind energy systems shall not exceed 55dB (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 55 dB (A), the standard shall be ambient dB (A) plus 5 dB (A).
 2. Construction Codes and Interconnection Standards
 - a) All applicable state construction and electrical codes and local building permit requirements;
 - b) Federal Aviation Administration requirements
 - c) The Michigan Airport Zoning Act; Public Act 23 of 1950, as amended
 - d) The Michigan Tall Structures Act, Public Act 259 of 1959, as amended
 - e) Private landing strips in or adjacent to Salem Township
 - f) The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.
 3. Safety
 - a) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
 - b) To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the Planning Commission:
 1. Tower Climbing apparatus shall not be located within 12 feet of the ground.
 2. A locked anti-climb device shall be installed and maintained.
 3. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire fence.
 - c) All WES shall have lightning protection.
 - d) If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least ten (10) feet above the guy wire anchors.
 - e) The minimum height of the lowest position of the rotor or blade shall be at least twenty (20) feet above the ground.
 4. Signs:
 - a) 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:
 1. The words “Warning: High Voltage”

2. Emergency numbers

- b) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer's and/or owner's identification.
5. Electromagnetic Interference: WES shall be designed, constructed and operated so as not to cause radio, television, telephone and computer interference.
 6. Maintenance: Each WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
 7. All distribution lines from the WES to the electrical grid connection shall be located and maintained underground, both on the property where the WES will be located and off-site. The Planning Commission may waive this requirement for off-site distribution lines if the Planning Commission determines that the installation or maintenance of such underground distribution lines would be impractical or unreasonably expensive.
 8. Unless it is a structure mounted WES, a WES may be located on a lawful parcel or parcels, which do not have frontage on a public or private road if reasonable access is provided by means of appropriate ingress, egress, and utility easements.

SECTION 11.31 SOLAR PANELS *(entire section added 3/27/2012)*

- A. Solar panels (or arrays thereof) exceeding four (4) square feet in area are not permitted in any front or side yard or on any wall or face of a building or structure facing a street unless such panel(s) is integrated with the ordinary construction of the building or structure, and/or is fully screened from view of the adjacent street (except roof-mounted solar panels as set forth below).
- B. Ground-mounted solar panels shall:
 1. Be located in a side or rear yard only
 2. Not exceed sixteen (16) feet in height above the ground.
 3. Be fully screened at all times from view at adjacent property lines and street lines by structures, fencing or a combination of evergreen and deciduous plantings.
- C. Roof-mounted solar panels. Roof-mounted solar panels are permitted and may include "integrated" solar panels that are either integrated architecturally as part of the roof structure or as part of the surface layer of the roof structure causing no apparent change in relief or projection, as well as separate "flush" and "tilt mounted" solar panel systems attached to the roof surface as follows:
 1. An integrated solar panel may not cause the height of a building or structure to exceed the height limitations of the district in which the building or structure is located.
 2. "Flush" and "tilt mounted" solar panels shall be located on a rear-yard or side yard facing roof, as viewed from any adjacent street.
 3. "Flush" and "tilt mounted" solar panels installed on a pitched roof surface shall not project vertically above the ridgeline of the roof to which it is attached,
 4. "Flush" or "tilt mounted" solar panels located on a mansard or flat-roofed building shall be set back at least six (6) feet from the edge of the deck or roof on all elevations and shall be exempt from district height limitations provided that the panels shall not project more than five (5) feet above the roof surface of a flat roof or the deck of a mansard roof.

SECTION 11.32 MEDICAL MARIHUANA USE

- A. Medical Marihuana Use. Medical Marihuana use by a primary caregiver shall be permitted and considered as a permitted home occupation use in all residential, agricultural residential and agricultural conservation districts pursuant to compliance with the

Administrative Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, PA 208, Initiated Law, MCL 333.264221, et. Seq. and the requirements of this section. As a permitted home occupation, it is at all times, subordinate and incidental to the use of the dwelling as a residence. The caregiver shall file an application and site plan to the zoning administrator who shall review, and if approved, file a zoning compliance certificate for the use. A denial shall be appealable to circuit court. The zoning administrator may also notify the county sheriff department of site plan approval. The requirements for a primary caregiver as a permitted home occupation shall be as follows:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act (“Act”) and the Administrative Rules of the Michigan Department of Community Health, (“Administrative Rules”) as they may be amended from time to time.
2. A primary caregiver must be located outside of a one-thousand (1000) foot radius from any real property as follows: a daycare facility; a church, synagogue or other place of religious worship; a recreational park, public community center, private youth center, playground, public swimming pool, video arcade facility; a public or private preschool, elementary school, middle school, high school, community college, vocational or secondary school; a public or private college, junior college, university; any and all other schools that have different name references but serve students of the other schools that have different name references but serve students of the same age. Measurements for purposes of this section shall be made from parcel/lot/site condominium unit boundary to parcel/lot/site condominium unit boundary.
3. Not more than one (1) primary caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building, cooperative building or similar housing, or commercial or multi-use building.
4. No signage is permitted regarding medical marihuana.
5. All medical marihuana shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. No part of an attached or detached accessory structure shall be utilized.
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified to support the cultivation, growing or harvesting of marihuana.
7. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
8. Nothing in this subsection or in any companion regulatory provision adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat or alleviate a qualifying patient shall only be

conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Ordinance. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

9. Delivery. The primary caregiver shall deliver medical marihuana to their patients. Patients shall not visit the caregiver's premises.
10. It shall be considered unlawful for any person or persons to establish or operate a profit or non-profit medical marihuana dispensary, collective or cooperative or smoke house in any zoning classification within the Township.

11.33 Fences, walls and screens. (Adopted 11/14/2017 eff. 12/2/2017)

(A) Construction.

- (1) All fences and walls shall be of sound construction and shall be properly maintained.
- (2) In all zoning districts 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.
- (3) Barbed wire, aboveground electrically charged, or fences topped with sharp objects shall not be erected in or abutting any residentially zoned district, except for the keeping of animals as permitted in Section 11.20, may use barbed wire or aboveground electrically charged fences.
- (4) Barbed wire and electrically charged fences which existed in or abutted residential zoning districts as of the date of adoption of this Section may be repaired or replaced if damaged or destroyed or for maintenance purposes.
- (5) Fences greater than six feet in height may not be of a solid or opaque construction except as permitted by the Planning Commission in conjunction with a Site Plan Review within the C-1 or Industrial zoning districts to provide screening.

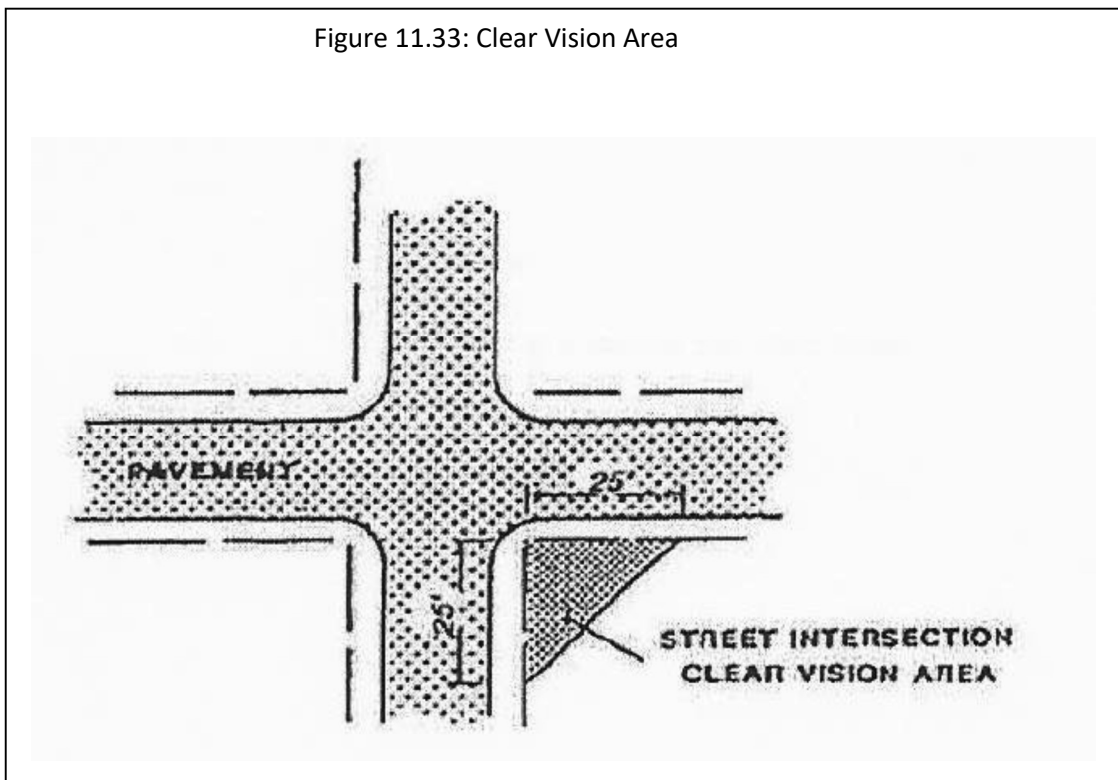
(B) Location and height.

- (1) Village Commercial and all Residential zoning districts. All walls or fences in the required front yard shall be limited to a maximum height of four feet. The maximum fence or wall height in the side yard or rear yard shall be limited to six feet in height.
- (2) All other zoning districts. All walls or fences in these zoning districts shall be limited to a maximum height of ten feet. The use of barbed wire strands is permitted provided the strands be restricted to the uppermost portion of the fence and shall not be located lower than a height of six feet from the average grade.

(3) Right of Way and Sidewalks: No fence, wall or screen shall be constructed in any District within a Public or Private Right of Way. Where sidewalks exist, fences and walls shall be constructed no closer than eighteen (18) inches from the inside edge to provide for maintenance and unobstructed passage.

(C) Clear Vision Area.

In all districts, at any street intersection, no fence, wall or screen shall be established which will obstruct the view of a vehicle's driver approaching the intersection. The unobstructed vision area consists of a triangular area formed by the intersecting street right of way lines and a line connecting them at points twenty five (25) feet from the intersection of the right of way lines. Fences, walls or vegetation less than thirty (30) inches in height above the curb line or shoulder of the road are permitted. (See Figure 11.33 for reference.)



CHAPTER 12

PARKING AND LOADING SPACES

SECTION 12.01 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: (Amended 5/10/94 and 05/08)

	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	Two (2) for each three (3) guest rooms or each six (6) beds for guests, whichever amount is greater
Hotels	One (1) for each two (2) guest rooms
Motels and tourist homes	One (1) for each sleeping room
Private clubs and lodges	One (1) for each five (5) active members and one (1) for each employee with a minimum of one (1) one for each one hundred (100) square feet of floor area
Hospitals	Two (2) for each patient bed
Sanitariums, convalescent or nursing homes	One (1) for each two (2) beds
Homes for senior citizens	One (1) for each dwelling/tenant unit
Theaters, auditoriums, stadiums	One (1) for each four (4) seats
Bowling alleys	Eight (8) for each alley
Elementary, and junior high schools	Three (3) per classroom plus additional for high school auditorium requirements and one (1) for each three hundred (300) square feet of administrative office area (Amended 5/10/94)
Senior high school and institutions of higher learning	Seven (7) per classroom plus additional for auditorium requirements and one (1) for each three hundred (300) square feet of administrative office area (Amended 5/10/94)
Churches	One (1) for each four (4) seats in the main worship unit
Community center	One (1) for each one hundred (100) square feet of assembly floor area
Libraries, museums, and Post Offices	One (1) for each one hundred (100) 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, (Amended 05-08)

General retail, except as otherwise specified Use (Cont.)	1 space/200 sq. ft. floor area (<i>Amended 0508</i>) Minimum Parking Spaces Required(Cont.)
Stores selling furniture and major appliances only	1 space per 500 sq. ft. area
Shopping centers	1 space/200 sq. ft. floor area(<i>Amended 05-08</i>)
Outdoor markets, flea markets, etc.	1 space/200 sq. ft. sales area, with a minimum of 4 spaces(<i>Amended 05. -08</i>)
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(<i>Amended 05-08</i>)
Banks Savings and loan and other financial institutions, title companies	1 space/250 sq. ft. floor area PLUS 5 spaces/teller or teller station (<i>Amended 05-08</i>)
Medical, dental, veterinary offices and clinics	One (1) for each one hundred fifty (150) square feet of floor area
Health studios	1 space/100 sq. ft. floor area (<i>Amended 05-08</i>)
Barber shops, beauty and styling	3 spaces/barber or salons stylist, with a minimum of 4 spaces (<i>Amended 05-08</i>)
Auto repair shops, body and fender shops	1 space/400 sq. ft. floor area(<i>Amended 05-08</i>)
Cabinet, plumbing, heating, electrical shops	1 space/500 sq. ft. floor area(<i>Amended 05-08</i>)
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 (<i>Amended 05-08</i>)
Self-serve auto washes	2 spaces/stall (<i>Amended 05-08</i>)
Self-serve laundries and dry cleaners	1 space/3 washing machines(<i>Amended 05-08</i>)
"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(<i>Amended 05-08</i>)
Feed yards, fuel yards, material yards, nurseries	1 space/2000 sq. ft. site area PLUS 1 15' x 30' loading space/acre(<i>Amended 05-08</i>)
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. (<i>Amended 05-08</i>)
Research and development and testing facilities and/or similar uses	One (1) per three hundred (300) square feet of floor area (<i>Amended 5/10/94</i>)

Use (Cont.)
Other uses not specifically mentioned

Minimum Parking Spaces Required(Cont.)
In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for use which is so mentioned and to which said use is similar in terms of parking demand shall apply

Mixed uses in the same building

In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one (1) use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein

SECTION 12.02 JOINT USE OF FACILITIES. Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the maximum individual requirements.

SECTION 12.03 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.

SECTION 12.04 SIZE OF PARKING SPACE. Each off-street parking space shall have an area of not less than two hundred (200) square feet (exclusive of access drives or aisles) and shall be a minimum of ten (10) feet in width.

SECTION 12.05 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 screened on each side which adjoins or faces premises situated in any Residential or A-1 Zoning District, a greenbelt and or screen developed in accordance with the applicable provisions of Chapter 26 shall be provided. *(Amended 05-08 & 01-04-11)*
- (b) The parking lot and its driveway shall be:

- (1) designed to provide adequate drainage;
- (2) surfaced with concrete or asphalt pavement or other suitable hard surface; and
- (3) maintained in good condition, free of dust, trash, and debris.
- (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.
- (e) Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.
- (f) No 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 and may be otherwise be regulated by applicable district provisions. . (*Amended 05-08*)

SECTION 12.06 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 requiring 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 Residential or A-1 Zoning District. (*amended 01-04-11*)

CHAPTER 13

NONCONFORMING USES, BUILDINGS OR STRUCTURES

SECTION 13.01 CONTINUANCE OF NONCONFORMING USES, BUILDINGS OR STRUCTURES. 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 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. In addition, 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 amendment, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

SECTION 13.02 EXPANSION. Structures, buildings or uses 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 Inspector shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming 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.

No nonconforming use of any building or structure or of any land or premises which is nonconforming for reasons other than height, area and/or parking and loading space provisions shall hereafter be extended or enlarged (1) unless all extensions or enlargements do not exceed fifty (50) percent of the area of the original nonconforming use; and (2) unless such extensions or enlargement is authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards: (1) whether the extension or enlargement will substantially extend the probable duration of such nonconforming use; and (2) whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with the provisions of this Ordinance.

SECTION 13.03 RESTORATION AND REPAIR. 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. 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 (1/2) of the value of the nonconforming building or structure after the rebuilding or restoration is

complete. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, and the cost of rebuilding or restoration exceeds one half (1/2) of the value of the building or structure after rebuilding or restoration is complete, then such rebuilding or restoration shall only be permitted when first authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards: (1) whether such rebuilding or restoration will substantially extend the probable duration of the nonconforming use; and (2) whether or not the land previously occupied by the nonconforming use can be advantageously used for a use permitted in the applicable Zoning District. (Amended 7/28/93)

SECTION 13.04 CHANGE OR DISCONTINUANCE. The nonconforming use of a building or structure or of any land or premises shall not be:

- (a) Changed to any other nonconforming use.
- (b) Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of nine (9) months.
- (c) Re-established after it has been changed to a conforming use.

SECTION 13.05 BUILDING OR STRUCTURE UNDER CONSTRUCTION ON EFFECTIVE DATE OF ORDINANCE. Any building or structure shall be considered existing and lawful and for purposes of Section 17.01, to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained there for, if required, or, if no building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion. (Amended 7/28/93)

CHAPTER 14

SITE PLAN REVIEW

(Amended 7/28/93 as New Section)

SECTION 14.01 PURPOSE. The purposes of Site Plan Review are as follows: 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 planning or area protection, and to provide consultation and cooperation between the applicant and the Township Planning Commission in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this Zoning Ordinance.

SECTION 14.02 SITE PLAN REVIEW REQUIRED. A site plan shall be submitted for review according to the provisions of this chapter for all permitted and special land uses except the following:

- (a) Single family and two family dwelling units on individual lots, in the A-1, R-1, R-2, R-3 and VR zoning districts. *(Amended 01-04-11)*
- (b) Residential and agricultural accessory buildings, not listed as Special Uses.
- (c) Non-residential accessory buildings less than eight hundred (800) square feet in area.
- (d) Single and two family homes, Type I and Type II home occupations and temporary dwellings requiring approval as a special use and. For such uses requiring a special use permit, a sketch plan drawn to scale shall be provided. The sketch plan shall include the location, dimensions and area of all structures, parking areas and driveways the approximate location of buildings located on adjacent property and proposed future additions or future buildings if contemplated. The sketch shall include a scale, north arrow, and date of drawing; the property owner's name and address; and description of the proposed use of each building if for other than residential purposes. *(Amended 10/96 and 4/03)*
- (e) Ponds for Agricultural Use

SECTION 14.03 APPLICATION PROCEDURE.

- (a) Nine (9) copies of an application for site plan review shall be made to the Zoning Administrator along with a fee as required by Township Board resolution. The application shall, at a minimum, contain the following information:
 - (1) The applicant's name, address and phone number.
 - (2) 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.
 - (3) The name, address and phone number of the owner(s) of record if different than the applicant.
 - (4) The address and/or parcel number of the property.
 - (5) Project description, including number of structures and dwelling units, square footage of each building, number of parking spaces, estimated number of employees, and any unique features of the site or proposed development.

- (6) Area of the parcel in acres, excluding road right-of-ways.
- (7) A site plan for the project containing all of the information listed in Section 14.04, below.
- (b) The Building Inspector shall forward copies of the application and site plan to the Planning Commission within seven (7) days after the receipt of the application.

SECTION 14.04 SITE PLAN CONTENT. Unless exempted from the following requirements by Section 14.02 (d) or specifically waived by the Zoning Administrator in consultation with the planning Commission, each site plan submitted shall be drawn to a minimum scale of 1' inch = 200' and shall contain the following information: (*Amended 10/96*)

- (a) Name of development and general location sketch showing major thoroughfares and site location.
- (b) Name, address and phone number of site owner(s), developer and designer, including professional seal of designer.
- (c) North arrow, scale, and date of original drawing and any revisions.
- (d) The area of the site in square feet and acres, excluding all existing and proposed rights-of-way. Property lines, dimensions, and building setback distances and dimensions of all structures and lot lines within one hundred (100) feet of the site shall also be indicated. If the parcel is a part of a larger parcel, boundaries of the total land holding shall be shown.
- (f) Existing zoning of the site and all adjacent properties.
- (g) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of ten (10) feet outside the boundary lines of the site. Ground elevations of all existing buildings, drives and parking lots, and any unusual surface conditions shall be provided.
- (h) Direction of storm water drainage and indication as to how storm water runoff will be handled.
- (i) Location of existing and proposed buildings; their intended use; the length, width and height of each building; and the square footage of each building.
- (j) Location of abutting streets, existing and proposed rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and all driveways within one hundred (100) feet of the site. The centerline of road rights-of-way shall be shown.
- (k) Location and size of all existing and proposed water and sanitary sewer lines, storm drainage lines, wells, fire hydrants, catch basins, septic tanks and drain fields and utility easements.
- (l) Proposed parking areas and access drives, showing the number and size of spaces, aisles, loading areas, and handicapped access ramps. Also, the method of surfacing such areas shall be noted.
- (m) Location of all sidewalks, bike paths, and other pathways.
- (n) Location and size of any walls, fences, greenbelts, or other screening provisions.
- (o) Landscape plan indicating type and size of all plant material, including all areas to be sod or seeded for grass. Provide cross sections of all berms.

