

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS IN KEARNEY TOWNSHIP OF ANTRIM COUNTY, MICHIGAN IN ACCORDANCE WITH THE PROVISIONS OF TOWNSHIP RURAL ZONING ACT 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED: TO PROVIDE FOR THE ADMINISTRATION OF THIS ORDINANCE, AND FOR A BOARD OF APPEALS, THE KEARNEY TOWNSHIP BOARD OF ANTRIM COUNTY, MICHIGAN ORDAINS:

ARTICLE I
TITLE, PURPOSE, INTERPRETATION AND DEFINITIONS

Section 1.01 TITLE. This Ordinance shall be known as the Kearney Township Zoning Ordinance.

Section 1.02 PURPOSE. The fundamental purpose of this Ordinance is to promote the health, safety, comfort, peace, morals, convenience and general welfare of the inhabitants of the Township. The provisions hereinafter adopted are intended to carry out the goals of the Kearney Township Future Land Use Plan:

To promote the orderly development of the Township that will result in the conservation of expenditures needed for public improvements and services.

To encourage the use of lands and resources of the Township in accordance with their suitability by directing development towards areas most suitable and provide guidelines for best development practices.

To promote economic progress, and protect and enhance property values; To reduce hazards to life and property, promote safety in traffic and provide protection from spread of fire.

To protect the surface and groundwater quality of the Township as the main ingredient of the quality of life.

Section 1.03 INTERPRETATION. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of public safety, health, convenience, comfort, property and general welfare. It is not intended by this Ordinance to interfere with, abrogate, annul or repeal any ordinances, rules or regulations previously adopted, and not in conflict with any of the provisions of this Ordinance or which shall be adopted, pursuant to law relating to the use of buildings or premises, nor is it intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or premises or upon the height of buildings or require larger open spaces than are imposed or required by such ordinances, covenants or other agreements, the provisions of this Ordinance shall control.

Section 1.04 DEFINITIONS. For the purpose of this Ordinance, the following terms are herewith defined.

Accessory Building or Structure. A supplemental building or structure on the same lot as the main building occupied by, or devoted exclusively to an accessory use, but not including for dwelling, lodging, or sleeping purposes.

Accessory Use. A subordinate use incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Aerator or bubbler. Any device or equipment used within a lake or that affects the lake surface so as to prevent the normal formation of ice on the lake surface.

Alternative Tower Structure. Manmade trees, clock towers, bell steeples, light poles and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers, or which currently exist in a manner which would support the placement of an antenna without the need for an additional tower.

Airport. A place maintained for landing and taking off of aircraft, for receiving and discharging passengers and cargo, and any related facilities. This facility is licensed by the Michigan Department of Transportation Bureau of Aeronautics under Sec. 86 of the Aeronautics code of the State of Michigan, 1945, P.A. 327, MCL 259.86.

Antenna. Any exterior transmitting or receiving device mounted on a tower, building, structure or Alternative Tower Structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Apartment. A room or group of rooms designed to function as a single, complete dwelling unit and is located in a multiple family dwelling. Apartments may be leased or purchased as a condominium or cooperative housing.

Bed and Breakfast Establishments. A private, owner occupied residence with one to three guest rooms whose use is clearly subordinate and incidental to the main residential use of the structure. The length of stay is limited to one week and one parking space is required for each guest room in addition to the two spaces required for the residence. One sign not exceeding three square feet in area that identifies the establishment is permitted. Only breakfast may be served and food preparation facilities shall be approved by the Health Department prior to the issuance of a land use permit by the Zoning Administrator. Applicable fire codes must also be complied with.

Blight. See Kearney Township Nuisance Ordinance No. 1 of 2017.

Boarding, Lodging or Rooming House. A building other than a hotel where for compensation and by prearrangement for definite periods, lodging, meals or both are provided for three (3) or more persons, but not exceeding twenty (20) persons.

Building Width. The width of a lot for building after side yards are provided.

Building. Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals or property of any kind.

Building Line. For the purpose of this Ordinance, the building line is the same as required front yard setback line.

Club. Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or rendering a service customarily carried on as a business.

Condominium. A form of housing ownership by which a person may purchase and own a dwelling unit in a multi unit building or development. In addition, together with other condominium owners the person owns a proportionate interest in the common elements of the development and pays a monthly maintenance fee or charge for the cost of administering and maintaining the common elements.