- (p) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands. Trees which are to be removed on the site shall be illustrated.
- (q) Building floor plans and architectural wall elevations. The height of all buildings or structures shall be indicated.
- (r) Location of all proposed accessory structures, including outdoor lighting fixtures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas or devices, signs, and existing and proposed utility poles. Indicate screening for trash receptacles.
- (s) Location of all outdoor storage areas for materials and the manner in which materials shall be screened or covered.
- (t) If phased construction is to be used, each phase must be noted and each phase must stand on its own.
- (u) Notation of any variances or special use permits which are required, any legal non-conforming uses or structures, and any State or Federal permits which have been secured or may be necessary to secure.
- (v) **In addition, the following requirements shall apply to certain businesses and facilities for the protection of groundwater:**
 - (1) **Applicability:** These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 25 gallons or 220 pounds per month. Hazardous substances and polluting materials shall mean hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources and Environment (*Amended 01-04-11*); hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.
 - (2) **Site Plan Information Requirements**
 - a. Listing of types and quantities of hazardous substances and polluting materials which will be used or stored on-site at the facility in quantities greater than 25 gallons per month.
 - b. Completion of the "Hazardous Substances Reporting Form for Site Plan Review."
 - c. Location of existing and proposed service facilities and structures, above and below ground, including:
 - [1] Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas.
 - [2] Underground storage tank locations.
 - [3] Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store, or transport stormwater or wastewater. The point of

discharge for all drains and pipes should be specified on the site plan.

- d. Soil characteristics of the parcel, at least to the detail provided by the U.S. Soil Conservation Service.
 - e. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.
- (w) Identification of the limits of any required "natural vegetation zone" and/or "transition zone" adjacent to a riparian feature, as established by the riparian area protection standards contained in Chapter 25. (*Amended 2-08*)

SECTION 14.05 REVIEW PROCEDURE AND AUTHORIZATION.

All site plans required under this Chapter shall be subject to review as follows:

- (a) *Authorization.* The Planning Commission shall have the power to approve, deny, modify, or approve with conditions all site plans submitted to it under this Ordinance. The Planning Commission shall advise the applicant of its action in writing. A building permit shall not be issued until a site plan has been approved as required herein.
- (b) *Review Period.* The Planning Commission shall render a decision on a site plan within sixty-five (65) days of its initial review of the site plan, unless an extension of time is agreed to by the Planning Commission and the applicant.
- (c) *Review Standards.* The Planning Commission shall review each site plan according to the standards for site plan review as contained in Section 14.06 of this chapter and any other applicable regulations of this Ordinance. In addition, the Planning Commission is empowered to seek the review and recommendation of appropriate county, state or federal agencies, the Township Engineer or Planner, or other professionals, consultants, or agencies as the Commission deems necessary to assist it in its review.
- (d) *Approval.* Upon approval of a site plan, two copies of the plan shall be signed and dated by the Planning Commission. One copy of the plan shall be retained by the applicant and the chairperson of the applicant and one shall be submitted to the Building Inspector as part of the building permit review process.
- (e) *Effect of Approval.* Approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a building permit, provided all other requirements for a building permit have been met. In the case of uses without buildings or structures, approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a certificate of occupancy, provided all other requirements for such certificate have been met.
- (f) *Expiration of Approval.* Approval of a final site plan shall expire and be of no effect unless a building permit shall have been issued within one hundred eighty (180) days of the date of the site plan approval. Approval of a final site plan shall expire and be of no effect five hundred thirty-five (535) days following the date of approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.

SECTION 14.06 STANDARDS.

- (a) *General.* The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance and conformance with the following general standards:
- (1) The applicant may legally apply for site plan review.
 - (2) All required information has been provided.
 - (3) The proposed development conforms to all regulations of the zoning district in which it is located.
 - (4) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - (5) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
 - (6) Natural resources will be preserved and protected to the maximum feasible extent and organic, wet, or other soils which are not suitable for development will be undisturbed or will be modified in an acceptable manner.
 - (7) The proposed development will not cause soil erosion or sedimentation problems.
 - (8) The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
 - (9) The proposed development properly respects floodways and floodplains on or in the vicinity of the subject property.
 - (10) The plan meets the specifications of the Salem Township for water supply, sewage disposal or treatment, storm drainage, and other public facilities.
 - (11) With respect to vehicular and pedestrian circulation on the site, including walkways, interior drives, and parking; special attention shall be given to the location, number and spacing of access points; general interior circulation; separation of pedestrian and vehicular traffic; the avoidance of building corners next to access drives; and the arrangement of parking areas that are safe and convenient, and insofar as practicable, do not detract from the design of the proposed buildings and structures, neighboring properties and flow of traffic on adjacent streets.
 - (12) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means as required by the Township fire department.
 - (13) The site plan shall provide reasonable, visual, and sound privacy for all dwelling units located therein. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
 - (14) All loading and unloading areas and outside storage of materials which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials. Also, outdoor storage of

garbage and refuse shall be contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.

- (15) Outside lighting will not adversely affect adjacent or neighboring properties, or traffic on adjacent streets.
- (16) Phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.

(b) *Standards for Groundwater Protection.*

- (1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, and steep slopes.
- (2) General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- (3) Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- (4) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- (5) Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- (6) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
- (7) Secondary containment structures such as out buildings, storage rooms, sheds, and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
- (8) Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater, or soils.
- (9) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the State Police Fire Marshal Division.
- (10) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police Fire Marshal Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or

inventory control must be retained and available for review by government officials.

- (11) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police Fire Marshal Division, and the Michigan Department of Natural Resources and Environment. *(Amended 01-04-11)*
- (12) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- (13) Development shall not be allowed on or near contaminated areas of a site unless information from the Michigan Department of Natural Resources and Environment is available indicating that cleanup will proceed in a timely fashion. *(Amended 01-04-11)*
- (14) No aboveground storage of hazardous substances and related secondary containment facilities shall be located within fifty (50) feet of any property line or one hundred (100) feet of any residentially zoned property.
- (15) No underground storage tank shall be within thirty (30) feet of any property line or fifty (50) feet of any residentially zoned property.

SECTION 14.07 ISSUANCE OF BUILDING PERMIT. The Building Inspector shall, upon receipt of notice of approval from the Planning Commission and upon application by the applicant, issue a building permit provided all other applicable Township regulations have been met.

SECTION 14.08 CHANGES AND AMENDMENTS TO AN APPROVED SITE PLAN.

MAJOR AND MINOR CHANGES. Major changes (amendments) to an approved site plan shall be reviewed under Section 14.05 and may be authorized in the same manner as the original application. Certain site plan adjustments classified as “minor changes” may be permitted by the Zoning Administrator. All proposed site plan changes shall be evaluated by the Zoning Administrator and shall be authorized only under the following procedures and circumstances: *(Amended 11-10)*

- (a) The holder of an approved Site Plan shall notify the Zoning Administrator of any proposed change to an approved Site Plan. *(Amended 11-10)*
- (b) Administrative approval of minor site plan changes may only be granted upon determining that the proposed revision(s) either singularly or collectively, will not alter the basic design or any specific conditions imposed as part of the original approval and will otherwise continue to meet all applicable ordinance standards and agency regulations. Administrative site plan approval may not be granted for any use regulated or approved as special land use under Chapter 15. Before acting upon a request the Zoning Administrator who may consult with the Planning Commission Chairperson, planning consultant or others. Administrative site plan approval shall be further limited to the following: *(Amended 11-10)*
 - (1) The approval shall relate specifically to an approved site plan already on file with the Township.

- (2) Increases or decreases in the building size of up to five percent (5%) or 1000 square feet of gross floor area, whichever is smaller, provided such increase does not result a change to the approved parking arrangement and/or vehicle circulation.
 - (3) Installation of underground structures or the movement of buildings or other above ground structures by no more than ten (10) feet, provided that the installation or movement does not result in a change to the approved drainage plan, parking arrangement and/or vehicle circulation.
 - (4) Construction or installation of detached accessory structures such as storage sheds, refuse enclosures and heating and cooling units not exceeding 150 square feet in size and not resulting in a change to the approved drainage plan, parking arrangement and/or vehicle circulation.
 - (5) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size or with materials required by a permitting County, State or Federal regulatory agency.
 - (6) Changes in building materials to a comparable or higher quality.
 - (7) Replacement of the site lighting fixtures specified on an approved site plan with fixtures of comparable or higher quality that do not increase the amount of light trespass or glare that is visible from the street or adjacent properties.
 - (8) Changes to signs and sidewalks.
 - (9) Additions of fewer than 6 parking spaces or changes to the approved parking, loading or driveway surface provided that drainage, on site circulation and landscape arrangement is not affected.
 - (10) Elimination of impervious parking surfaces may only be approved if the area is not needed to meet required parking, storage or circulation needs of the site or use. Impervious surfaces may only be replaced with lawn or a decorative landscape material.
 - (11) Changes in building floor plans which do not alter the character of the use.
 - (12) Minor changes required or requested by the Township Fire Department, the Allegan County Road Commission or other County, State or Federal regulatory agency. In such instance the change must be necessary for the project to conform to other laws or regulations and may not conflict with any specified condition required at the time of the original approval or result in a site plan change that is not otherwise considered minor based upon the above limitations. Examples may include but shall not be limited to modifications to drainage structures, reductions in the number of allowed driveways, driveway improvements required within the public street right of way or creation of fire lanes. *(Amended 11-10-09)*
- (c) Prior to the authorization of a minor site plan change, the applicant/holder of the approved site plan shall have submitted the request for a minor change in writing to the Zoning Administrator along with a copy of the approved site plan and a clear demarcation of the proposed changes. The request and approved site plan changes authorized by the Zoning Administrator shall be dated and placed in the same file and record pertaining to the original approved Site Plan. The Zoning Administrator shall, provide the Planning Commission with written notification of all minor site plan changes within 10 days of approval. *(Amended 11-10-09)*

- (d) A proposed site plan change that is determined not to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application (ref. Sec 14.05). The Planning Commission shall record its reasons for allowing a major site plan amendment in the minutes of the meeting at which the action is taken. The amended site plan shall be signed and dated and shall be included in the same file as the original approved site plan. *(Amended 11-10-09)*

SECTION 14.09 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 Planning Commission will approve the changes. It shall be the responsibility of the applicant to notify the Building Official and the Planning Commission of any changes. The Building Official or the Planning Commission, whichever is applicable, may require the applicant to correct the changes so as to conform to the approved site plan.

SECTION 14.10 AS-BUILT DRAWINGS.

- (a) The applicant shall provide as-built drawings of all sanitary sewers, 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 Building Inspector.
- (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 14.11 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 14.12 PERFORMANCE GUARANTEE.

The 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. Such performance guarantee shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan. If not, the performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Building Inspector. In cases where the provisions of this Chapter have not been met, the 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.

SECTION 14.13 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.

SECTION 14.14 VIOLATIONS.

An approved site plan shall become part of the record of approval, and subsequent action relating to a site in question shall be consistent with the approved site plan, unless the Planning Commission agrees to such changes as provided in this Chapter. Any violation of the provisions of this Chapter, including any improvement not in conformance with the approved final site plan, shall be deemed a violation of this Ordinance and shall be subject to all penalties therein.

CHAPTER 15

SPECIAL USES

(Amended 7/28/93 as New Chapter)

SECTION 15.01 DESCRIPTION AND PURPOSE

The purpose of this article 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 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 15.02 PROCEDURES FOR ALL SPECIAL 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 14 and written evidence and drawings showing that all the requirements for the applicable special use are met. *(Amended 10-96)*
- (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 17.06 of the zoning ordinance. *(Amended 05-08)*
- (c) Conditions - Reasonable conditions may be required with the approval of a special land use, by the Planning Commission, Township Board or Building Inspector, as the case may be. 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.

- (d) 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, Township Board, or Building Inspector, as the case may be, and the landowner. The approving Planning Commission, Township Board or Building Inspector, as the case may be, shall maintain a record of conditions which are changed.

SECTION 15.03 DISCRETIONARY STANDARDS. The following discretionary standards shall serve as the basis for decisions by the Planning Commission involving special use permits. The Commission shall find that in addition to any specific standards contained in Section 15.03, the minimum or maximum height and area regulations of the applicable zoning district, and other applicable general standards contained in the various chapters of this ordinance, (ref. Chapter 11- General Provisions, Chapter 12 - Parking and Loading Spaces and Chapter 14- Site Plan Review), the proposed use shall: *(Amended 10/96)*

- (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 in accordance with the Salem Township Master Plan.

SECTION 15.04 ADDITIONAL STANDARDS FOR SPECIFIC SPECIAL USES. The specific requirements set forth in this section are requirements which must be met by certain special uses in addition to the general standards outlined or referenced in the above Section 15.03. *(Amended 5/10/94)*

- (a) **Automobile service and gas stations, auto repair shops, and car washes.***(Amended 3-04)*
 - (1) No such facility existing on the effective date of this Ordinance shall be altered so as to provide a lesser degree of conformance with the provisions of this section than existing on said date.
 - (2) Minimum lot size shall be forty thousand (40,000) square feet and the minimum lot width at the street line and building lines shall be 200 feet.
 - (3) The principle building on the premises shall be located at least 50 feet from the right of way line. In accordance with the requirements of Section 11.13 this distance shall be increased to at least 100 feet from the centerline of the roadway

on lots abutting a county primary road. All buildings shall be located not less than twenty five (25) feet from any side or rear lot line abutting property used for residential purposes.

- (4) A landscaped green strip at least five feet in depth between the street right of way and the nearest parking or drive surface shall be required. This depth shall be increased to 22 feet on lots abutting a county primary road having a right of way width of 33 feet on the side of the street abutting the subject property. A ten foot green strip shall be provided along each side and rear property line. These green strips shall run continuously except to allow for entrance and exit driveways and joint access driveways between properties.
- (5) Fuel dispenser islands shall be located no closer than twenty five (25) feet from the required front yard green strip.
- (6) Notwithstanding the requirements of Section 11.13, pump island canopies shall extend located no closer than ten (10) feet to the front yard green strip.
- (7) No more than two (2) curb openings shall be permitted. No drive or curb opening shall be located nearer than seventy five (75) feet to an intersection or an adjacent residential property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other drive on the premises. Curb openings shall not be more than thirty (30) feet wide. A curb cut will not be permitted where it may produce a safety hazard to pedestrian or vehicular traffic.
- (8) A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved areas and all landscaped areas located entirely within paved areas.
- (9) Except for desirable landscaped areas, the entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or paved bituminous surface.
- (10) When adjoining property is used or zoned for residential purposes, an effective vegetative screen or screening fence or decorative wall shall be erected and maintained along the common lot line, all walls and fences shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Walls and fences may be eliminated or shall be gradually stepped down in height within twenty five (25) feet of any right-of-way line to promote good traffic visibility.
- (11) All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties. Lighting under the canopy shall be recessed and the illumination under the canopy shall not exceed 25 foot-candles.
- (12) Compliance with state and federal environmental and safety regulations pertaining to the storage of hazardous material and ground water protection is required.
- (13) All repair lubrication and service work shall be done within an enclosed building.
- (14) Unless authorized as part of the special use permit and indicated on the approved site plan, all storage and display of equipment, materials and merchandise, with the exception of fuel shall be within the building.
- (15) All outside storage areas for trash, used tires, auto parts and similar items shall be in the side or rear yard and shall be enclosed by a six (6) foot high solid wall or fence.

- (16) The parking or storage of automobiles, trucks or trailers for a period in excess of seventy-two (72) hours or the sale or rental thereof is expressly prohibited without specific approval as part of the special use approval.
 - (17) Vacuuming activities shall not be located in the front yard and shall be at least fifty (50) feet from any adjoining side or rear property line.
 - (18) Adequate off-street vehicle parking, stacking and storage spaces shall be provided for all uses conducted on the site. No vehicle queue lines shall be permitted to extend off the premises.
 - (19) All washing activities must be within a building.
- (b) **Bed and breakfast establishments**
- (1) Location shall be outside of a platted residential subdivision.
 - (2) Subordination to the principle use of a single-family dwelling unit.
 - (3) Occupancy of no more than fifty (50) percent of the dwelling unit.
 - (4) The premises shall be the principal residence of the operations owner/operator when the establishment is active.
 - (5) The structure shall be erected or retained as a single-family structure. Commercial food preparation equipment and eating or bathroom facilities within individual sleeping quarters shall not be installed.
 - (6) Meal services shall be limited to during normal and customary breakfast hours and shall be provided only to lodgers registered at the establishment.
 - (7) 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.
 - (8) Signs shall be subject to the regulations applicable to signs in the district in which the use is located.
- (c) **Campground, travel trailer parks**
- (1) The minimum lot size shall be twenty (20) acres.
 - (2) No commercial enterprises shall be permitted to operate within the park except that a convenience goods shopping building not to exceed two thousand five hundred (2,500) square feet of floor area may be provided in a park containing more than fifty (50) campsites.
 - (3) No building or campsite shall be located within fifty (50) feet of any property line. A house used only for purposes of residence by a park manager or owner shall conform to the requirements of the zoning district. Setback requirements on the side or rear property line may be waived or modified when said line is constituted by the edge of a river or lake, and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.
 - (4) All parks shall afford direct vehicular access of a public road with no opening closer than one hundred (100) feet to a side property boundary line.
 - (5) One identification sign, not exceeding one hundred (100) square feet in area, is permitted.
 - (6) All campgrounds shall be approved by the Michigan Department of Public Health.
- (d) **Churches, houses of worship, shall be considered relative to the following standards.**

- (1) The size, character and nature of the church building.
 - (2) The proximity of the church to adjoining properties.
 - (3) The off-street parking which is to be provided for the church.
 - (4) The potential traffic congestion and hazards which will be caused by the church use.
 - (5) The degree with which the church harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
 - (6) The effect of the church on adjoining properties and the surrounding neighborhood.
- (e) **Equipment storage and /or maintenance yards, structures and establishments for building trades, heavy equipment and petroleum and well field operators and contractor yards, provided that:**
- (1) The site good street access and the operation of the site will not damage or materially increase the cost and frequency of street maintenance of the street on which the use is located.
 - (2) The site contains at least one acre in size and all structures, drives and storage areas meet the standards for front yard, side yard, rear yard and screening as applied to commercial uses in the C-1 District (ref. Section 9.05).
 - (3) All parking and storage areas and all driveways shall meet the standards of Section 12.05-Standards for Parking Areas, except that areas used for long term outdoor storage or parking of heavy equipment need not be hard surfaced.
(Amended 1-97)
- (f) **Golf courses, country clubs**
- (1) The minimum area shall be forty (40) acres for a par 3 course, sixty-five (65) acres for a 9-hole course, and one hundred twenty (120) acres for an 18-hole course.
 - (2) No building or non-golfing use, with the exception of parking, shall be located within two hundred (200) feet of the front lie or four hundred (400) feet of the side and rear property lines.
 - (3) A greenbelt shall be required if parking is located less than fifty (50) feet from a property line.
 - (4) Parking shall be provided at a minimum of five (5) spaces per hole plus one space for each fifty (50) square feet of combined dining rooms and bar area.
 - (5) Signs shall be subject to the regulations applicable to signs in commercial districts.
 - (6) All lighting shall be shielded or designed so as not to extend beyond the property lines.
 - (7) There shall be not more than two driveways.
- (g) **Group Day Care Homes**
- (1) The home is 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:
 - a) Another licensed group day care home.

- b) An adult foster care small group home or large group licensed by the State of Michigan.
- c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
- d) 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.

(h) **Mini-warehouses**

- (1) The minimum lot area shall be two (2) acres.
- (2) Mini-warehouse facilities shall be limited to dead storage use. Other commercial or associated uses are prohibited.
- (3) A residence may be permitted for security personnel or on-site operator.
- (4) Parking and circulation:
 - a) One parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement can be met with the parking lanes required for the storage area.
 - b) Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - c) One (1) parking space shall also be required for every twenty (20) storage cubicles up to a maximum of ten (10) spaces, to be located adjacent to the rental office for the use of prospective clients.
 - d) The following parking lanes and access aisles shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.

	Aisle or Lane Width (ft.) # of Lanes or Aisles Required			
	<u>One-Way</u>	<u>Two-Way</u>	<u>One-Way</u>	<u>Two-Way</u>
Parking Lane	10	10	1	1
Access Aisle	15	12	11	2

- e) All driveways, parking, loading, storage and vehicular circulation areas shall be paved.

(i) **New and used car sales and rentals**

- (1) The display of new and used cars shall not be carried out within any required front yard green strip area.
- (2) All outdoor vehicle display areas shall be of an improved paved surface.
- (3) Vehicle display or storage shall not be carried out within areas required for visitor, employee or service parking.

(j) **Racing Facilities**

- (1) The Planning Commission shall find that such use will not adversely affect existing or future development of the area.
- (2) There shall be a minimum of eighty (80) acres and the parcel location shall be such that at least one property line abuts a state highway or paved road. Primary access to the facility shall be directly from said streets.

- (3) One sign shall be permitted on each road from which there is a driveway to the track. Such signs shall be subject to the regulations applicable to signs in commercial districts.
- (4) The safety of participants, spectators, and all other persons on the screen is provided for within the general safety practices and precautions of race tracks.
- (5) The track and all spectator areas shall be at least five hundred (500) feet from any adjoining property or road.
- (6) Off-street parking shall be provided at a ratio of at least one (1) space for three (3) seats or six (6) feet of benches in the spectator area.
- (7) All lighting shall be shielded or designed so as not to cause glare upon adjacent properties.

(k) **Sawmills**

- (1) The minimum lot area shall be ten (10) acres.
- (2) All structures and storage yard areas shall be set back a minimum of one hundred (100) feet from the street right-of-way and fifty (50) feet from any side or rear property lines.
- (3) Stockpiles of sawdust, slab-wood, and other wood products shall be held to a minimum so as not to create a fire hazard or public nuisance.
- (4) To reduce noise emissions, the sawmill, including carriage, headgear, and power source, shall be in an enclosed structure and the outlets of blower pipes shall be oriented downward and away from habitable structures located on adjacent properties.

(l) **Rural Enterprises/Re-use of Existing Farm Buildings and Farmsteads in the A-1 and R-1 Districts** (*amended 01-04-11*). This provision recognizes the desire among residents to preserve the rural character of the Township and importance that the preservation of the traditional farmstead represents as a component of that overall character. The intent of this provision is to promote the useful continuation of the farmstead as physical feature of the landscape through the adaptive reuse of the buildings and land area immediately supportive of such buildings. The buildings and lots eligible for adaptive re-use and the small rural enterprises permitted on such parcels shall meet all of the conditions of this Subsection.

- (1) The use shall be specifically identified in Section 5.02A and 6.03 as a use that may be authorized as a Re-use of an existing farm building. (*Amended 01-04-11*)
- (2) The use shall be restricted to occupying only those building(s) existing on or before January 10, 2007. New additions to such buildings may be authorized but shall comprise not more than 25 percent of the total building area that is to be occupied by the use.
- (3) Each building or buildings utilized and any addition, demolition, relocation or replacement thereto shall be subject to approval by the Planning Commission as part of the permitting process. All additions shall be and architecturally similar in character with existing farmstead buildings located on the site.
- (4) Parcels of less than 5 acres at the time of application will not be considered eligible for consideration and in no case shall the

Planning Commission be authorized to approve creation of a farmstead parcel of less than five acres.

- (5) In the case of farmsteads that have a usable farm dwelling, the dwelling may not be separated from the overall parcel unless it is first authorized by the Planning Commission. In considering whether to approve the separation of the farm dwelling and one or more other buildings from the balance of the farmstead, the Planning Commission must first find that the each lot will meet the minimum lot size requirements and that the minimum setback requirements for the district will be either met or will not be further diminished.
- (6) At the time of its approval, the boundary of the farmstead shall not be located within 1000 feet in any direction of any zoning district where the Re-use of existing farm buildings and farmsteads for a rural enterprise is not permitted.
- (7) At the time of application the farmstead boundary shall not be located within 1000 feet in any direction of any other approved special use business or another farmstead where the adaptive Re - Use of Existing Farm Buildings and Farmsteads for a small business has been authorized.
- (8) Unless authorized as part of the 25% increase permissible under paragraph 2 herein, the building(s) used for a rural enterprise shall not be one relocated from an unrelated parcel or tract.
- (9) Outdoor accessory uses such as parking and loading areas and outdoor storage may only be extended to surrounding parts of the lot with the approval of the Planning Commission.
- (10) The farmstead shall not be located on a public street located within a platted or condominium residential development or any private street that serves one or more residential lots.
- (11) Unless specifically authorized by the Planning Commission the total employment is limited to a proprietor and no more than 6 employees or assistants on the premises and no more than 3 additional employees or assistants who report to the site for work performed off the premises.
- (12) No use shall be conducted upon, or from the premises that will constitute a nuisance or annoyance to adjoining property or 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 the source of lighting shall not be discernible beyond the boundaries of the property from which the use is conducted.
- (13) Storage of explosives is prohibited. Storage of volatile liquid, flammable gases or hazardous material may be prohibited or allowed to occur if kept for purposes and in quantities and concentrations customarily found on farms in the Township.

- (14) Outdoor sales display may be authorized if it occupies an area no larger than 500 square feet; and is located in a required setback or in a side yard or rear yard. Outdoor storage must be located in a side yard or rear yard. Outside storage areas shall be screened by at least two rows of deciduous evergreen trees which will reach a minimum of five (5) feet in height after one growing season. An alternative screening approach may be approved by the Planning Commission if it conceals the area as effectively as the first alternative and is consistent with the character of the area.
- (15) For purposes of identification, one (1) non-illuminated business sign not exceeding six (6) square feet in area may be permitted. Such sign shall identify only the use of the operation.
- (16) A special use permit granted and the conditions imposed shall run with the property, unless such use ceases for a period of 12 consecutive months in which case, the special use permit shall expire.
- (17) If the use as permitted by the Planning Commission is proposed to change, the landowner shall submit an application for a Special Use in accordance with this Chapter.
- (18) Conditions: When authorizing a Special Use permit for the adaptive re-use of an existing farm buildings and farmsteads the Planning Commission may impose restrictions and limitations upon the use, relating, but not limited to, consideration of the following:
 - (a) The hours of operation.
 - (b) The floor area of the use.
 - (c) The area, height, bulk and location of the building(s) and their relationships to neighboring properties and land uses.
 - (d) The outdoor storage or display of goods, inventory or equipment and the screening thereof.
 - (e) Machinery or electrical activity that may interfere with nearby radio or television reception or create noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
 - (f) Motor vehicle and/or pedestrian traffic and its circulation on and off site.
 - (g) The amount of off-street parking provided, and the location and surfacing and drainage thereof.
 - (h) The number of permitted associates, employees or assistants whether working on-site or performing duties principally off-site.
 - (i) Water usage and the adequacy of the water supply.
 - (j) Solid and human waste generation and the proposed means and adequacy of treatment, storage and disposal.

(Amended 12-06)

(m) **Seasonal/Migrant Farm Labor Camps.** (Added in its entirety by Ordinance No. 12-14-2010-1, eff. 01-04-11) Farm Labor Camps (i.e. five or more seasonal or migratory laborers engaged in agricultural activities) A Farm Labor Camp may be approved as a Special land Use in any **A-1 or R-1 District** as provided in this sub-Section. All farm labor camps shall be located on a parcel or a portion of a parcel on which agricultural activities occur and which contains a minimum of ten acres of continuous land, uninterrupted by Street or Private Road right-of-way or easement.

- (1) *Definitions.* As used in this section, the following words and phrases shall be defined as follows:
 - (a) *Seasonal Farm Labor* means one or more individuals currently engaged in seasonal or migratory agricultural labor activities, including related food processing.
 - (b) *Farm Labor Camp* means a Lot with Buildings or other Structures, part of which is established, occupied, or used as living quarters for five or more seasonal or migratory laborers currently engaged in agricultural activities, including related food processing.
- (2) Unless otherwise provided under paragraph (3) below, each Farm Labor Dwelling must comply with the requirements of the State Building Code.
- (3) If Manufactured Homes or Modular Homes are to be utilized to provide shelter for Farm Labor, then each Dwelling must comply with the following requirements:
 - (a) Each Dwelling must be firmly attached to a permanent foundation, or firmly anchored to the ground, in a manner which complies with the requirements of the Michigan Manufactured Housing Commission. If attached to a foundation, the foundation must be constructed on-site and in compliance with all requirements of the State Building Code. The frame of a Manufactured Home must be supported by concrete piers or concrete block piers, which are spaced at no more than ten-foot intervals.
 - (b) Each Dwelling must satisfy the design and manufacturing standards of the U.S. Department of Housing and Urban Development in effect at the time of manufacture. Any Dwelling manufactured prior to January 1, 1976 must comply with the regulations adopted by the U.S. Department of Housing and Urban Development in 1976.
 - (c) If a Farm Labor Dwelling other than a Manufactured Home or Modular Home which satisfies the requirements of subsection (2) above is connected to electricity, its electrical distribution system must comply with all applicable regulations of the State Electrical Code.
- (4) ***Standards Applicable To All Seasonal or Migrant Farm Labor Camp Dwellings.*** The following minimum standards shall apply to all Farm Labor Dwellings:
 - (a) The Lot shall be owned or leased by a Farm operator who employs Farm Labor either on the same or on an abutting Lot. The Farm Labor housed by a Farm operator must actually be employed by that Farm operator.

- (b) All applicable statutes, regulations and requirements of both the State of Michigan and the federal government must be satisfied by any housing for Farm Labor. If a license or permit is required by the State or federal government, then the owner or operator of the Farm Labor camp must maintain the license in full force and effect in order for the use to be permitted as a Special Land Use.
- (c) All Farm Labor Dwelling structures must be setback at least 75 feet from each Street or Private Road right-of-way on which the Lot fronts.
- (d) All Farm Labor Dwelling structures must be set back at least 100 feet from the nearest Side and Rear Lot Lines. Setbacks shall be increased to 150 feet when a Side or Rear Lot Line is adjacent to a separate Lot supporting a Single or Two-Family Dwelling in the A-1 or any residential zoned district and owned by a person other than the owner of the Farm Labor Dwelling.
- (e) All Farm Labor Dwelling structures must be located at least 20 feet from each other.
- (f) A minimum of two improved Motor Vehicle parking spaces shall be provided for each Farm Labor Dwelling unit.
- (g) Required Yards and open space within minimum required setbacks may not be used to support agricultural processing or storage operations or the parking of machinery.
- (h) Garbage, refuse, and other waste materials must be effectively stored and screened and disposed of in accordance with the requirements of this Chapter and other applicable provisions in this ordinance and applicable State and federal laws and regulations.
- (i) Each Farm Labor Dwelling shall be provided with the following provided that the regulations of this subsection shall not be construed as imposing greater requirements than would apply to any Single-Family, Two-Family or Multifamily Dwellings.
 - 1. One operating smoke/fire detector shall be required per dwelling unit.
 - 2. One exit door, defined as a side-hinged door that is at least three feet wide and at least six feet, eight inches high, shall be required per dwelling unit.
 - 3. Each sleeping room shall have at least one operable window or exterior door for emergency egress or rescue. The window or door must be operable from the inside to a full clear opening without the use of separate tools. Any windows provided as the means of egress or rescue shall have a sill not more than 44 inches above the floor, a minimum net clear opening of 5.7 square feet, a minimum net clear opening height of at least 24 inches, and a minimum net clear opening width of 20 inches.
 - 4. Each Farm Labor dwelling unit must be connected to a potable source of water, with plumbing inside the Dwelling unit which satisfies the requirements of the State of Michigan Plumbing Code,

even though the Dwelling unit may be exempt from the Plumbing Code.

5. Within each Farm Labor Dwelling unit shall be at least one bathroom equipped with a functioning water closet and lavatory.
6. Each Farm Labor Dwelling must be connected to either a public sewer or a septic system approved by the Allegan County Environmental Health Department. Outdoor privies or outhouses shall not be acceptable in any event.

SECTION 15.04A ANTENNAS AND TOWERS EXCEEDING 50 FEET. (*Amended 1-18-00*)

- (a) Purpose - It is the general purpose and intent of the Township to comply with the requirements of the Federal Telecommunications Act of 1996 by authorizing towers and antennas needed to operate wireless communication systems. However, it is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and quality of the Township.

It is the further purpose and intent of this Section to:

- (1) Facilitate adequate and efficient provision of sites for towers and antennas.
 - (2) Ensure that towers and antennas are situated in appropriate locations and relationships to other land uses, structures and buildings.
 - (3) Limit overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
 - (4) Require adequate information about plans for towers and antennas in order to permit the Township to effectively plan for the location of such facilities.
 - (5) Minimize adverse impacts of the technological obsolescence of such facilities.
 - (6) Minimize the negative visual impact of towers and antennas on neighborhoods, community landmarks, natural beauty areas and public rights-of-way, by reducing the numbers of towers through co-location where feasible.
- (b) Application - Antennas and towers exceeding a height of 50 feet shall be permitted only if approved as a special land use by the Planning Commission under the terms of this section.
- (1) The application for special land use for such antenna or tower shall include the following information, in addition to what is otherwise required by the terms of this chapter:
 - (a). A detailed site development plan depicting the nature, type, appearance and location of the antenna and tower, any buildings or other structures and all other external features of the special land use, including driveways, fencing, isolation distances, screening and landscaping and other matters.
 - (b). A visual impact analysis which shall include graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Township Planner.

- (c). A justification for the proposed height of the antenna and tower and an evaluation of alternative designs which might result in lower heights.
 - (d). A maintenance plan and any applicable maintenance agreement, prepared so as to ensure long-term, continuous maintenance of the antenna and tower and any supporting structures.
 - (e). A list of all properties investigated for placement of the proposed tower and antenna and the rationale and other background material for selecting the proposed location. The applicant shall provide copies of correspondence to and from owners of properties who have been contacted by the applicant and who have refused to allow their property to be utilized, purchased or leased by the applicant.
 - (f). A list of other wireless communication providers who have been contacted by the owner regarding co-location as well as any correspondence to and from the other providers.
 - (g). A map showing existing and known proposed telecommunications facilities or other structures within and surrounding the Township which could possibly be used by the applicant to co-locate the proposed antenna.
- (c) Co-location -It is the policy of the Township that all wireless communication providers co-locate on existing towers or structures capable of accommodating antennas to minimize the overall number of newly established towers within the Township and to encourage the use of existing towers and structures for new antennas. Thus, if a party who owns or otherwise controls a tower as defined herein, shall fail or refuse to allow the alteration of a tower so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- (d) Approval of co-located antenna. An application for co-location on an existing tower shall require only site plan review in order to obtain approval. The site plan shall be reviewed in accordance with the requirements of Chapter 14 of this Ordinance. The Planning Commission shall also review the application in accordance with the applicable requirements and standards of this Section.
- (e) Requirements and Standards - An antenna or tower approved as a special land use shall comply with all of the following requirements:
- (1) Items (1) and (2) and (4) through (8) of Section 15.03A.
 - (a). In addition to the standards for approval of all special land use permit applications contained in this Chapter, the Planning Commission shall consider the following factors in determining whether to issue a special use permit for a communications antenna or tower;
 - (b). Height of the proposed tower;
 - (c). Proximity of the tower to residential structures and residential district boundaries;
 - (d). Nature of uses on adjacent and nearby properties;
 - (e). Surrounding topography;
 - (f). Surrounding tree coverage and foliage;

- (g). Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (h). Proposed ingress and egress; and
 - (i). Availability of suitable existing towers, or other structures for co-location, or alternative technologies not requiring the use of towers or structures, as discussed in Section 15.04A(e)(3) below.
- (1) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structures or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (a). No existing towers or structures are located within the geographic area which meets the needs of the applicant.
 - (b). Existing towers or structures are not of sufficient height to meet the applicant's needs.
 - (c). Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d). The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (e). The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (f). The applicant demonstrates that there are other material limiting factors that render existing towers and structures unsuitable.
 - (g). The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.
- (2) Facilities shall be located and designed so as to be reasonably harmonious with the surrounding area.
- (3) The maximum height of the antenna and tower shall be the minimum height necessary for reasonable communications by the applicant, and by other entities which may collocate on the structure.
- (4) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes.
- (5) The support system shall be constructed in accordance with all applicable building codes.
- (6) A proposed tower for commercial telecommunications services shall be required to be designed, constructed and placed so as to accommodate both the applicant's

equipment and comparable equipment for at least three or more additional users. The Planning Commission may permit a tower design which would allow fewer than three other users if the Commission finds that three additional users would not be consistent with the intent and purposes of this section.

- (7) The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.
- (8) Towers for telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory. The monopole may be designed to resemble natural features or to fit in with the design of other existing structures in the area.
- (9) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them. The Commission may require plantings to be placed on properties adjacent to the tower site in order to provide a more effective visual screen.
- (10) Towers for commercial telecommunications services which are abandoned or unused shall be removed by the owner or operator along with any associated buildings, structures or equipment within 180 days of a written notice from the Township, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to insure its removal.
- (11) If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum upon notice given by the Township.
- (12) High Intensity Strobe lighting shall not be permitted unless required by federal or state agencies.
- (13) Any ancillary building housing equipment needed for the operation of the antenna or tower, or any other appurtenance, shall be of a size, type, color and exterior materials which are aesthetically compatible with existing principal buildings within the surrounding area.
- (14) The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
- (15) Where a tower or antenna is proposed for the roof a building or for the top of another existing structure, the tower shall be designed, constructed and maintained so as to be reasonably architecturally compatible with the principal building or structure.
- (16) Any antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a

property line than its height, unless a lesser setback is permitted by the Planning Commission based on documentation from the applicant that a closer setback will not create a hazard to adjoining properties or roadways.

- (17) The requirements of the Federal Aviation Administration, the Federal Communications Commission and the Michigan Aeronautics Commission shall be fully complied with.
 - (18) In its reasonable discretion, the Planning Commission may impose additional terms and conditions regulating the construction, installation, use, repair, maintenance and removal of an antenna or tower in order to achieve the intent and purposes of this section.
- (f) Revocation of Permit. Failure to comply with conditions of approval stipulated for a tower or antenna under this section may result in the revocation of the Special Land Use Permit. In considering whether to revoke a Special Land Use Permit, a hearing shall be held by the Planning Commission in accordance with the procedures of Section 15.02. *(Amended 05-08)*

SECTION 15.05 REVOCATION OF PERMIT. If a violation of any of the above conditions, regulations, or special conditions is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special use and the Planning Commission, Township Board, or Building Inspector (whichever allowed the special use) that such violation exists and that the permit will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the body or official who allowed the special use shall revoke the permit. *(Amended 5/10/94)*

SECTION 15.06 EFFECT OF PERMIT. Any Special Use Permit granted and the conditions imposed shall run with the land, regardless of land ownership. Such permit shall remain in effect unless revoked under Section 15.05 above or unless an activity permitted by the Special Use Permit ceases for a consecutive period of 12 months. In such case, the Special Use Permit shall be considered void, and a new Special Use Permit required for the activity to recommence. *(Amended 5/10/94)*

SECTION 15.07 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 use permit. Furthermore, once a special use 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 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 15.03 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 standards of Section 15.03. *(Amended 10/96)*

CHAPTER 16

ZONING BOARD OF APPEALS

SECTION 16.01 ZONING BOARD OF APPEALS. *(Amended 05-08)*

- (1) **Membership and Officers.** A Zoning Board of Appeals is hereby created. Such Board shall consist of five members, and may consist of two alternates, appointed by the Township Board. Regular and alternate members shall be registered electors of the Township, provided that no elected officials of the Township, nor any employee of the Township may serve as a member of the board except as provided herein. One of the regular members of the Zoning Board of Appeals shall be a member of the Township Planning Commission. One regular member may be a member of the Township Board, but that member shall not serve as chairperson of the Zoning Board of Appeals. The Zoning Board of Appeals shall elect one of its members as chairperson and one of its members as secretary.
- (2) **Term of Office.** Initially, one member of the Zoning Board of Appeals shall be appointed for a term of three years, two members shall be appointed for a term of two years each and two members shall be appointed for a term of one year each. Thereafter, each member, when appointed, shall have a term of three years. Alternates shall be appointed for three year terms.
- (3) **Service on Board; Removal.** Members of the Zoning Board of Appeals may be removed at the pleasure of the Township Board. Any vacancy shall be filled by the Township Board for the remainder of the un-expired term. An alternate member of the Zoning Board of Appeals may be called to serve if the regular member is unable to attend or has abstained for reasons of conflict of interest. An alternate member appointed in a case shall serve in that case until a final decision is made. An alternate member shall vote and otherwise have all of the authority and responsibility of a regular member.