Cooperative Housing. A form of housing ownership in which a person may acquire a form of property interest akin to ownership in one dwelling unit of a multi unit building or development. Rather than owning a direct interest in the real estate, the person owns shares of stock in a corporation that owns the entire building or development. A monthly fee is charged to cover the cost of maintaining the building, administering the cooperative, real estate taxes and amortization of the mortgage.

Dwelling, Single Family. A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

1. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
2. It complies in all respects to the minimum height, density, area, square footage and width requirements as set forth in Article III, Section 3.22 of this Ordinance. Where a dwelling is required by law to comply with any federal, state, or county standards or regulations for construction different than those imposed by applicable building codes, then such federal, state, or county standards or regulations shall apply.
3. It is firmly attached to a permanent foundation that complies in all respects to the building code in effect, and 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 in this Ordinance, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall have a perimeter wall as required above.
4. In the event that such a dwelling is a mobile home, as defined in this Ordinance, it shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis, and shall be skirted using an acceptable exterior grade of skirting material so as to be compatible with the exterior construction of the mobile home and so as to conceal the towing mechanism, undercarriage and chassis.

5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local Health Department and the Antrim County Building Department.
6. The dwelling contains a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to the principal dwelling, which storage area shall be no less than ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever is less.
7. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including being permanently attached to the principal structure and being constructed on a foundation as required herein.
8. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home manufactured on or after June 1, 1975, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards", being 24 CFR 3280, June, 1976, as amended. For mobile homes manufactured before June 1, 1975, they shall conform to the Antrim County "Building Policy on Older Mobile Homes", as amended.
9. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by federal or state law or otherwise specifically required in this Ordinance.
10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

Dwelling, Temporary. A building, portion of a building, mobile home, travel trailer, or recreational vehicle which has provisions for sleeping, cooking, bathing, living, water, and sanitation and which is occupied wholly as the home or residence of one (1) family.

Dwelling, Two Family. A building consisting of two dwelling units occupied exclusively by two families living independently of each other.

Dwelling, Multi Family. A building consisting of three or more dwelling units including apartment houses, cooperatives and condominiums.

Essential Services. The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, or sewer transmission, distribution, collection, supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, and wireless communication antenna are not included within this definition.

Erected. Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general property improvements shall not be considered as erection.

Family. An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Farm. All of the contiguous, neighboring, or associated land operated as a single unit on which bonafide farming is carried on directly by the owner, operator, manager or tenant farmer by his own labor, or with the assistance of members of his family, or hired employees, provided that land to be considered a farm hereunder shall include a continuous, unplatted parcel of land not less than ten (10) acres in area, provided that establishments conducted primarily as chicken hatcheries, integrated poultry or livestock feeding enterprises; egg factories, keeping or raising game or fur bearing animals; fish hatcheries, stockyards; riding academies; livery or boarding stables; and dog kennels shall not constitute a farm hereunder.

Filtered View. See illustration in the Appendix.

Floor Living Area. The square feet of floor space within the outside walls, but not including porches, breeze ways, garages, attic, basement or cellar area, utility areas or crawlspace.

Garage, Public. A building, or part hereof, other than a private garage, designed or used for equipping servicing, repairing, hiring, storing or parking motor driven vehicles.

Gasoline Service Station. Any land, building or structure used for sale at retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories.

Gazebo. An open, small roofed structure that may be screened on all sides, used for outdoor entertaining and dining.

Greenbelt. An open space area left in its natural condition or landscaped to provide a natural limit or boundary to urban development.

Guest House. A structure for human habitation, containing one or more rooms with bath and toilet facilities, but not including a kitchen or facilities which would provide a complete housekeeping.

Home-Based Business. Any activity, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain, and meets all of the following requirements:

1. The activity is conducted on the premises and/or the premises serves as a base of operation from which to conduct the activity off-site.
2. The activity, including the temporary storage of waste and trash, is conducted within the principal dwelling, an accessory structure and/or outdoors on an area of the premises which is completely screened from the view of neighboring residents and from view by the general public along public rights-of-way by vegetation, natural topographic features, fencing or other constructed visual barriers.

3. The exterior of the accessory structure and/or the vegetation, natural topographic features, fencing, or other constructed visual barriers will retain the residential character of the neighborhood.
4. The activity does not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, or electrical interference.
5. Adequate off-street parking is provided for patrons, clients, and all nonresident employees.
6. Any sign used in connection with the activity meets the sign requirements of Article VIA of this Ordinance.