SECTION 16.02 VOTING REQUIREMENTS. *(Amended 05-08)* The concurring vote of three members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the building inspector or zoning administrator or decide in favor of the applicant on any matter upon which the Board is required to pass upon under this chapter or under the Zoning Enabling Act, or to grant any variance in the zoning ordinance as provided in this chapter.

SECTION 16.03 MEETINGS AND QUORUM. *(Amended 05-08)* Meetings of the Zoning Board of Appeals shall be open to the public and shall be at the call of the chairperson and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure. No less than three regular members of the Zoning Board of Appeals must be present to constitute a quorum for the conduct of business.

SECTION 16.04 RECORDS. *(Amended 05-08)* The secretary shall record minutes of all proceedings of the Zoning Board of Appeals which shall contain evidence and data relevant to every case considered, together with a tabulation of the vote of each member and the final disposition of each case. Such minutes shall be a public record.

SECTION 16.05 HEARINGS. *(Amended 05-08)* When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the secretary or designee of the secretary shall

immediately place such request for appeal on the calendar for hearing and shall cause notice to be provided in the manner specified in Section 17.06 of the zoning ordinance except that if the request does not involve a specific parcel of property, notice need only be published as provided in Section 17.06(a) and given to the person making the request. The Zoning Board of Appeals may recess such hearing from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice thereof shall be required.

SECTION 16.06 DECISIONS. *(Amended 05-08)* The Zoning Board of Appeals may reverse or affirm wholly or in part, or may modify, any order, requirement, decision or determination on which any appeal has been taken and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of an appropriate and lawful permit. The Zoning Board of Appeals shall also make findings and reach decisions upon all other matters which, under the terms of this Ordinance or by law, it is required to herein decide. In its minutes, the Board shall state the reasons and grounds for each of its decisions or determinations. The decision of the Board shall be final, but any person having an interest affected by any such decision may appeal to the circuit court in the manner and upon the procedure specified by law.

SECTION 16.07 APPEALS. *(Amended 05-08)* Appeals to the Board of Appeals may be taken by any person aggrieved, or by an officer, department or board of the Township.

SECTION 16.08 TIME FOR APPEAL, NOTICE. *(Amended 05-08)* Any appeal from the ruling of the Building Inspector concerning the enforcement of the provisions of this Ordinance shall be made to the Zoning Board of Appeals within five (5) days after the date of the decision which is the basis of the appeal. The person making the appeal shall file with the secretary of the Board and the enforcing officer a notice of appeal specifying the grounds for the appeal. The Building Inspector shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

SECTION 16.09 EFFECT OF APPEAL. *(Amended 05-08)* An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Board, after notice of the appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or on application and notice to the Building Inspector by the circuit court of due cause shown.

SECTION 16.10 REPRESENTATION. *(Amended 05-08)* Any party may appear in person or by agent or by attorney at a hearing considering the request or appeal.

SECTION 16.11 DUTIES AND POWERS OF THE BOARD OF APPEALS. *(Amended 05-08)* The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter which are more particularly specified as follows:

- (a) Make interpretations of the Zoning Map of the Township of Leighton, Allegan County, Michigan, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- (b) Hear and decide appeals from, and review any order, requirements, decisions, or determination made by, an administrative official or body charged with enforcement of this Ordinance, excluding any requirements, decisions or determinations made with regards to special uses.

- (c) The Zoning Board of Appeals may not consider or grant a use variance, being a variance from the provisions or requirements of this Ordinance because of the actual or proposed use of the property.

SECTION 16.12 VARIANCES. *(Amended 05-08)* No variance in the provisions or requirements of this Ordinance shall be authorized by the Zoning Board of Appeals unless the Board makes findings, based upon competent material and substantial evidence on the whole record, as to each of the following matters.

- (a) That the enforcement of the literal requirements of this Ordinance would cause practical difficulties.
- (b) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (d) That the authorizing of such variance will not be of substantial detriment to adjacent or nearby lands, structures or buildings, and will not be contrary to the spirit and purpose of this Ordinance.
- (e) That the special circumstances or conditions referred to in subsection (b) do not result from the actions of the applicant.

SECTION 16.13 EXPIRATION OF VARIANCES. *(Amended 05-08)* Each variance granted under the provisions of this chapter shall automatically expire one year from the date granted unless:

- (a) The construction or action authorized by such variance or permit has occurred or been commenced within one year after the granting of the variance and is progressing toward completing.
- (b) The occupancy of land, premises or buildings authorized by the variance has taken place within one year after the variance was granted.

SECTION 16.14 APPEALS TO COURTS. *(Amended 05-08)* Any decision of the Board of Appeals may be appealed through the courts, as provided in the Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

SECTION 16.15 CONDITIONS OF APPROVAL. *(Amended 05-08)* The Board of Appeals may attach conditions to any affirmative decision, provided such conditions are in accordance with the requirements of this Ordinance and the Zoning Enabling Act, as amended. Such conditions shall be consistent with procedures, requirements, standards, and policies of the Township Board, the Township Planning Commission, and other Township agencies, where applicable. Violation of any condition imposed shall be deemed a violation of this Ordinance and punishable under Chapter 27 herein.

CHAPTER 17

ADMINISTRATION AND ENFORCEMENT

SECTION 17.01 ZONING ADMINISTRATION. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator.

SECTION 17.02 ZONING ADMINISTRATOR / ADMINISTRATIVE OFFICIAL. The Zoning Administrator shall be appointed by the Township Board for such term and be subject to such conditions and at such rate of compensation as the Township Board shall determine. The Building Inspector may also serve as the Zoning Administrator or may serve as the Deputy Zoning Administrator at the discretion of the Township Board. The Zoning Administrator/Building Inspector shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility or device entering into or used in connection with building construction within the Township. The Zoning Administrator and his or her designated deputy shall have the authority to receive applications, inspect premises for violations, issue building permits and institute proceedings for enforcement of this Zoning Ordinance. The Zoning Administrator shall be empowered to appoint a substitute Zoning Administrator who shall have the same powers as the Zoning Administrator possesses and who shall exercise these powers whenever appointed by the Zoning Administrator to serve in his absence. The Township Board is hereby empowered to remove said Zoning Administrator, his deputy, or substitute at any time for good cause. (*Amended 10/96*)

SECTION 17.03 PERMITS.

- (a) Permit Required - No building or structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except wholly interior alterations or repairs at a cost of five hundred dollars (\$500.00) or less, unless a permit there for has been issued by the Zoning Administrator. An application for a permit shall be in writing and upon duplicate printed forms furnished by the Township. A permit issued by the Zoning Administrator is nontransferable and must be obtained before any work, excavations, erection, alteration or movement is commenced. Satisfactory evidence of ownership of the lot or premises may be required by the Zoning Administrator and shall be furnished upon request. If the application is approved, the Zoning Administrator shall so mark both copies of the application over his signature and file one copy with the Township Clerk and return the other copy to the applicant. The Zoning Administrator shall also provide the applicant with a construction card signed by the Zoning Administrator stating the extent of the work authorized. This card shall be attached to and remain on the lot or premises during the progress of the work authorized.
- (b) Contents of Application - Each application shall include such reasonable information as may be requested by the Zoning Administrator in order to determine compliance with the terms and provisions of this Ordinance and shall include, as a minimum, the following information: (1) the location and actual dimensions of the lot or premises to which the permit is to apply; (2) the kind of buildings or structures to which the permit is to apply; (3) the width of all abutting streets; (4) the area, size and location of all buildings or structures to which the permit is to apply; (5) the type of use to be made of the building or structure to which the permit is to apply; (6) the use of buildings or structures on

adjoining lands; and (7) the estimated cost of the building or structure. The Zoning Administrator, in his direction, may waive the inclusion of any of the foregoing information in an application if he shall determine that such information is not reasonably necessary for him to determine compliance with the terms and provisions of this Ordinance.

- (c) Accessory Buildings or Structures - Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged or altered, at the same time as the principal building on the same lot or premises and when shown on the application for the permit for the principal building, shall not require the issuance of a separate permit. A separate permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended enlarged or altered separately or at a different time than the principal building on the same lot or premises.
- (d) Planning Commission Approval - When the terms and provisions of this Ordinance require authorization by the Planning Commission as a special use and such authorization is given, then both copies of the application shall be marked approved by the Secretary of the Planning Commission in addition to being so marked as provided above by the Zoning Administrator. (Amended 7/28/93)
- (e) Issuance of Permit - Within ten (10) days after the receipt of any application, the Zoning Administrator shall either (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or (2) deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his agent.
- (f) Expiration of Permits - A permit for a single family dwelling for which all construction work has not been completed within one (1) year from the date of its issuance shall expire automatically; a permit for any other building or structure for which all construction work has not been completed within two (2) years from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable once for additional terms of one (1) and two (2) years, respectively (one (1) year for single family dwelling, two (2) years for any other building or structure), on payment of an additional fee equal to one half (1/2) of the original permit fee.
- (g) Cancellation of Permits - The Zoning Administrator shall have the power to revoke and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or in the event of any false statements or misrepresentations in the application for the permit. Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit.
- (h) Fees - For each permit issued, a fee shall be paid to the Zoning Administrator who shall remit the same to the Township Treasurer. A schedule of fees shall be set by the Township Board.

The amount of such fees shall be determined from the estimated cost of the building or structure as set forth in the application for the permit. If upon completion of the building or structure the Zoning Administrator shall determine that the estimated cost does not represent a fair valuation of the cost of the building or structure, he shall notify the

applicant in writing of the permit fee deficiency and the building or structure shall not be used until such deficiency has been paid to the Zoning Administrator.

SECTION 17.04 INSPECTION OF BUILDINGS AND STRUCTURES.

- (a) As work progresses under a permit, the holder thereof or his authorized agent shall cause the Zoning Administrator to be notified at the following stages of construction:
 - (1) Upon completion of the footing and foundation walls.
 - (2) Upon completion of the rough frame of the building or structure and the electrical wiring.
 - (3) Upon total completion of the work authorized by the permit and before occupancy or use.
- (b) Should the permit holder fail to comply with all of the terms and provisions of this Ordinance at any stage of construction, the Zoning Administrator is authorized to revoke and cancel the permit and cause notice of such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit. No further work shall be undertaken or permitted upon such construction until a new permit is issued for such work.

SECTION 17.05 CERTIFICATION OF COMPLIANCE. No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used in whole or in part until the owner thereof shall have been issued a certificate by the Zoning Administrator affirming that such building or structure conforms in all respects to the provisions of this Ordinance. Such certificate shall be issued after the work is complete and final inspection has been made.

SECTION 17.06 PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING. *(Amended 05-08)* Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered according to the requirements of this Section.

- (a) The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Township. (b) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use, special controlled uses and site condominium projects applications a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
 - (1) The applicant;
 - (2) All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
 - (3) The occupants of all structures within 300 feet of the property that is the subject of the application.

- (c) If the above-described 300-foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories.
- (d) The notice of public hearing shall include the following information:
 - (1) A description of the nature of the application or request.
 - (2) An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
 - (3) A statement of when and where the application or request will be considered.
 - (4) Identify when and where written comments will be received concerning the application or request. (*Amended 05-08*)

CHAPTER 18
ORDINANCE AMENDMENT

SECTION 18.01 INITIATION OF AMENDMENTS. Amendments to this Ordinance may be initiated in the manner as provided by law in the Zoning Act. (Amended 7/28/93)

SECTION 18.02 AMENDMENT PETITION PROCEDURE. All petitions for amendment to this Ordinance shall be in writing signed, and filed in triplicate with the Township Clerk for presentation to the Township Board. Such petitions shall include the following:

- (a) The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned;
- (b) The nature and effect of the proposed amendment;
- (c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned;
- (d) The alleged error in the ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same;
- (e) The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare;
- (f) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

SECTION 18.03 AMENDMENT PROCEDURE. After initiation,. amendments to this ordinance shall be considered in accordance with the requirements of the Michigan Zoning Enabling Act, as it may be amended from time to time. Notice of the public hearing required before the Planning Commission, and any other associated public hearings to be held concerning an amendment, shall be given in accordance with the provisions of Section 17.04 of this zoning ordinance. (Amended 05-08)

SECTION 18.04 REZONING CRITERIA. In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- 1. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- 2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- 3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and

4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
(Amended 02-06)

CHAPTER 19

PENALTIES

*(This Chapter amended in its entirety by
ORDINANCE NO. 12-14-2010-2)*

SECTION 19.01 VIOLATIONS AND PENALTIES.

- (a) Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.
- (b) Violation. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- (c) Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
-1 st Offense	\$ 75.00	\$500.00
2 nd Offense	150.00	500.00
-3 rd Offense	325.00	500.00
-4 th or More Offense	500.00	500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

- (d) Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

CHAPTER 20

MISCELLANEOUS PROVISIONS

SECTION 20.01 ADMINISTRATIVE LIABILITY. No officer, agent, employee, or member of the Planning Commission, Township Board or Board of Appeals shall be held personally liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

SECTION 20.02 SEVERABILITY. This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 20.03 REPEAL. All other ordinances and parts thereof which are in conflict in whole or in part with any of the provisions of this ordinance are repealed as of the effective date of this Ordinance.

SECTION 20.04 EFFECTIVE DATES. This Ordinance was approved by the Township Board and became effective on July 7, 1976. The adoption dates of text amendments made subsequent to the ordinance's original adoption appear in parenthesis.

CHAPTER 21

EARTH REMOVAL, QUARRYING, MINING AND RELATED MINERAL EXTRACTION ACTIVITIES

SECTION 21.01 INTENT AND PURPOSE, EXCEPTIONS Earth Removal, Quarrying, Gravel Processing, Mining and Related Mineral Extraction Businesses. Prior to the approval by the Planning Commission of a special exception use for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any area of the Township, said commission shall be satisfied that the following conditions and limitation are, or shall be, strictly complied with, in addition to any other requirements contained in the Township zoning ordinance or in any other Township ordinance controlling such operation. These provisions do not apply to grading operations that do not result in material being taken off premises.

Earth removal/operations (material carried off site) carried out directly by land owners for the purposes of preparing their land for cultivation or in preparation of building development may be exempted from these provisions provided that all of the following conditions are met.

- (1) No area is created which fills with water, unless it is a farm watering pond or private recreational pond with bank gradients of no more than one (1) foot vertical to three (3) feet horizontal.
- (2) Operations are not commercial in nature and do not involve on-site processing such as crushing, washing or grinding.
- (3) The area of the removal operation is limited to a maximum of one (1) acre in size or in the case of field grading and building development, to an area roughly equivalent in size to the site being prepared for development or cultivation.
- (4) The duration of operation is limited to a continuous twelve (12) month period of time.
- (5) The reclamation requirements of Section 21.05b shall still apply.

Any operation that exceeds the above limits will be required to receive a special use permit under this Chapter and Chapter 15. After preliminary review of applications for operations exceeding or likely to exceed one or more of the above limits, the Planning Commission may find such operations to be minor in nature and may waive, if found to be unnecessary, one or more of the application and plan content requirements itemized under Section 21.08.

SECTION 21.02 LOCATION.

- (a) All such operations shall be located on a primary road, as defined by the County, for ingress and egress thereto, or on a road, which does not create traffic through an area developed primarily for residential purposes. Where necessary, said Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
- (b) Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than one hundred fifty (150) feet to interior boundary lines of the property except that the Planning Commission may reduce such setback to fifty (50) feet if reclamation of the land is promptly effected to increase the

setback to at least one hundred fifty (150) feet. Such reduction shall be in accordance with the reclamation plan approved by the Commission and adequate lateral support shall be maintained at all times.

- (c) No such excavation operation shall be permitted within fifty (50) feet of an adjoining public right-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
- (d) A processing plant and its accessory structures shall not be located closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
- (e) No such excavation operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

SECTION 21.03 SIGHT BARRIERS. Sight barriers shall be provided along all boundaries of the site, which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:

- (a) Earth berms constructed to a height of six (6) 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. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees or shrubs.
- (b) Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and sufficiently spaced to provide effective sight barriers when six (6) feet in height.
- (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 21.04 NUISANCE ABATEMENT

- (a) Noise and vibration shall be minimized in 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 natural 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) Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners.

Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.

- (c) Hours. The operation shall be restricted to the daylight hours between dawn and dusk.
- (d) Fencing. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

SECTION 21.05 RECLAMATION OF MINED AREAS

- (a) 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.
- (b) The following standards shall control reclamation and rehabilitation:
 - (1) All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-flammable and non-combustible solids to insure:
 - (a) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or
 - (b) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - (2) The banks of all excavation shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
 - (3) 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 four (4) inches sufficient to support vegetation.
 - (4) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - (5) Upon cessation of mining operations by abandonment or otherwise as determined by the Planning Commission, the operating company, 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.

- (c) A performance bond or cash may be required to be furnished to the Township Clerk in an amount as determined by the Planning Commission. Said bond or cash 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 or cash and the amount of bond 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 21.06 SUBMISSION OF OPERATIONAL AND RECLAMATION PLANS

No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission showing compliance with all of the provisions of this Ordinance or the manner in which compliance will be secured 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 same, access thereto abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property
- (b) The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
- (c) The type of mining or processing proposed to be conducted and the nature of the equipment to be used
- (d) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site
- (e) Soil tests shall be made 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 shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the an engineer acceptable to the Township. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the within Ordinance to the boundaries of the site
- (f) A map or plan disclosing 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 such other matters as may evidence 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 proposed mining activities

SECTION 21.07 HEARING AND REVIEW CRITERIA

- (a) After receiving an application for the grant of a special exception 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 17.06 of this Ordinance. (*Amended 05-08*)

- (b) Following such hearing, said Planning Commission shall grant or deny the application and set forth its reasons for its decision. Such recommendation shall be based upon the criteria set forth within the Ordinance and shall be based, in addition, on a consideration of the following:
- (1) The most advantageous use of the land, resources and property
 - (2) The character of the area in question and its peculiar suitability, if any, for particular uses
 - (3) Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area
 - (4) The protection and preservation of the general health, safety and welfare of the township
 - (5) The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations
 - (6) 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 such previous operations
 - (7) In making any decision, the Planning Commission shall have the right and 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. It may also limit the length of time that the special exception permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a special exception permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. 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. 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. The Planning Commission shall review all permits annually.
 - (8) 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.
 - (9) 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 21.08 REVIEW PROCEDURES AND 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 Chapter 15 Special Land Uses. The site plan content requirements of Chapter 14, Section 14.04 as applicable shall be relied on as the minimum informational requirements for site plans submitted as part of such application. In addition to the content requirements of Section 14.04, the Planning Commission may require the applicant to provide all or a portion of the following additional information and documentation prior to reaching its decision.

- (a) Documentation of 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 may include:
 - (1) A characterization as to the expected service area of the mining operation.
 - (2) The type and quantity of material to be mined, as supported by soil borings.
 - (3) The location, ownership and temporal (short and long term) availability 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 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 should be presented. 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 and other land uses along the routes including schools, day care operations, churches and businesses.
 - (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 as to the adequacy of the routes in general 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 site 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 County Road Commission 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.

CHAPTER 22 OPEN SPACE PRESERVATION PROJECTS

SECTION 22.01 PURPOSE AND APPLICABILITY. Act No. 177 of the Public Acts of Michigan of 2001 (a.k.a. Section 506 of the Zoning Enabling Act as amended) 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. (*Amended 05-08*)

Under these regulations, a landowner has the option to retain at least 50% of the property as open space and placing dwellings on the remaining portion. The number of dwellings cannot be more and may not be required to be less than the number which would be permitted on the land without the open space preservation regulations.

The purpose of this Chapter is to adopt open space preservation provisions consistent with the requirements of the Zoning Enabling Act. (*Amended 05-08*)

Unless otherwise amended, this Chapter shall only apply to single family residential open space preservation projects in the A1, A2, R-1 and R-2 Zoning Districts.

SECTION 22.02. REVIEW PROCEDURE. An open space preservation development shall be reviewed by the Planning Commission according to the requirements and general standards for site plan review contained in Chapter 14 of this Ordinance except as otherwise provided in this Chapter.

SECTION 22.03 ITEMS SUBMITTED FOR REVIEW.

- (a) Application. The applicant shall submit a completed application form for open space preservation project as provided by Salem Township. The application shall include a fee and may also be required to include an escrow amount to be deposited in an account created for the project for the purposes of reimbursement of review expenses to the Township.
- (b) Open Space Preservation Plan. The applicant shall submit 9 sets of the Open Space Preservation Plan which shall include information required by Section 14.03 of this Ordinance and the following information:
 - (1) The areas devoted to preserved open space.
 - (2) The site development plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed lots on the site development plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission.
 - (3) The total number of acres of land that are proposed for preserved open space, the total number of acres of land that are proposed to be used for dwellings, and the percentage of each, as compared to the total site acreage.
 - (4) The site development plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (5) If the open space development will not be served by public sanitary sewer, the applicant shall submit documentation from the Allegan County Health Department

and or Michigan Department of Natural Resources and Environment that the soils are suitable for on site septic systems. (*Amended 01-04-11*)

- (c) Related Approvals If an open space preservation development is proposed as a platted subdivision or a site condominium, the applicant must also submit all information and follow the procedures required by the Salem Township Subdivision Control Ordinance or the Salem Township Site Condominium Subdivision requirements of this Ordinance, as applicable.
- (d) Existing Zoning Plan. In addition to the information required above, the applicant must also submit a separate **Existing Zoning Plan**.
- (e) This plan is to be prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the open space preservation option provided by this Section were not exercised. The Existing Zoning Plan may be conceptual in nature but shall include at least the following information:
 - (1) Date, north arrow and scale, which shall not be more than 1" = 200 '.
 - (2) Location of streets and utility right-of-way adjacent to and within the site.
 - (3) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - (4) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan.
 - (5) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the applicant shall submit documentation from the Allegan County Health Department that the soils on each proposed lot are suitable for on site disposal systems.
 - (6) The Existing Zoning Plan shall illustrate all un-buildable land, which shall include slopes of 20% or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction of buildings or roads. No more than 50% of the area of designated wetlands, streams, flood plains, slopes in excess of 20%, existing ponds or lakes or other bodies of water may be included in calculating the number of developable lots in an existing zoning plan.
 - (7) Identification of the limits of any required "natural vegetation zone" and/or "transition zone" adjacent to a riparian feature, as established by the Riparian Area Protection standards contained in Chapter 25. (*Amended 02-08*)

SECTION 22.04 DETERMINATION OF NUMBER OF LOTS. The Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number of lots that could be developed on the land under its existing zoning if the clustering option provided by this Section were not exercised.

The Commission shall either approve the number of lots illustrated on the Existing Zoning Plan or require the Plan to be revised to accurately reflect the number of lots that could be developed on the land under the standards required for preparing the Existing Zoning Plan in this Section.

SECTION 22.05 OPEN SPACE REQUIREMENTS

- (a) Minimum Open Space. A minimum of fifty (50%) percent of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., “open space”) by means of restrictions and other legal instruments that runs with the land.
- (1) Common Ownership of Preserved Areas. Any land intended to be used as common area by home owners shall be set aside for their exclusive use. All such lands shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to assure the following:
 - (a) That title to the open space would be held in common by the owners of all dwelling units in the cluster development.
 - (b) That a permanent organization for maintenance and management of such area would be assured by legal documents prior to the issuance of any building permits or the sale of any property.
 - (c) That the restrictions would be sufficient to assure the permanent preservation of the open space.
 - (d) That the restrictions could be enforced by all property owners and by the Township.
 - (2) Preserved Areas Not Owned in Common. Land areas which are to be preserved but not held in common ownership shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to 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 would adequately preserve the natural features and regulate the use of the open land.
 - (c) That the restrictions could be enforced by all property owners and by the Township.
- (b) Areas Not Counted as Open Space.
- (1) The area within all public or private road rights-of-way.
 - (2) Golf course.
 - (3) Any easement for overhead utility lines.
 - (4) The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
 - (5) Off street parking areas.
 - (6) Detention and retention ponds created to serve the project.
 - (7) Proposed community drain fields.
 - (8) Subject to Planning Commission approval, lakes and ponds created as part of the project may be included in final open space calculations. Existing lakes and ponds shall be excluded from meeting the minimum of fifty (50%) open space requirement unless such lakes or ponds lie entirely within a single development site or lot.

- (c) Standards for Open Space. The following standards shall apply to the preserved open space required by this Section:
- (1) Features To Be Preserved. In order to approve a cluster housing proposal, the Planning Commission must determine that the parcel of land contains natural features which would be preserved through the use of cluster development. Such features must include at least one of the following:
 - (a) Natural stands of large trees.
 - (b) Natural habitat for wildlife within the developed portion of the property.
 - (c) Unusual topographic features.
 - (d) Productive farmland.
 - (e) Water or wetland areas.
 - (2) The open space may include a recreational trail, picnic area, children’s play area, community building or other use which, as determined by the Planning Commission., is substantially similar to these uses.
 - (3) Not less than 50% of the minimum required open space shall be held in common.
 - (4) The open space held in common shall be available for all residents of the development, subject to reasonable rules and regulations.
 - (5) 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.
 - (6) A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - (7) Open space held in common shall be located so as to be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.
 - (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.
 - (9) Open space areas held in common shall take into account adjacent public and private open space areas and where possible shall be located and established to provide or facilitate the creation of continuous pathways, open space areas and corridors.

SECTION 22.06 DEVELOPMENT REQUIREMENTS

- (a) Water and Sanitary Sewer. Open Space Preservation projects shall be served by either public or community water and sanitary sewer 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 Existing Zoning 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.
 - (1) The minimum lot sizes shall not be less than the following:

	<u>Target*</u>	<u>Minimum Lot Width*</u>
	<u>Minimum Lot Size</u>	
A1, A2 and R-1 Zones	18,000 square feet	90 feet
R-2 District	12,000 square feet	80 feet

- * Conventional lot size requirements are reduced by more than 50% in order to allow the developer to achieve the same number of lots as allowed under the existing zoning and still set aside 50% of the parcel as open space. Where it is shown by soil borings that the allowed number of lots could meet Health Department approval but the above target minimums cannot be achieved on each lot, the Planning Commission may waive the minimum lot size or lot width requirement on a lot by lot basis.
- (2) The minimum front, side and rear yard setback standards as applied to single family homes in the R-2 Low Density Residential District shall apply (Ref. Sec. 7.04).
- (c) Compliance with Zoning District. The development of land under this Section 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 setback requirements.
- (d) (d). Maximum Number of Lots. The Open Space Preservation project shall contain no more than the maximum number of lots as determined from the **Existing Zoning Plan** approved by the Planning Commission under Section 22.04.
- (e) Perimeter Lots. Notwithstanding any other provision of this Section, the Planning Commission may require that the Open Space Preservation development 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 require sidewalks in accordance with the Township's Site Condominium Ordinance and Subdivision Control Ordinance.
- (g) Grading. Grading shall comply with the following requirements:
 - (1) To preserve the natural appearance of the land 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 permitted by the Planning Commission.

CHAPTER 23

CONSERVATION SUBDIVISION PLANNED UNIT DEVELOPMENT OPTION

SECTION 23.01 PURPOSE. The intent of this Chapter is to offer an alternative to the pervasive rural subdivision using planned unit development (PUD) procedures as authorized under the Michigan Zoning enabling Act, as amended. These provisions encourage greater innovation and offer more flexibility in the design of open space/cluster residential developments than can be achieved under the provisions of the underlying A-1 Agricultural and R-1 Agricultural and Rural Estates Districts. They are intended to preserve the rural character of the land by promoting the creation of compact residential clusters that are encompassed and veiled by open space and less intensive land uses. The Conservation Subdivision Planned Unit Development provisions allow variation from permitted lot density, lot area and width standards for lots in single family residential developments in exchange for improved open space, enhanced screening and buffering techniques and amenities and other design considerations such as single loaded streets that will enhance the rural quality of life.

Land use goals and objectives for the Township which may be better accomplished through the use of the Conservation Subdivision Development provisions include the following:

- (a) The provision of meaningful buffers between agricultural land and operations and more intensive residential development.
- (b) The conservation and preservation of woodlands and sensitive environmental areas such as wetlands in the Township and to otherwise minimize the disturbance of woodlands, steep slopes, ridgelines, wetlands and stream corridors in the design of new development.
- (c) To facilitate the continued use of farmland while accommodating residential development that will not over capacitate the soil, aquifers and roadways.
- (d) To recognize the value of and to facilitate the creation of "developed" open space and recreation facilities such as golf courses, man made lakes, equestrian facilities and passive athletic grounds within residential developments in concert with undeveloped open space, as defined by the Michigan Zoning Enabling Act, as amended.
- (e) Greater accessibility to natural areas and developed open space and recreation land by their inclusion within new developments as common areas.
- (f) The provision of "developed" recreation and open space facilities that are privately financed and maintained for the use of residents in the development and/or the public.

SECTION 23.02 PERMITTED USES. The uses permitted within conservation subdivision developments are restricted to detached single family residential dwellings, customary residential accessory uses and structures and improved and unimproved open space. At the time of PROJECT approval, the Planning Commission may approve the following uses as allowable uses of open space:

- (a) Agricultural accessory buildings and limited agricultural activities when conducted within the open space areas designated within the development. For the purposes of this Section agricultural activities shall be limited to the growing of trees, crops, fruits and vegetables and/or the raising, breeding, training and keeping of farm animals. Areas made part of the development intended to support farming activities shall be located,

arranged and restricted to minimize any nuisance or hazard to the residents of the development.

- (b) Natural areas, golf courses, equestrian facilities, tennis courts, ball fields, trails, playgrounds, community buildings and similar recreational facilities as well as day care facilities. Such uses shall be accessory to the residential uses in the development and designed to be primarily used by residents of the development unless specifically designed and authorized by the Planning Commission as public use facilities.
- (c) Accessory structures and buildings customarily associated with single family residential dwellings shall be subject to the requirements, unless otherwise specified herein, residential accessory buildings shall be regulated by the provision that pertains to accessory buildings in Chapter 11, Section 11.09. The location, size appearance and use of buildings and structures associated with an approved open space use shall be established by the Planning Commission as a condition of approval of the planned unit development plan approval for a Development.

SECTION 23.03 LOCATION PRINCIPLES. The following general principles shall be utilized to evaluate the location of any proposed conservation subdivision district. The principles will be applied by the Planning Commission as general guidelines to help assess the impact and appropriateness of the development and its design.

- (a) **Protecting Natural and Cultural Features.** All conservation subdivision developments shall be designed to promote the preservation of natural features and or cultural features. Significant wildlife habitats, sensitive environmental lands, productive and unique farmland and scenic vistas, historic structures are to be conserved and/or protected where practical.
- (b) **Access to Public or Private Roadway.** Conservation subdivision developments shall have at least one property line abutting a public or private roadway. All entrances and exits shall be directly to or from said roadways. In the case of a parcel having frontage on more than one public or private roadways, the Planning Commission shall determine the most appropriate number and location of access point or points.
- (c) If an already existing private road is to be used it must be in compliance with the Salem Township Private Road ordinance, the PUD approval can be held in lieu of Private Road proof of compliance.

SECTION 23.04 AREA REGULATIONS.

- (a) **Minimum Development Acreage:** The minimum size of any Conservation Subdivision Development shall be ten (10) acres of contiguous land.
- (b) **Minimum Required Open Space:** Unless permitted under the provisions of Section 23.07 of this chapter, the minimum amount of preserved and protected open space contained in any Conservation Subdivision shall be forty five percent (45%) of the gross acreage of the project. The open space shall meet the open space criteria of Section 23.09 of this Chapter. A minimum of forty-percent (40%) of the protected open space shall be held in common or in public ownership. The balance of the minimum required protected open space may be held privately. All lands intended to be held in common and all open space which is to be preserved but not held in common or by the public shall be protected by

restrictions meeting the criteria of Sections 23.12 and 23.13 of this Chapter. *(Amended 01-04-11)*

- (c) Lot Area: The average area for all house lots in the development shall not be less than forty-thousand (40,000) square feet provided that:
 - (1) The forty-thousand (40,000) square foot lot average may be reduced to accommodate bonus density increases allowed under Section 23.07 if all of the other area regulations of this Section (23.04) are met. *(Amended 01-04-11)*
 - (2) The minimum lot area shall be not less than twenty thousand (20,000) square feet. *(Amended 01-04-11)*
 - (3) No portion of a lot exceeding two acres shall be used in calculating adherence to the required minimum average.
 - (4) The well and septic facilities for each lot that is not served by public water and/or sewer shall be approved by the State or County Health Department having jurisdiction. Note: Although parcel size may meet minimum Township requirements contained herein, it may fail to meet health agency size and isolation.
- (d) Lot Width: The minimum lot width at the front building line for lots served by individual on site septic systems shall be 110 feet. For lots served by public sewer or private community wastewater collection and treatment systems, the minimum lot width at the front building line shall be ninety (90) feet. The lineal street frontage for individual lots may be less than the required lot width when the lot is arranged along a cul-de-sac street, or other street curve. The lot width at the street may also be reduced for individual unique situations where strict adherence to a minimum frontage requirement would contribute unnecessarily to an inefficient lot arrangement, or to the wasting of otherwise appropriate building sites. *(Amended 01-04-11)*
- (b) Front Yard: There shall be a front yard setback of not less than thirty (30) feet.
- (c) Side Yard: For residential buildings, there shall be a side yard setback of not less than ten (10) feet.
- (d) Rear Yard: There shall be a rear yard of not less than twenty-five (25) feet.
- (e) Exterior setbacks: The setback of any residential dwelling, residential accessory structure or other building approved in the development shall be a minimum of fifty (50) feet from any property not included within the development.
- (f) Accessory Buildings: No residential accessory building shall be constructed within any required front yard setback. No detached accessory building shall be closer than ten (10) feet to the dwelling or within any required side or rear setbacks. No accessory building within the residential areas shall exceed fourteen (14) feet in height.
- (g) Common Area setbacks: For all other buildings and structures permitted by the Planning Commission in common areas within the development, the minimum front, rear, and side-yard setbacks shall be fifty (50) feet.

SECTION 23.05 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty five (35) feet in height. All other buildings and structures shall not exceed their usual and customary heights.

SECTION 23.06 MINIMUM FLOOR AREA. Each one story dwelling unit shall have a minimum of eight hundred sixty (860) square feet of usable floor area, exclusive of porches, garages, basements, or utility areas. In the case of a dwelling unit of more than one (1) story the minimum area shall be one thousand (1000) square feet of floor area with a ground floor area of at least six hundred fifty (650) square feet.

SECTION 23.07 MAXIMUM BASE DENSITY AND DENSITY BONUS.

Through the preservation of permanent developed and undeveloped open space and the use of subdivision design techniques that limit the impacts on the rural character, the total number of lots permitted in a Conservation Subdivision Development may be allowed to exceed the number of dwelling lots achievable utilizing the least restrictive of the by right lot area standards of the underlying Zoning District. *(Amended 1-04-11)*

- (a) Minimum Open space: No bonus will be granted unless at least forty five (45%) percent of the gross acreage is set aside as permanently protected open space. *(Amended 1-04-11)*
- (b) Maximum Bonus: The combined total number of bonus dwelling units granted shall not exceed fifty (50%) percent of the base number of dwelling units achievable under the conventional density and lot area requirements for the district.
- (c) Bonus Dwelling Units: The number of dwelling units granted as bonuses shall be earned bonuses derived as follows:
 - (1) Open space in excess of forty five (45%) percent. One bonus dwelling unit will be granted for each two (2) acres of preserved open space, in excess of the 45% required under Section 23.04. *(Amended 1-04-11)*
 - (2) Streetscape and buffer bonus. One bonus dwelling unit and an twenty thousand (20,000) square foot reduction in the minimum amount of open space required under Section 23.04 may be granted for each three hundred (300) feet by two hundred-fifty (250) feet deep (measured from the edge of existing or proposed right-of-way) increment of uninterrupted open space that is preserved directly adjacent to an existing public roadway or existing residences. *(Amended 1-04-11)*

As a variation to the two hundred-fifty (250) feet of streetscape depth, the Township may in its discretion allow the creation of a seventy-five (75) foot deep (measured from the edge of existing or proposed right-of-way) professionally landscaped, planted and maintained, or a dense naturally vegetated and maintained, buffer along the adjacent existing public road right of way or between new home sites and existing residences adjacent to the development.
 - (3) Open space improvements. One bonus dwelling unit and an twenty thousand (20,000) square foot reduction in the minimum amount of open space required under Section 23.04 may be granted for each five hundred (500) foot increment of five (5) feet wide concrete side walk or asphalt pathway linking residential units and natural open space contained in the development. *(Amended 1-04-11)*
 - (4) Single loaded streets. One bonus dwelling unit and an twenty thousand (20,000) square foot reduction in the minimum amount of open space required under Section 23.04 will be granted in exchange for each three hundred (300) lineal feet of frontage by one hundred fifty (150) foot deep single loaded (homes on only one side) internally constructed street. *(Amended 1-04-11)*

- (5) Public Dedication of Open space. Dedication of land for public use including trails and active recreation areas is encouraged. A density bonus for open space dedicated to the public for such purpose shall be computed on the basis of one lot or building site for each two (2) acres of open space accessible to the public. The decision to accept an applicant's offer to dedicate open space for public access shall be at the discretion of the Township Board, who shall be guided by the Planning Commission and any officially adopted Township or county plans and policies for parks, recreation and open space.
 - (6) Contribution to an Open Space Acquisition and Maintenance Fund. The Planning Commission may in consultation with the Township Board allow a density bonus for the express purpose of generating income or endowment for a Township open space acquisition and maintenance fund. For each bonus lot granted in a development, not otherwise justified by the above immediately preceding paragraphs (1) through (5), a minimum of seventy-five (75%) percent of the value improved lot (as determined by an independent and certified appraiser) must be donated to an open space endowment fund created for such purposes. The fund must be restricted to expenditures used for the public acquisition and maintenance of open space and recreation land located anywhere within the Township. *(Amended 1-04-11)*
 - (7) Improved access: Developments located on unimproved public streets (gravel) may not be granted bonus dwellings if in the discretion of the Planning Commission, it is determined that the condition of the public roadway from which primary access will be derived is in sub-standard condition and deterioration would be materially accelerated by the project; and the roadway is not scheduled for improvements in the foreseeable future. Bonus densities may be subsequently authorized for development at the request of the developer once appropriate roadway improvements have been made.
- (d) Existing Zoning Plan. In addition to the information required above, the applicant must also submit a separate Existing Zoning Plan. This plan is to be prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the open space preservation option provided by this Section were not exercised. The Existing Zoning Plan may be conceptual in nature but shall include at least the following information:
- (1) Date, north arrow and scale, which shall not be more than 1" = 200'.
 - (2) Location of streets and utility right-of-way adjacent to and within the site.
 - (3) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - (4) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan.
 - (5) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the applicant shall submit documentation from the Allegan County Health Department that the soils on each proposed lot are suitable for on site disposal systems.
 - (6) The Existing Zoning Plan shall illustrate all un-buildable land, which shall include slopes of 20% or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction

of buildings or roads. No more than 50% of the area of designated wetlands, streams, flood plains, slopes in excess of 20%, existing ponds or lakes or other bodies of water may be included in calculating the number of developable lots in an existing zoning plan.