Home Occupation. Any activity which is clearly secondary to a residential use, carried out for economic gain, and which meets all of the following requirements:

1. The activity is conducted entirely within the principal dwelling or entirely within an accessory structure.
2. The activity is conducted using no more than one (1) nonresident employee.
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3. The exterior of the principal dwelling in which the activity is conducted will retain its residential character.
4. The activity does not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, or electrical interference.
5. Adequate off-street parking is provided for patrons, clients, and the nonresident employee.
6. Any sign used in connection with the activity meets the sign requirements of Article VIA of this Ordinance.

Hotel. A facility offering transient lodging accommodations on a daily rate to the general public which may include additional services such as restaurants, meeting rooms and recreational facilities.

Housekeeping Cabin Park. A parcel of land on which two (2) or more buildings, tents, or similar structures are maintained, offered, or used for dwelling or sleeping quarters for transients, but shall not include boarding or lodging houses, tourist homes, or motels.

Junk. Worn out and discarded material that may be returned to some use. Rubbish of any kind that may be returned to some use.

Junkyard. Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition or use of junk, including scrap metals, motor vehicles, machinery, buildings, structures, construction material or other salvaged material. Also, any premises upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored outside a building for a period of fifteen (15) days or more. The purchase and storage of used cars in operable condition and used or salvaged materials, used furniture and household equipment are

excluded from this definition if carried on in enclosed buildings.

Land Division. See Kearney Township Parcel Division Ordinance No. 6 of 1998.

Lot of Record. A lot of record in the office of the Antrim County Register of Deeds, or which is part of a subdivision on record in said office, on the effective date of this Ordinance.

Lot or Premises. The parcel of land occupied by, or to be occupied by, a use or building and its accessory building or structures together with such open spaces, minimum area, and width required by this Ordinance for the District in which located and having its frontage on a road, street or highway, but not necessarily located in a subdivision. The lot shall not include any area within any abutting right of way or traffic lane.

Mobile Home. A single-family dwelling manufactured in one or more sections, containing a minimum of seven hundred twenty (720) square feet designed for year-round dwelling purposes, capable of being transported upon its own or a separate wheeled chassis. The term shall not include travel trailers, motorized recreational vehicles, nor other types of transient dwellings.

Motel. A building or group of buildings designed and used for providing sleeping accommodations for travelers and having parking space adjacent to the room.

Nonconforming Use. Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this Ordinance or amendments thereto, which does not conform after the passage of this Ordinance or amendments thereto with the regulations of this Ordinance.

Open Space. Land that is either undeveloped or is relatively free of buildings and other structures. It includes all lands that act as a contrast to the manmade environment and may include parks, cemeteries, golf courses, farmland and forest land if they are expected to remain undeveloped for extended periods of time.

Platted Subdivision. A parcel of land divided into lots for sale or use as separate entities as provided for by the applicable plat laws of the State of Michigan. For the purpose of this Ordinance, the Zoning Administrator may consider the term "platted subdivision" to include any other lawful arrangement of cooperative ownership, management, rental and use of a parcel of land containing four (4) or more building lots or dwelling units including "condominiums" as defined and regulated by Public Act 288 of the Public Acts of Michigan, 1967 as amended; providing such use is consistent with the purpose of this Ordinance. Any parcel of land under this definition shall have its ingress and egress road approved by the Antrim County Road Commission. Any disturbance of the natural land contours shall be seeded, sodded or otherwise protected so as to prevent any washing or erosion into any nearby lake, river, or stream; providing such protective measures have been approved in advance by the Zoning Administrator.

Private Access Area. An area on a lake or river shore line reserved for the use of residents of an offshore platted subdivision.

Private Road. See Kearney Township Private Road Ordinance No. 1 of 2001.

Screened. A sight barrier between public or private property and property use.

Seasonal. Any use of such a nature that the activity cannot, or should not, be performed during each season of the year.

Sexually Oriented Business. Means an adult bookstore, adult video store, adult motion picture theater, adult mini-theater, adult entertainment establishment, or adult cabaret.

Shoreline. A lot or parcel of land, any part of which uses any of the following as a part of its boundary: Lake Bellaire, Intermediate Lake, Intermediate River, Cedar River, and other waters considered a part of the "Chain of Lakes".

Sign. An object, including a structure, movable object, wall or image displaying any message visible to the public.