- (7) Identification of the limits of any required "natural vegetation zone" and/or "transition zone" adjacent to a riparian feature, as established by the Riparian Area Protection Overlay Zone standards contained in Chapter 25. *(Amended 02-08)*

SECTION 23.08 DETERMINATION OF NUMBER OF LOTS

The Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number of lots that could be developed on the land under its existing zoning if the clustering option provided by this Section were not exercised.

The Commission shall either approve the number of lots illustrated on the Existing Zoning Plan or require the Plan to be revised to accurately reflect the number of lots which could be developed on the land under the standards required for preparing the Existing Zoning Plan in this Section.

SECTION 23.09 OPEN SPACE REQUIREMENTS

- (a) Open Space. All open space included within developments created under the provisions of this Section shall remain in a perpetually undeveloped state by means of restrictions and other legal instruments that runs with the land. *(Amended 1-04-11)*

- (1) Common Ownership of Preserved Areas. Any land intended to be used as common area by home owners shall be set aside for their exclusive use. All such lands shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to assure the following:

- (a) That title to the open space would be held in common by the owners of all dwelling units in the cluster development.
- (b) That a permanent organization for maintenance and management of such area would be assured by legal documents prior to the issuance of any building permits or the sale of any property.
- (c) That the restrictions would be sufficient to assure the permanent preservation of the open space.
- (d) That the restrictions could be enforced by all property owners and by the Township.

SECTION 23.10 STANDARDS FOR APPROVAL. In addition to the general standards and requirements provided in Chapter 15, the following standards for approval shall be considered by the Planning Commission when considering requests for conservation subdivision planned unit developments:

- (a) Do the proposed uses of the open space consider and use to the best advantage the overall size, shape, topography and location of the parcel proposed for the conservation subdivision?

- (b) Does the open space include any irreplaceable natural features located on the parcel, such as but not limited to significant views, stream beds, threatened or endangered plant species, significant stands of trees, and individual trees of significant size or variety?
- (c) Will the approval of this development grant a substantial benefit, to both residents of the development and the Township in general, which under more traditional zoning, would not occur?
- (d) Compatibility with Adjacent Uses: The proposed Conservation Subdivision site plan shall set forth in detail all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
 - (1) The bulk, placement, and materials of construction of proposed structures.
 - (2) Pedestrian and vehicular circulation.
 - (3) The location and screening of vehicular use or parking areas.
 - (4) The provision of landscaping and other site amenities.
- (e) Impact of Traffic: The Conservation Subdivision project shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- (f) Protection of Natural Environment: The proposed project shall be protective of the natural environment and avoid or minimize the pollution, impairment, or destruction of the environment according to the Michigan Environmental Protection Act and any other relevant law or regulation.
- (g) Access to Open Space: The proposed project shall assure access to the designated open space area by residents within the conservation subdivision project site, or by the public if the open space is publicly owned. This requirement may be waived if ownership of the open space is dedicated for agricultural purposes.
- (h) Compliance with Applicable Regulations: The proposed project shall comply with all applicable federal, state, county and local regulations unless specifically waived in writing or approved under these provisions.

SECTION 23.11 UNIFIED CONTROL. The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, performance guarantees, covenants and or deed restrictions that indicate that the development will be completed in its entirety, as proposed.

SECTION 23.12 COMMON OWNERSHIP OF PRESERVED AREAS.

Any land intended to be used as common area by home owners shall be set aside for their exclusive use. All such lands shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to assure the following:

- (a) That title to the open space would be held in common by the owners of all dwelling units in the cluster development.

- (b) That a permanent organization for maintenance and management of such area would be assured by legal documents prior to the issuance of any building permits or the sale of any property.
- (c) That the restrictions would be sufficient to assure the permanent preservation of the open space.
- (d) That the restrictions could be enforced by all property owners and by the Township.

SECTION 23.13: PRESERVED AREAS NOT OWNED IN COMMON. Land areas which are to be preserved but not held in common ownership shall be designated on the site plan and shall be protected by restrictions running with the land. The restrictions shall be reviewed and approved as to wording by the Township Attorney to 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 would adequately preserve the natural features and regulate the use of the open land.
- (c) That the restrictions could be enforced by all property owners and by the Township.

SECTION 23.14 GENERAL ADMINISTRATIVE REQUIREMENTS.

- (a) Procedures: Application for review and approval of a conservation subdivision shall be made in accordance with the provisions of Chapter 15 SPECIAL USES PROCEDURE FOR AUTHORIZATION, Section 15.02.
- (b) Effect of Approval:
 - (1) Approval of a Conservation Subdivision proposal shall not require, nor shall it be construed as an amendment to the zoning ordinance. All improvements and uses of the site shall be in conformity with the approved site plan and comply fully with any conditions imposed by the Planning Commission.
 - (2) Any development involving a land division that is not exempted under the State Land Division Act, Act 288 of 1968, as amended shall require subsequent or concurrent review as a platted subdivision or site condominium.
- (e) Recording of Action: The applicant shall record an affidavit with the Allegan County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved Conservation Subdivision site plan unless an amendment is adopted by the planning Commission. In addition, all deed restrictions and easements shall be duly filed with the Allegan County Register of Deeds and copies of recorded documents shall be presented to the Township Clerk.
- (f) Continuing Adherence to Plan: Any property owner who fails to conform to an approved Conservation Subdivision plan shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the penalties for same.
- (g) Performance Guarantee: The Planning Commission may require that a performance guarantee, in accordance with Chapter 15, be deposited with the Township to insure completion of improvements.

SECTION 23.15 SCHEDULED PHASING. When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding service, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the Conservation Subdivision project and surrounding properties.

SECTION 23.16 REVISION OF APPROVED PLAN.

- (a) General Revisions: Approved plans for Conservation Subdivision developments may be revised, under the same procedures required for initial approval set forth in Chapter 15.
- (b) Minor Changes: Notwithstanding any provision in the Ordinance to the contrary, minor changes to an approved Conservation Subdivision plan, including changes to the project phasing, may be permitted by the Planning Commission following the site plan review procedures of Chapter 14. Such minor changes may be approved by the Planning Commission without resort to the public notice and hearing procedures set forth in Chapter 15 if the Planning Commission specifically finds:
 - (1) Such changes will not adversely affect the initial basis for granting approval;
 - (2) Such changes shall not result in the increase in density or reduction of open space area or a change in the use of open space use as originally approved.
 - (3) The change is internal and does not have a direct relationship to an adjacent property.

CHAPTER 24

CONDITIONAL REZONING

(Adopted 02-06)

SECTION 24.01 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 the Michigan Zoning Enabling Act (MCL125.3405) *(amended 05-08)* 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 24.02 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 24.03 PLANNING COMMISSION REVIEW. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Chapter 18 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 24.04 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 18 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 shall, in accordance with the Zoning Enabling Act (MCL 125.3401), (*amended 05-08*) refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

SECTION 24.05 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 24.06 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 24.07 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 24.08 REVERSION OF ZONING. If the approved development and/or use of the rezoned land does not occur within the time frame specified under Section 24.07 above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (*amended 05-08*) 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 24.09 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 24.08 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 24.10 AMENDMENT OF CONDITIONS. During the time period for commencement of an approved development or use specified pursuant to Section 24.07 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 24.11 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 Zoning Enabling Act (MCL 125.3405, *et seq.*) (*amended 05-08*)

SECTION 24.12 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.

CHAPTER 25
RIPARIAN AREA PROTECTION OVERLAY ZONE.

(Chapter added 2-08)

SECTION 25.01. INTENT AND PURPOSE: The standards contained in this Chapter govern the use and alteration of land within a specified distance of, rivers, creeks and contiguous wetlands and other riparian features in Salem Township, in order to accomplish the following objectives:

- (a) Implement the water quality protection, environmental protection and rural character protection goals and policies of the Township's Master Plan.
- (b) Achieve the Township's resource protection and community character goals in a manner that is reasonable and sensitive to local conditions and concerns of property owners.
- (c) . Protect water quality and habitat quality in the, rivers, creeks, and their contiguous wetlands and other riparian features in Salem Township, and thereby protect the public health, safety and general welfare, by encouraging filtering of storm water runoff through natural vegetative buffers along stream corridors, and by encouraging and protecting vegetative cover along stream banks to shade the stream, thereby maintaining lower water temperatures and high-quality stream habitat.
- (d) Maintain the integrity and stability of stream banks and protect stream banks against erosion, 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.
- (e) 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.
- (f) Permit and encourage property owners to enhance native vegetation along riparian corridors in the Township.

SECTION 25.02 APPLICABILITY AND ADMINISTRATIVE ACTION:

- (a) Applicability. Except as provided in subsection 2 below, the standards contained in this section shall be applicable to all land in the Township which is located within specified distances adjacent to:
 - (1) All of the rivers, streams, and creeks located within the " RAP- Riparian Area Protection Overlay Zone " identified on the Salem Township Zoning Map as amended, and the wetlands contiguous to the identified rivers, streams, and creeks, as defined herein.
- (b) Exemptions. The standards contained in this Chapter **shall not** be applicable to:
 - (1) A lot or parcel, of two (2) acres or less in size which was a "lot of record" on or before February 11, 2008.
 - (2) Agricultural operations that are conducted in conformance with best management practices (BMPs) as defined and prescribed by the Michigan Right to Farm Act, Public Act 93 of 1981, as amended.

- (3) All activities that are authorized in a permit issued by the Michigan DEQ pursuant to Parts 31,301,303 or 315 of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.
 - (4) Forestry operations that are conducted within the natural vegetation zone when done in conformance with generally accepted forestry management practices (GAFMPs) as defined and prescribed under the auspices of the Right to Forest Act Public Act 676 of 2002.
 - (5) The cleaning out, straightening, widening, deepening, or extending, consolidation, relocation, tiling, and connection of Drains established under the provisions of the Michigan Drain Code, Public Act 40 of 1956, as amended.
- (c) Prohibitions Unless the activity is specifically addressed by guidelines contained within a forest management plan prepared by a forestry or other natural resources professional and/or the activity is a GAFMP officially recognized by the appropriate state agency and approved by Natural Resources Commission of the State of Michigan, the following practices shall not be considered exempt by this ordinance and shall be prohibited within the Riparian Areas Protection zone:
- (1) Cutting stream bank trees.
 - (2) Unnecessary access roads and skid trails.
 - (3) Cording and stacking of wood
 - (4) Excessive soil compaction and rutting by tree harvesting equipment.
 - (5) Removal of ground cover or understory vegetation.
 - (6) Felling trees into the stream bed or leaving logging debris in the stream.
 - (7) Servicing or refueling equipment.
 - (8) Mechanical site preparation and site preparation burning.
 - (9) Mechanical tree planting.
 - (10) Broadcast application of pesticides or fertilizers.
 - (11) Handling, mixing, or storing toxic or hazardous materials (fuels, lubricants, solvents, pesticides, or fertilizers).
- (d) Administrative Action. The decision on any application for a zoning approval or a permit for an activity on property subject to the riparian area protection standards of this Chapter shall be made by the Zoning Administrator.

SECTION 25.03 OVERLAY SUB-AREAS: NATURAL VEGETATION ZONES AND TRANSITION ZONES: DEFINITION, INTENT AND DELINEATION

- (a) Definition and Intent: The land area subject to the riparian area overlay protection standards of this section shall be comprised of two sub-area zones. The definitions and intended purposes of each of these sub-areas are as follows:
- (1) *Natural Vegetation Zone*. The natural vegetation zone includes at a minimum, all lands located within thirty-five (35) feet of the ordinary high water mark of the stream. It also extends to the outer wetland boundary of contiguous wetland and therefore includes all contiguous wetlands as defined in this ordinance. The natural vegetation zone is intended to provide a functional vegetative corridor along the edge of a stream. Its functions shall be to protect water quality, animal habitat and aesthetic values of the riparian feature by minimizing erosion,

stabilizing the bank, minimizing nutrient flows into the water, shading the water to maintain low water temperatures, and screening man-made structures.

- (2) *Transition Zone.* **The "transition zone," extends for a distance of fifteen (15) feet beyond the edge of the natural vegetation zone, only where there are no contiguous wetlands that extend beyond the 35 foot natural vegetation zone.** The transition zone is intended to provide distance between upland development and the natural vegetation zone, in an area outside of the natural vegetation zone where there are fewer restrictions on disturbance and improvements, but where some restrictions remain necessary to protect water quality, animal habitat and the integrity of the adjacent stream. The transition zone is not applied in areas where contiguous wetlands extend beyond the 35 feet from the ordinary high water mark.

- (b) Delineation of Sub-Area Zones. The limits of the "natural vegetation zone" and the "transition zone" as used and defined in this Chapter is required to be accurately shown on all site plans, land division plans, subdivision plans (plats), site condominium plans, plans for planned unit developments, and all applications for building permits submitted for review by Salem Township. Any such plans for sites on which is located any protected riparian area subject to these regulations shall include the following statement: "There shall be no clearing, grading, earth change, placement of fill, construction or disturbance of vegetation within the area labeled as being subject to the riparian area protection standards of the Salem Township zoning regulations, except as permitted by Chapter 25 of the Salem Township Zoning Regulations."

SECTION 25.04. DEVELOPMENT STANDARDS.

- (a) Natural Vegetation Zone Land located within the natural vegetation zone shall be subject to the following development standards:
- (1) No dwelling unit or other principal building and no accessory building may be constructed within the natural vegetation zone. The following structures may be permitted:
 - (1) Flood control or bank protection structures permitted or constructed by authorized state or federal agencies.
 - (2) Pedestrian or vehicular bridges when designed and constructed in a manner that minimizes impact on the riparian feature.
 - (3) Boardwalk access to or through wetlands when constructed in accordance with a permit issued by the Michigan Department of Natural Resources and Environment. (*Amended 01-04-11*)
 - (4) 4). One pump house per lot housing a pump used for irrigation when setback at least fifteen (15) feet from the high water mark, and having a maximum ground coverage of nine (9) square feet.
- (b) On-site sanitary waste treatment systems are prohibited within the natural vegetation zone.
- (c) The area within the natural vegetation zone shall be kept in a predominantly natural condition. Clearing or removal of existing trees shrubs and groundcover shall be limited to the following:

- (1) 1). Removal of isolated diseased or dead trees and damaged trees that are in an unstable condition and that pose a safety hazard. The stumps and root structures of removed trees shall be left in place.
 - (2) 2). Removal of noxious plants and shrubs, including poison ivy, poison sumac and poison oak and other plants regarded as common nuisance in Section 2, Public Act 359 of 1941 as amended and species that are recognized as highly invasive, as contained on a "List of Invasive Species" maintained on file in the office of the Township Clerk.
 - (3) 3). Planting of native species that are contained on a "List of Native Species" maintained on file in the office of the Township Clerk is permitted.
 - (4) 4). Limited removal of vegetation in order to provide a filtered view of the riparian feature from adjacent property and to provide reasonable private access to the riparian feature. The term "filtered view" connotes the maintenance or establishment of woody vegetation of sufficient density to screen the riparian feature from adjacent property, while also providing for bank stabilization and erosion control and to serve as an aid to infiltration of surface runoff. The vegetation need not be so dense as to completely block the view of the riparian feature. To that end the following standards shall apply:
 - a) Sufficient live root system and vegetation must be retained to provide for bank stabilization and erosion control, to encourage infiltration of runoff, and to provide shading of the water surface.
 - b) Existing vegetation between a height of three (3) feet above the ground and the ground surface shall remain undisturbed and in a natural condition except as otherwise provided for herein.
 - c) Select pruning and removal of vegetation above a height of three (3) feet shall be permitted.
 - d) Existing vegetation may be removed and/or managed, including maintaining a turf lawn, in an area with a maximum width of fifteen (15) feet to, and ten (10) feet along, one or both sides of the riparian feature. Within this corridor a paved or unpaved trail or path with a maximum width of nine (9) feet is permitted.
 - e) Clearing that is required to construct the exempt structures permitted in Section 25.02, sub-section b above, is permitted.
- (d) Prohibited activities: The following activities are prohibited in the natural vegetation zone:
- (1) Storage of motorized vehicles or petroleum products
 - (2) Storage or use of toxic or hazardous materials
 - (3) Storage of herbicides or pesticides
 - (4) Storage of fertilizer
 - (5) Placement of fill or dumping of any refuse
 - (6) Concentrated drainage flow by ditches, under drains or other similar systems.
 - (7) Topsoil, sand and gravel extraction.

SECTION 25.05. DEVELOPMENT STANDARDS IN THE TRANSITION ZONE (15 FEET LANDWARD OF NATURAL VEGETATION ZONE). Land located within the transition zone shall be subject to the following development standards and restrictions:

- (a) No dwelling unit or other principal building and no accessory building may be constructed within the transition zone. The following structures may be permitted:
 - (1) Flood control structures constructed by authorized state or federal agencies.
 - (2) Pedestrian or vehicular bridges, when deemed necessary and designed and constructed in a manner that minimizes impact on the riparian feature.
 - (3) One (1) viewing platform deck or gazebo with maximum ground coverage of two hundred (200) square feet.
 - (4) One pump house per lot housing a pump used for irrigation when setback at least fifteen (15) feet from the high water mark, and ground coverage of not more than nine (9) square feet.
- (b) On-site sanitary waste treatment systems are prohibited within the transition zone.
- (c) Except for public or private access and recreational trails not exceeding ten (10) feet in width, the construction of impermeable surfaces such as paved driveways, paved parking areas, tennis courts and other similar surfaces is prohibited in the transition zone.
- (d) Vegetation within the transition zone may be altered and managed in a manner customary for the uses permitted in the zoning district applicable to the subject property.

SECTION 25.06 MINIMUM LOT SIZES & PRINCIPAL STRUCTURE SETBACKS.

Within any Agricultural, Residential, Commercial or Industrial zoning district affected by the Riparian Area Protection Overlay, the minimum lot width and depth for all lots with any part located within this Riparian Area Protection Overlay and created after the effective date of this Chapter shall be as follows:

- (a) Minimum Lot area: Forty thousand (40,000) square feet
- (b) Minimum Lot Width: one hundred (100) feet.
- (c) Maximum Lot Depth: The depth of each lot shall be sufficient to accommodate all setbacks and yard requirements of this overlay zone and the underlying district, and shall not have a width to depth ratio of more than 1 to 5.
- (d) Minimum Principal Structure Setback: No principal structure shall be erected closer than (100 feet) from the high water mark of the stream or contiguous wetland except on non-conforming lots of record or where there are steep banks.
 - (1) Non-conforming lots of record. A lot of record existing on the effective date of this chapter that is non-conforming by reason of width or depth on may be used and a principal structure and accompanying septic system may be sited closer to the stream than the required setback line, only if after review by the Zoning Board of Appeals it is found that:
 - a) The lot could not be developed in conformance with the requirements of this Section,
 - b) The proposal for use will place the principal structure in a location as nearly in conformance with the setback requirements of both this Chapter and the underlying zoning district as possible.

- c) Such location does not result in placement within the flood plain or a wetland without appropriate approvals by the Michigan D.E.Q.

The Board of Appeals may attach reasonable conditions to its approval

- (2) Principal Structure exception for steep banks. Where there is a steep stream bank, a principal structure (but not a septic system) may be constructed closer to the riparian feature according to the following schedule:

Where the bank height, at the bluff, is (a) feet as measured in vertical feet from the high water mark, the principal structure may locate no closer than (b) horizontal feet from the bluff or the high water mark, whichever is greater:

Bank height <u>(a)</u>	Setback from Bluff or high water mark <u>(b)</u>
10	90
15	80
20	70
25	60

CHAPTER 26
LANDSCAPING

(Chapter added in its entirety 05-08)

26.01 DESCRIPTION AND PURPOSE. Landscaping is an important element of the use, development and preservation of land, and a significant factor in conserving 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, as greenbelts between uses and along roadways, with respect to the land uses in which landscaping is required.

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. Applicants are encouraged to provide landscaping in addition to the minimum required, so as to improve the function, appearance and value of properties within the Township.

26.02 APPLICABILITY OF LANDSCAPING PROVISIONS.

- (a) The standards and requirements specified in this chapter shall apply to any land use for which site plan review is required under the terms of this Ordinance, including, but not limited to, special land uses, planned unit developments and other circumstances or types of land use with respect to which site plan review is required; provided, however, that the provisions of this chapter shall not apply to an individual single family detached dwelling, an individual two-family dwelling or a private street.
- (b) The landscaping requirements of this chapter shall be complied with insofar as they are reasonably feasible. However, in its review of a site plan, the Planning Commission may modify the landscaping, buffering and screening requirements of this chapter, if the purposes of this chapter will nevertheless be achieved. In approving any such modifications, the Planning Commission shall consider the following criteria:
 - (1) The amount of space on the site available for landscaping.
 - (2) Existing landscaping 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 features of the site which may create conditions such that strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs which utilize existing topographic features.
- (c) When requesting any modifications from the provisions of this chapter, the applicant shall provide the Planning Commission with a written statement of justification, identifying the site conditions that are stated to warrant the requested modifications, and

specifying how the modifications would nevertheless carry out the basic intent and purposes of this chapter.

26.03 LANDSCAPE PLAN REQUIRED.

- (a) A landscape plan having a minimum scale of 1"=50', shall be submitted as part of the application for site plan review, as to all land uses requiring site plan review. The plan may be incorporated within a site plan being submitted for site plan review or for other approvals, or it may be a separate plan, but it shall have sufficient detail and clarity so as to enable the Planning Commission fully to evaluate all aspects of the proposed landscaping and to determine whether the plan complies with the provisions of this chapter.
- (b) The 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 are 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) A landscape plan shall be subject to the approval of the Planning Commission. The Commission shall review the plan in its review of a site plan, a PUD plan, or in connection with its consideration of other land uses for which a landscape plan is required. The Planning Commission may approve the landscape plan, reject the plan or approve the plan with terms and conditions and/or with modifications authorized by the terms of this chapter.

26.04 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 26.04.
- (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 26.13.
- (d) Landscaping shall be provided adjacent to buildings if such 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.

26.05 PRESERVATION OF EXISTING TREES AND OTHER LANDSCAPE ELEMENTS.

- (a) A landscape plan shall provide for the preservation of existing trees of reasonable quality whenever such preservation is feasible, particularly in greenbelt 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 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.

26.06 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.

26.07 GREENBELTS.

- (a) A greenbelt, defined as a landscaped strip of land and as otherwise described in this section, shall be provided along the lot line when any of the following uses or districts

about a residential use, a residential zoning district, a residential planned unit development, or an area planned for residential uses according to the Township Master Plan:

- (1) Multi-family uses.
 - (2) Uses permitted in the C-1 General Business District.
 - (3) Uses permitted in the I-1
 - (4) Institutional, religious and governmental uses
- (b) A greenbelt shall have a minimum width of 20 feet.
- (c) Unless otherwise required, a greenbelt shall 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 Planning Commission 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(ref. Sec. 26.12).
- (d) Berms, walls and fences may be included within a greenbelt. In its discretion, the Planning Commission may reduce or increase the amount of required plantings and may revise the required placement of such plantings, if the berm, fence or wall assists in achieving the intent and purposes of this section.
- (e) Access ways from public or private streets may be located through required greenbelts, if approved by the Planning Commission.

26.08 FRONT YARD LANDSCAPING.

- (a) Except for necessary driveways, frontage roads, service drives 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 is at least 10 feet wide.
 - (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 Planning Commission 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.
 - (4) Earthen berms may be utilized within the front yard in order to provide variety in the appearance of the site and for the screening of vehicle parking areas.
- (b) In addition, the Planning Commission may require front yard landscaping to be planted and maintained in an area located between the front lot line and the nearest line of front yard vehicle parking areas, for the purpose of obscuring or moderating the view of parked vehicles from the adjacent street. Landscaping in such location, for such purposes, may consist of approved trees and/or shrubs, or other approved plantings. In addition, other screening devices, such as earthen berms or other land contouring, may be required.

26.09 PARKING AREA LANDSCAPING. All off-street paved 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 greenbelts and front yard landscaping which abuts parking areas may be applied to not more than 50 percent of required parking lot landscaping. Trees required in landscaped interior islands shall not be applied toward the requirements of this subsection.
- (b) Paved parking lots shall contain individual, curbed landscaped interior islands, in addition to perimeter landscaping, in order to provide shade and to vary the visual monotony of paved parking areas; provided, however, that the Planning Commission may waive this requirement in the case of parking lots of such small size that an interior island is determined to be unnecessary.
 - (1) A landscaped interior island shall be at least ten feet wide and at least 360 square feet in area; provided, however, that the Planning Commission may require that the minimum size of interior islands be 20 feet in width and 720 square feet in area where the size of the parking area is such that larger interior islands would be more effective to moderate visual monotony and to provide the benefits of shade, cooling and rainwater absorption than would likely be accomplished by the use of smaller interior islands.
 - (2) Each interior island shall be planted with at least two canopy trees and six shrubs, or such other equivalent as the Planning Commission may approve. Any shrubs planted within an interior island shall be maintained at a maximum height of three feet. Plantings shall be at least three feet from the edge of the island.
 - (3) Generally, and subject to the approval of the Planning Commission, there shall be one landscaped interior island for every 18 lineally adjacent parking spaces.
- (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) As stated in subsection 26.08(b), the Planning Commission may require landscaping or other screening measures in areas located between the front lot line and the nearest line of the adjacent off-street vehicle parking area in order to obscure or moderate the view of parked vehicles from the adjacent street.
- (e) 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 Planning Commission may modify parking area landscaping requirements so as to approve rain gardens and other bio-retention measures as noted in Section 26.13.

26.10 ROADWAYS, ACCESS DRIVES AND WALKWAYS.

- (a) In its consideration and approval of a landscape plan, the Planning Commission 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 at least two and one-half caliper when planted and shall be spaced no greater than 40 feet apart along one or both sides of each roadway, access drive or walkway, though such plantings shall not be required for rear access lanes or alleys.

26.11 MINIMUM REQUIREMENTS FOR LANDSCAPE PLANTINGS.

- (a) Plantings shall comply with the following minimum requirements, except that the Planning Commission may in its discretion permit variations in the size of plantings, in order to achieve the intent and purposes of this chapter.

Type of Planting	Minimum Size
Evergreen trees	5 feet height when planted
Deciduous canopy trees	2 inch dbh* when planted
Deciduous ornamental trees	2 inch dbh* when planted
Upright evergreen shrubs	2 feet height when planted
Deciduous shrub	2 feet in height when planted
Spreading evergreen shrubs	18 inch spread when planted

*dbh = diameter at breast height

- (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 Planning Commission in its approval of a landscape plan.

26.12 BERMS, INTENSIVE SCREENING AND OTHER FEATURES: COMPOSITION OF LANDSCAPING.

- (a) Berms shall be constructed with slopes not to exceed a 1:3 gradient, with side slopes designed, graded and planted so as 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.
- (b) The Planning Commission may determine that there shall be a landscape screen for the purpose of shielding adjacent lands or uses. In such cases, the landscape screen shall 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 site. Where topographic conditions will preclude the effectiveness of such screen, the Planning Commission may authorize reasonable alternative provisions.

- (c) Where there is a need to provide a greater noise or dust barrier, or to screen more intense development, the Planning Commission may require the installation and maintenance of a solid wall, of such height and materials as the Planning Commission may determine.
- (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.
- (e) 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.
- (f) 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.

26.13 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 shall not serve in the place of required landscaping unless approved by the Planning Commission 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 Planning Commission and the Allegan County Drain Commission, as applicable. In considering bio-retention measures that are included in a landscape plan, the Planning Commission 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.

TOWNSHIP OF SALEM

COUNTY OF ALLEGAN, STATE OF MICHIGAN

ORDINANCE NO. 5-10-2022 (C)

ADOPTED: 5-10-22
PUBLISHED: _____
EFFECTIVE: _____

BLIGHT AND JUNK CONTROL ORDINANCE

An Ordinance to protect the public health, safety and general welfare of persons and property within Salem Township through the regulation, control and prohibition of the depositing or storage of litter and blighting items; and the parking or storage of inoperable or unlicensed vehicles and inoperable machinery within the Township; to provide civil sanctions for the violation of this ordinance; and to repeal all ordinances in conflict herewith.

THE TOWNSHIP OF SALEM

ALLEGAN COUNTY, MICHIGAN,

ORDAINS:

SECTION I
TITLE

This Ordinance shall be known and may be cited as the Salem Township Blight and Junk Control Ordinance.

SECTION II
PURPOSE

The purpose of this ordinance is to prohibit the depositing and accumulation of litter and blight; and to limit and restrict the outside storage and parking of unused, partially dismantled or inoperable vehicles and machinery upon public and private premises within the Township; to provide restrictions concerning the repairing of said vehicles and machinery; to avoid injury and hazards to children and others attracted to such litter, vehicles and machinery; to prevent degradation of the environment caused by such litter, vehicles and machinery; and to minimize the devaluation of property values and the psychological ill effects of the presence of such litter, vehicles and machinery upon adjoining residents and property owners.

SECTION III
DEFINITIONS

As used in this Ordinance the following words and phrases shall have the following meaning:

- A. "Litter" means all garbage, scrap and waste materials including but not limited to: rags; cartons; paper; cans; bottles; boxes; inoperable and discarded appliances and equipment; broken or discarded plaster, concrete, or brick building materials; scrap metal; discarded vehicle or machinery parts or tires; and any other junk, rubbish or debris of any kind.
- B. "Building Materials" includes but shall not be limited to lumber, bricks, concrete or cinderblocks, plumbing materials, electrical wiring or equipment, heating ducts, doors, shingles, mortar, concrete or cement, nails, screws, sawhorses and any other items typically used in construction.
- C. "Vehicle" means any vehicle, motorized or not, operated or designed to be operated on public highways, streets or roads.
- D. "Machinery" means any machine, motorized or not, operated or designed to be operated for the purpose of agriculture, manufacturing, processing, construction or transportation.
- E. "Main Component Parts" means fenders, hood, radiator, motor, windows, doors, muffler, transmission, wheels, clutches, pulleys, engine, tires, and safety guards.
- F. "Inoperable" means a vehicle or machinery with any of the following conditions in existence:
 - 1. Where it is being dismantled for the sale, salvage, repair or reclamation of parts thereof.
 - 2. Where it does not have all of its main component parts properly attached.
 - 3. Where any other or additional conditions exist which cause the vehicle to be incapable of being driven under its own power, lawfully, upon the public streets.
 - 4. Where any other or additional conditions exist which cause the machinery to be incapable of being used for the purpose it was designed.

5. Where a vehicle that is required to be registered does not have a current license plate or tabs affixed to it as required by the secretary of state for the purpose of operating such a motor vehicle upon public roads and streets.
- F. "Person" means an individual, firm, corporation, or other entity of any kind.

SECTION IV REGULATIONS

A. LITTER

A person shall not deposit litter or permit or cause the outdoor storage of litter on any public or private premises, subject to the following exceptions:

1. Such litter is temporarily stored outdoors for not more than 14 days or for longer than any period which would cause the same to be odoriferous or a breeding place for insects or rodents, whichever is the lesser period.
2. Such litter does not include garbage or other putrescible liquids or solids, is screened from the view of all adjacent properties and abutting public or private right-of-ways, and is being stored only between monthly or more frequent regular disposal by the owner or occupant of the premises in a lawful manner, or by monthly or more frequent regular collection by a public or private litter or garbage disposal service.
3. Logs or branches which are neatly stacked or piled for use as firewood shall not be considered litter if not located within the required front yard or side yard building setback areas as set forth in the Salem Township Zoning Ordinance.
4. Such litter is located in a duly licensed and properly zoned junk yard, salvage yard, or landfill where such uses or operations are legally authorized under the Salem Township Zoning ordinance.
5. Construction Materials may only be left or stored out-of-doors on properties within Salem Township if in a duly licensed and properly zoned contractor's yard or when there is a valid building permit for construction on that property and the materials are part of that construction project presently being undertaken.
6. A special permit is first obtained for a period of not to exceed 30 days from the Township Board to be granted only in hardship cases beyond the control of the applicant, where special circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and

purpose of these regulations are still observed. A special permit granted hereunder may be renewed for not more than two additional 30-day periods upon a showing of due diligence and continued satisfaction of the criteria set forth above for the issuance of the initial permit.

B. VEHICLES AND MACHINERY

No person shall park or store or permit to be parked or stored outside of a fully enclosed building upon any public or private premises owned, leased, rented, occupied or possessed by such person, any vehicle which is inoperable or which is not currently and validly licensed for operation upon the public streets, or any inoperable machinery, including a vehicle or machinery for sale, or any new or used vehicle or machinery parts, unless one or more of the following conditions exist:

1. Such vehicle or machinery or parts thereof are located in a duly licensed and properly zoned junkyard, salvage yard, or new or used car or machinery dealer's lot or storage yard, where such uses or operations are legally authorized under the Salem Township Zoning Ordinance, and are conducted in conformance therewith.
2. Such vehicle or machinery is awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, body shop or machinery repair shop legally authorized under the Salem Township Zoning Ordinance and registered with the State of Michigan pursuant to 1974 PA 300, as amended, or other applicable statute, and is locked, and currently and validly licensed for operation upon the public streets, and is not a public nuisance.
3. Such vehicle or machinery, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached, and, where subject to a license, is currently and validly licensed for operation upon the public streets, and is not in any manner dismantled; provided that no premises shall contain any such vehicle or machinery for longer than 14 days in any one calendar year, calculated on a cumulative basis for the same or different vehicles or machinery and notwithstanding that no one such vehicle or machine remains upon the premises for more than said 14 day period.
4. Such vehicle is a modified, redesigned or reconstructed vehicle for a purpose other than that for which it was manufactured; provided that not more than one such vehicle may be allowed upon any premises pursuant to this subsection and any such vehicle shall comply with all of the following restrictions:
 - a. Any such vehicle shall not by reason of being worked on, tuned, or in any other way constitute a nuisance due to noise, fumes or

operation that may be detrimental to adjoining properties and the general neighborhood.

- b. No such vehicle shall be parked or stored in the required front yard building setback area of any premises as set forth in the Salem Township Zoning ordinance.
- c. Any such vehicle shall at all times be completely screened from the view of persons standing on adjoining roadways and the ground level of adjoining properties by solid ornamental fencing, terrain, trees, or other plantings.
- d. Upon written application to the Township Clerk the Township Board shall have authority to grant a waiver from the vehicle storage location requirements set forth in this subsection if the Township Board reasonably determines that the following standards have been met:
 - (1) There are special circumstances beyond the control of the applicant that make it unfeasible or impractical to locate the modified vehicle in full compliance with these requirements;
 - (2) No adjoining property owner will be materially adversely affected by the waiver;
 - (3) The spirit and purpose of these regulations will still be observed.

A waiver granted pursuant to this section shall be in writing and may include any conditions (including limits on the time length of the waiver) reasonably deemed necessary by the Township Board to assure satisfaction of the aforementioned standards.

- 5. Such vehicle is for sale by the owner or occupant of the premises; provided that not more than any one such vehicle may be allowed upon any premises at any one time pursuant to this subsection, and provided that such vehicle shall at all times comply with all of the following restrictions:
 - a. Such vehicle shall be posted with a "For Sale" sign stating the telephone number or other means of locating the vehicle owner.
 - b. Such vehicle shall not remain upon the premises for more than thirty days.
- 6. Such vehicle or machinery is an agricultural or recreational vehicle or machine, is not inoperable, and is used or usable for agricultural purposes

upon the premises where located, or for recreational purposes. Machinery that is stored for use off-premises, such as snowmobiles, shall only be stored out-of-doors on premises in Salem Township on a licensed trailer when not in use.

7. A special permit is first obtained for a period of not to exceed 30 days from the Township Board, to be granted only in hardship cases beyond the control of the applicant, where special circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed. A special permit granted hereunder may be renewed for not more than two additional 30-day periods upon a showing of due diligence and continued satisfaction of the criteria set forth above for the initial issuance of the permit.

SECTION V NUISANCE

Any accumulation of litter or any motor vehicle or machinery parking, storage, placement or repair activities in violation of any provision of this ordinance is hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the sanctions provided for herein.

SECTION VI ENFORCEMENT AND SANCTIONS

- A. Any person who violates any provision of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute, punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1st offense within 3-year period*	\$ 75.00	\$500.00
--- 2nd offense within 3-year period*	150.00	500.00
--- 3rd offense within 3-year period*	325.00	500.00
--- 4th or more offense within 3-year period*	500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

- B. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

- C. Any violation of this Ordinance shall also constitute a basis for a compliance order and for injunctive relief against the violator, restraining and prohibiting continuation of the violation, in addition to any other relief or sanction herein set forth or allowed by law.
- D. This ordinance shall be enforced by the Ordinance Enforcement Officer(s) of the Township, or by such other person or persons as the Township Board may designate from time to time.

SECTION VII
REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided that this Ordinance shall not be construed to repeal any provision of the Zoning Ordinance.

SECTION VIII
EFFECTIVE DATE

This ordinance shall take effect 30 days after publication as required by law.

Following discussion, a motion to adopt Ordinance No. 5-10-2022 (C) was made by Betty Brower with support provided by Dan Striegler.

Yes: Dan Striegler, Ashley Brower, Don Sebright, Betty Brower, James Pitsch
No: None
Abstain: None

Motion Carried. Declared by Salem Township Supervisor James Pitsch.



Betty Brower, Clerk
Salem Township

TOWNSHIP OF SALEM
COUNTY OF ALLEGAN, STATE OF MICHIGAN

ORDINANCE NO. 5-10-2022 (B)

NOISE ORDINANCE

Adopted: 5-10-22

Published: _____

Effective: _____

An Ordinance adopted pursuant to 1941 Public Act 359, as amended, and 1945 Public Act 246, as amended, to secure the health, safety and welfare of the people of the Township; and to protect neighboring properties from nuisance, by the control, regulation, and prohibition of certain sound levels; to establish remedies, provide for the enforcement, and fix sanctions for the violation of this ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF SALEM
ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION 1. - DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Daytime hours means the hours between 7:00 a.m. and 10:00 p.m., local time.

Nighttime hours means the hours between 10:00 p.m. and 7:00 a.m., local time.

Loud noise means sounds that can be heard at a distance greater than 25 feet during the nighttime hours or greater than 50 feet during the daytime hours.

SECTION 2. - ANTI-NOISE REGULATIONS.

(a) *General regulation.* No person, firm or corporation shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the township.

(b) *Specific violations.* The following noises and disturbances are hereby declared to be a violation of this article; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this article not specifically enumerated:

(1) The playing of any radio, phonograph, television, or other electronic or mechanical sound-producing device, including any musical instrument, in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons.

(2) Yelling, shouting, hooting or singing on the public streets between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.

(3) The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.

(4) The keeping of any animal, bird, or fowl which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity, such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.

(5) The operation of any automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured, shall be a violation of this section.

(6) The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the state motor vehicle code.

(7) The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so the noise emitted by such vehicle or engine is increase above that emitted by such vehicle as originally manufactured, shall be a violation of this section.

(8) The erection, excavation, demolition, alteration or repair of any building or premises in any part of the township, and including the streets and highways, in such a manner as to emanate noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent

necessity in the interest of public health and safety. In such case, a permit shall be obtained from the building inspector or ordinance enforcement officer of the township, which permit shall limit the periods that the activity may continue.

(9) The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

(10) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, or display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.

(11) The operation of any loudspeaker or other sound-amplifying device upon any vehicle on the streets of the township with the purpose of advertising, where such vehicle, speaker or sound-amplifying device emits loud and raucous noises unreasonably disturbing to nearby residential property.

(12) The operation of any machinery equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort or repose of any person.

(13) The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind or nature in any area of the township where the noise emanating therefrom would be unreasonably disturbing and upsetting to other persons in the vicinity. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11:00 p.m. on any evening.

(c) *Exceptions.* None of the prohibitions hereinbefore enumerated shall apply to the following:

(1) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.

(2) Excavation or repair of bridges, streets or highways or other property by or on behalf of the state, township, or the county, between sundown and 7:00 a.m., when the public welfare, safety and convenience render it impossible to perform such work during other hours.

(3) Warning devices emitting sound for warning purposes as authorized by law.

(4) Any agricultural equipment while engaged in normal agricultural activities including but not limited to planting, cultivation, irrigation and harvesting of crops. No portion of

this article shall be construed to conflict with right-to-farm activities as authorized under state statutes.

(5) Noises occurring between 7:00 a.m. and sundown caused by construction, repairs, or demolition as long as a valid building permit has been issued by the township and is currently in effect, and provided such noise is not unduly excessive.

(6) Noises occurring between 7:00 a.m. and sundown caused by maintenance of grounds, provided such noise is not unduly excessive.

(7) Noises emanating from the discharge of firearms are excluded, providing the discharge of firearms was authorized under state law and all local ordinances.

(8) The township board may issue a permit, within 30 days of receipt of an application thereof, for a variance from this article for the purposes of a public or private meeting, concert, parade or other similar event. Application must be received by the township clerk at least 45 days prior to the event.

SECTION 3. - PUBLIC NUISANCE REGULATIONS.

No person, firm or corporation shall create, cause or maintain any public nuisance within the township by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area, except those practices protected by the state right-to-farm act, Public Act No. 93 of 1981 (MCL 286.471 et seq.).

SECTION 4. - BARKING DOGS.

It is hereby declared that no person, firm, or corporation shall keep any barking dog within the boundaries of this township which, by causing frequent or long continued noise, shall disturb the quiet, comfort, or repose of any person in the vicinity; by way of illustration only, such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.

SECTION 5. - PENALTY.

(a) Any person, firm or corporation that violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by state statute and shall be subject to a civil fine as determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
First offense within a three-year period*	\$ 75.00	\$500.00
Second offense within a three-year period	150.00	500.00
Third offense within a three-year period	325.00	500.00
Fourth or more offense within a three-year period	500.00	500.00

*Determined on the basis of the date of commission of the offense.

(b) A violation is also subject to costs which may include all expenses, direct and indirect, which the township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this article shall also be subject to such additional sanctions and judicial orders as are authorized under state law.

SECTION 7. SEVERABILITY

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 8. REPEAL.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. EFFECTIVE DATE.

This ordinance shall take effect 30 days after publication as required by law.

Following discussion, a motion to adopt Ordinance No. 5-10-2022 (B) was made by Dan Striegle with support provided by Ashley Brower. Roll Call Vote:

Yes: Ashley Brower, James Pitsch, Dan Striegle, Betty Brower, Don Sebright
No: None
Abstain: None

Motion carried.



Betty Brower, Clerk
Salem Township

TOWNSHIP OF SALEM
COUNTY OF ALLEGAN, STATE OF MICHIGAN
ORDINANCE NO. 5-10-2022 (A)

NOXIOUS WEED AND UNCONTROLLED PLANT GROWTH ORDINANCE

Adopted: 5-10-22
Published: _____
Effective: _____

An Ordinance adopted pursuant to 1941 Public Act 359, as amended, and 1945 Public Act 246, as amended, to secure the health, safety and welfare of the people of the Township; to protect agricultural crops from invasive plant species, and to avoid a blighting factor, by the control, regulation, and eradication of certain noxious weeds, and also certain plant growth of excessive height; to establish remedies, provide for the enforcement, and fix sanctions for the violation of this ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF SALEM
ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION 1

TITLE

This ordinance shall be known and may be cited as the **Salem Township Noxious Weed Ordinance.**

SECTION 2

DEFINITIONS

As used in this ordinance the following words and terms shall have the meanings stated herein:

- A. "Noxious Weeds" means Canada thistle (*Cirsium Arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus Carota*), bindweed (*Convolvulus Arvensis*), perennial sowthistle (*Sonchus Arvensis*), hoary alyssum (*Berteroa Incana*), ragweed (*Ambrosia Elatior* 1.), poison ivy (*Rhus Toxicodendron*), poison sumac (*Toxicodendron Vernix*), and any other plant species which the Township Board determines, by resolution, is regarded in the community as a common nuisance weed.

- B. "Uncontrolled Plant Growth" means any non-woody vegetation exceeding a height of 8 inches; except where such vegetation is not out of character with the development of and landscaping in the surrounding area within 500 feet, and also excepting all small grain or food crops, such as wheat, corn, oats, barley or rye, and garden vegetables.
- C. "Owner" and "occupant" shall mean any person or entity with any ownership or possessory right or interest, including deed holders and land contract vendees (whether recorded or unrecorded), mortgagees, lessees, and other tenants, residents, and any agent of any of same.

SECTION 3

DUTY TO DESTROY / CUT NOXIOUS WEEDS AND UNCONTROLLED PLANT GROWTH

- A. The owner and occupant of land on which noxious weeds are found growing shall destroy such weeds before they reach a seed bearing stage, or a height of 8 inches, whichever occurs first, and shall prevent their regrowth; provided that this requirement shall not apply to any incidental noxious weeds in fields devoted to growing any small grain or vegetable crop.
- B. The owner and occupant of the following described lands shall keep uncontrolled plant growth thereon cut to a height of not more than 8 inches:
 - (1) lots within platted subdivisions and condominium subdivisions, including vacant lots.
 - (2) unplatted lands with a dwelling or other occupied building thereon, for a depth of 165 feet, the depth of the parcel, or the depth of the established yard area, whichever is less.

SECTION 4

PUBLIC NUISANCE

All noxious weeds and uncontrolled plant growth in violation of the provisions of this ordinance are hereby declared to be a public nuisance

SECTION 5

ADMINISTRATIVE PROCEDURES AND REMEDIAL ACTIONS TO ENFORCE ORDINANCE

- A. The Township shall give notice of the application of this ordinance by one or both of the following means:
- (1) publish in a newspaper of general circulation in the Township during the month of March a Notice that weeds and/or plant growth in violation of this ordinance not destroyed/cut by May 1 of that year as required by this Ordinance may be destroyed/cut by the Township, and that the owner of any such land shall be charged with the expenses incurred by the Township to destroy/cut such weeds/plant growth as many times as is necessary to keep the land in compliance with this ordinance, and that the Township shall have a lien against the land for the amount of such expenses, and that such lien shall be enforced in the manner provided by state law for the enforcement of real property tax liens; and/or
 - (2) mail by certified mail with return receipt requested a notice to the owner, occupant or agent of any lands in violation of this ordinance, describing the methods of treating and eradicating the weeds and/or of otherwise complying with this ordinance, and giving notice of those matters referenced in subsection (1) immediately above. Failure to give such notice shall not constitute a defense to any action to enforce the payment of any penalty or debt provided for in this ordinance.
- B. If the owner/occupant/agent has failed or refuses to comply with the ordinance after either form of notice provided for in Section 5.A. above, the Township or its agent/designee may enter upon such land with or without mechanical equipment and destroy/cut the weeds/plant growth thereon in violation of this ordinance.
- C. All expenses incurred in such destruction/cutting shall be paid by the owner of such land. The Township shall have a lien upon such land for the full amount of such expenses, which may be enforced in the same manner as the enforcement of real property tax liens through entry upon the next tax roll of the Township and assessment as a general Township tax. Such expenses shall be subject to all interest and penalties provided for taxes due and collectible within the Township under the general tax laws of the State of Michigan. In addition to the foregoing, the Township may sue the owner in an appropriate court of law for the collection of such expenses.

SECTION 6

VIOLATIONS AND ENFORCEMENT

- A. Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, or any order issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

- B. Any violation of this Ordinance shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
--- 1st offense	\$ 100.00	\$500.00
--- 2nd offense	\$ 200.00	\$500.00
--- 3rd or subsequent offense	\$ 350.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

- D. This ordinance shall be administered and enforced by the person designated by the Township Board as the Township Noxious Weed Commissioner, by the Ordinance Enforcement Officer(s) of the Township, or by such other person(s) as the Township Board may designate from time to time.

SECTION 7

SEVERABILITY

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 8

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed. Specifically Section 302.4 of the International Property Maintenance Code is hereby repealed.

SECTION 9

EFFECTIVE DATE

This ordinance shall take effect 30 days after publication as required by law.

Following discussion, a motion to adopt Ordinance No. 5-10-2022 (A) was made by Don Sebright with support provided by Ashley Brower.

Roll Call Vote:

Yes: Don Sebright, James Pitsch, Dan Striegle, Ashley Brower
No: Betty Brower
Abstain: None

Motion carried. Declared by Salem Township Supervisor James Pitsch


Betty Brower, Clerk
Salem Township

SALEM TOWNSHIP
ALLEGAN COUNTY, STATE OF MICHIGAN
ORDINANCE NUMBER 12-11-18
ADOPTED 12-11-2018
EFFECTIVE: _____

PROHIBITION OF MARIHUANA ESTABLISHMENTS ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to prohibit marihuana establishments within the boundaries of Salem Township pursuant to Initiated Law 1 of 2018, MCL 333.26421 *et. Seq.*, as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

SALEM TOWNSHIP, ALLEGAN COUNTY, MICHIGAN ORDAINS:

SECTION I

TITLE

This ordinance shall be known as and may be cited as the Salem Township Prohibition of Marihuana Establishments Ordinance.

SECTION II

DEFINITIONS

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.26421 *et seq.*, as may be amended.

SECTION III

NO MARIHUANA ESTABLISHMENTS

Salem Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, MCL 333.26421 *et seq.*, as may be amended.

SECTION IV

VIOLATIONS AND PENALTIES

1. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
2. A violation of this ordinance is a municipal civil infraction, for which the fines shall be not less than \$100 nor more than \$500 in the discretion of the Court. The foregoing sanctions

shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION V

SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION VI

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION VII

EFFECTIVE DATE

This ordinance shall take effect on January 19, 2019.

SALEM TOWNSHIP

BETTY BROWER, CLERK

616-896-9857

SALEM TOWNSHIP ORDINANCE NO. 8142018
VEHICLE REPAIR AND STORAGE ORDINANCE

ADOPTED: 8/14/2018

EFFECTIVE: 10/13/2018

An Ordinance to secure the public peace, health, safety and welfare of the residents and property owners of Salem Township, Allegan County, Michigan, a municipal corporation, by the regulation of the outdoor parking, storage and repair of vehicles, including any conveyance, trailer, boat, aircraft, cargo container, railcars, railroad cars, semi-truck trailers, box cars, truck boxes and new or used parts or junk therefrom, within said Township of Salem; to define common types of conveyances and to prohibit the utilization of the various types of conveyances for storage or as storage structures on real property premises within the Township; to provide civil sanctions and remedies for the violation of this Ordinance; and to repeal any Ordinance or parts of Ordinances in conflict herewith.

THE TOWNSHIP OF SALEM
ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION I

NAME

This Ordinance shall be known and cited as the Salem Township Vehicle Repair and Storage Ordinance.

SECTION II

PURPOSE

The purpose of this Ordinance is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junk, unused, partially dismantled or inoperable vehicles, including any conveyance, trailer, boat, aircraft, cargo container, railcars, railroad cars, semi-truck trailers, box cars, truck boxes or new or used parts thereof upon premises within the Township; to provide restrictions concerning the repairing of said vehicles; to avoid injury and hazards to children and others attracted to such vehicles; to define

common types of conveyances, such as motor homes, recreational vehicles, mobile house trailers, mobile homes, and campers; to ensure that said conveyances are utilized only for their intended purposes and not for, as, or in the place of a storage structure or unit on premises within the Township; and to minimize the devaluation of property values and the psychological ill effects of the presence of the same upon adjoining residents and property owners.

SECTION III

DEFINITIONS

- A. "Vehicle" means any vehicle, motorized or not, operated or designed to be operated on public or private highways, streets or roads. "Vehicle" also means any machine, motorized or not, that is or can be used as a pleasure vehicle on private property, such as boats, snowmobiles and dirt bikes.
- B. "Main Component Parts" means fenders, hood, radiator, motor, windows, doors, muffler, transmission, wheels, clutches, pulleys, and safety guards.
- C. "Inoperable" means a vehicle or machinery with any of the following conditions in existence:
1. Where it is being dismantled for the sale, salvage, repair or reclamation of parts thereof.
 2. Where it does not have all of its main component parts properly attached.
 3. Where any other or additional conditions exist which cause the vehicle to be incapable of being driven under its own power, lawfully, upon the public streets.
 4. Where any other or additional conditions exist which cause the machinery to be incapable of being used for the purpose it was designed.
- D. "Unoccupied Mobile Home" shall be mean a movable or portable structure constructed to be towed on its own chassis and designed for permanent year-round living as a single family dwelling which is not presently being occupied, is not attached to sanitary sewer or septic facilities and is not connected to electrical power and potable water utilities.
- E. The terms "camper"; "recreational vehicle"; "motor home" and "trailer" as utilized in this Ordinance shall be synonymous and are intended to mean that group of conveyances which are capable of being moved on their own chassis or wheels upon a roadway or highway, either with or without its own engine; which can be utilized or occupied as a temporary residence or vacation structure for limited time periods, which are not designed to be permanently connected to electrical power,

water, sewage and potable water utilities, whether or not said unit is licensed and operational for use upon the public highways and roadways and whether or not said unit is actually operational for use as a vacation trailer or temporary dwelling.

SECTION IV

REGULATIONS

- A. No person, firm or corporation shall park or store or permit to be parked or stored upon any premises within Salem Township any vehicle, including any conveyance, boat, aircraft, or new or used parts therefrom, unless one or more of the following conditions exist:
1. Such parking or storage is located within a fully-enclosed building.
 2. Such vehicle or conveyance is licensed or registered by the State of Michigan, is an operable vehicle or conveyance, has all of its main component parts attached, as hereinafter defined, has a proper and valid license plate displayed upon it, and is, in fact, regularly operated for its designed purpose;
 3. Such vehicle(s), boats, trailers, cargo containers, railcars, railroad cars, semi-truck trailer, boxcar, truck box, aircraft or conveyances are located in a duly licensed and properly zoned junkyard, salvage yard, new or used car dealer's lot, automobile repair facility or storage yard where such uses or operations are legally authorized under the Township Zoning Ordinance.
 4. Such vehicle or vehicles are awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, or body shop registered with the State of Michigan pursuant to 1974 PA 300, as amended, provided such vehicle or vehicles are locked, licensed by the State of Michigan, and are not a public nuisance.
 5. Such vehicle, boat, trailer, aircraft or conveyance, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached as hereinafter defined; is, where subject to a license or registration, licensed or registered by the State of Michigan; is not in any manner a dismantled vehicle; and the premises do not contain any such vehicle, boat, aircraft, trailer or conveyance for longer than 14 days in any one calendar year.
- B. No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle, boat, trailer, aircraft, cargo container, rail car, railroad car, box car, semi-truck trailer, truck box or conveyance or parts thereof upon any public right-of-way or public property (except for emergency minor repairs not exceeding one hour in duration) or upon any property not zoned for such purpose except such

occasional minor work by the owner thereof as may infrequently be required to maintain the same in normal operating condition and as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of the Salem Township Zoning Ordinance.

C. The outdoor storage or placement of railroad cars, boxcars, cargo containers, land/sea/air containers and/or railcars, either with or without wheels attached, on any property which is not operated as a bona fide railroad in accordance with Michigan Public Act 354 of 1993, as amended, or a commercial or industrial storage yard authorized under the Township Zoning Ordinance constitutes a violation of this ordinance. The outdoor storage or placement of railroad cars, boxcars, cargo containers, land/sea/air containers and/or railcars, either with or without wheels attached, on any property which is not operated as a bona fide railroad in accordance with Michigan Public Act 354 of 1993, as amended, or a commercial or industrial storage yard authorized under the Township Zoning Ordinance constitutes a violation of this ordinance. The following exceptions shall be exempt from this provision:

1. "Storage Pods" as leased from commercial enterprises offering mobile storage solutions for a period of thirty (30) days.
2. Permission based on Demonstrated Need: Railroad cars, boxcars, cargo containers, land/sea/air containers, semi truck trailers and/or rail cars, may be authorized by the Zoning Administrator and Township Supervisor based on demonstrated need under the following conditions:
 - a. Container shall only be used as an accessory structure
 - b. Container shall not be placed on a vacant parcel
 - c. Container shall be less than 200' square feet as measured by exterior dimension
 - d. Container shall be completely screened from surrounding properties via fencing or vegetation that remains intact in all seasons.
 - e. Container shall be placed not less than ten (10) feet from all other structures.
 - f. Container shall meet setbacks for accessory structures as required in the Salem Township Zoning Ordinance.
 - g. Applicant must demonstrate a valid reason that a container is more appropriate to serve storage needs than a traditional accessory structure would. Financial consideration does not demonstrate validity.
 - h. Only one such permit shall be granted per parcel.
3. Permit Process for items meeting criteria in item 2 above:
 - a. Applicant shall submit written request to the Salem Township Zoning Administrator with corresponding fee as set by Salem Township Board.

- b. Within 21 Days of application, the Salem Township Zoning Administrator shall notify applicant of approval, approval with conditions, or denial stating reasons for denial in written form. Appeals to this decision may be made to the Salem Township Board by written request to the Township Clerk within ten (10) days of the date of notification of denial.
 - c. The permit shall authorize the use of the container for a period not to exceed 2 years from the date of approval. Re-application shall be required after two years, with demonstration of continued need. Reapplication fee shall be one half of application fee.
 - d. Permit, if granted shall apply to the container specified. No changing/enlarging of containers shall be permitted. Not more than one container shall be allowed per permit.
- D. The foregoing shall not be construed to prohibit the storage of farm machinery, vehicles, equipment and material used for agricultural purposes upon an operating farm of not less than twenty (20) acres. Farm equipment not in use but stored for parts shall be stored in an area totally obscured from adjacent premises and roads.
- E. Trailers, campers, mobile house trailers, semi-truck trailers, campers and other conveyances may be parked or stored upon premises in Salem Township so long as the same are 1) licensed; 2) operable; 3) regularly used for their intended purposes. No conveyance, trailer, camper, unoccupied mobile home, mobile house trailer, or semi-truck trailer shall be parked, placed or stored upon premises within Salem Township for use as a storage building or unit; nor shall any of the above be permitted to be utilized as a storage unit or structure upon real property premises within Salem Township.

SECTION V

NUISANCE

Any parking, storage, placement or operations in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.

SECTION VI

SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any

clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

SECTION VII

SANCTIONS

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<i>Minimum Fine</i>	<i>Maximum Fine</i>
- 1st Offense within 3-year period*	\$100.00	\$500.00
- 2nd Offense within 3-year period*	200.00	500.00
- 3rd Offense within 3-year period*	325.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Salem Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

SECTION VIII

REPEAL

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed; however, legal proceedings presently pending on an Ordinance which is hereby repealed may proceed to judgment or decision and shall not be affected by this Ordinance. This ordinance is not to be interpreted so as to vary the terms of or to create an inconsistency with the Salem Township Zoning Ordinance.

SECTION IX

EFFECTIVE DATE

This Ordinance shall take effect 30 days after publication following adoption.

SALEM TOWNSHIP
Betty Brower, Clerk
3003 142nd Ave
P.O. Box 49
Burnips, MI 49314
616-896-9857