Site Condominium. A residential development type similar to a subdivision including the principle structure and the land around it developed under the Condominium Act (Act 59 of 1978 as amended) rather than the Subdivision Control Act (Act 288 of 1967 as amended).

Street, Highway, Road. A thoroughfare which affords the principle means of access to abutting property.

Structure. Something that is constructed and is either located on the ground or is attached to an object on the ground, including buildings, signs, swimming pools and mobile homes, satellite dish antennae and towers, but not paving or surfacing.

Structurally Altered. Any change of a supporting member of a building or structure, such as bearing walls, columns, beams or girders.

Telecommunications Towers and Facilities or Tower. All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Timeshare. Purchase of the ownership of or the right to use real estate or other property for a designated portion of each year which offers property value appreciation without maintenance or rental responsibilities and standard prorated real estate tax deductions.

Tower Compound. The area enclosing any telecommunications tower or alternative tower structure and the related accessory buildings and structures including, but not limited to, facilities, guy wires, tower access area, antenna, fence, lights, and signs.

Yard. A space between a building and the lot lines of the parcel of land on which located, unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

Yard, Front. A yard across the full width of the lot extending from the front lines of the principal building to the front lot line, or highway right of way lines as the case may be. In the case of any principal building that fronts on a lake, the front yard shall be that area that lies between the front line of the principal building, excluding steps and unenclosed porches, and the waters edge.

Yard, Rear. A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

Yard, Side. A yard extending between the side lot line and the nearest side line of the building.

Wind Energy Facility. A power generating facility consisting of one or more wind turbines under common ownership or operation control, and included substations, towers, cables/wires, and other building accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Wind Energy Systems (Small On-site). A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control of conversion electronics which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.

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ARTICLE II
NONCONFORMING BUILDINGS AND USES

Section 2.01 MAINTENANCE. Nothing in this Ordinance shall prevent necessary repairs and incidental alterations of a nonconforming building existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life.

Section 2.02 COMPLETION. Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been substantially under way on the effective date of this Ordinance.

Section 2.03 RESTORATION AND REPAIR. Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound condition may be made. In the event any nonconforming building or structure shall be damaged by fire, wind, or an act of God or the public enemy, it may be rebuilt or restored provided the cost thereof shall not exceed one hundred (100%) percent of the assessed valuation of such building or structure for tax purposes after such rebuilding or restoration; * said determination to be made by the Zoning Administrator. In the event any nonconforming building or structure shall be damaged by fire, wind, or an act of God or the public enemy and the cost of rebuilding or restoration shall exceed one hundred (100%) percent of the assessed valuation of such building or structure for tax purposes after rebuilding or restoration, the same shall be permitted only with approval of the Board of Appeals which approval shall be granted only upon a finding:

1. That such rebuilding or restoration will not substantially extend the probable duration of such nonconforming use, or
2. That circumstances are such that the land previously occupied by such nonconforming use cannot then be advantageously used for a use permitted in the zone.
3. That such rebuilding or restoration will reduce the nonconforming nature of the building or use.

Section 2.04 ALTERATIONS. A nonconforming building may not be reconstructed or structurally altered during its life to an extent in aggregate cost fifty (50%) percent of the * value as determined by a qualified appraiser unless said building is changed to a conforming use.

Section 2.05 DISCONTINUANCE OF NONCONFORMING USE. Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not hereby be reestablished and any future use shall be in conformity with this Ordinance.

Section 2.06 CHANGE OF NONCONFORMING USES. No nonconforming use shall be changed to other than a conforming use, nor shall any use be reverted to a former nonconforming use after use has been changed to conforming use.

Section 2.07 EXTENSION OF NONCONFORMING USES. Special approval for extensions of a nonconforming use throughout a building or parcel of land not completely occupied by such nonconforming use on the effective date of this Ordinance may be granted by the Zoning Board of Appeals when not contrary to the purpose of the Ordinance of the District. Application for such approval shall be made through the office of the Zoning Administrator.

Section 2.08 SUBSTANDARD LOTS. Any lot which has less area and/or width and which was a lot of record or was held under separate ownership on the effective date of this Ordinance, may be occupied by any use otherwise qualified in the Zoning District, provided the Zoning Board of Appeals shall, on written application through the office of the Zoning Administrator, prescribe the side yard and setback requirements.

*Administrative Note, Sec. 2.03, ZBA decision, 70200: *rebuilding or restoration may be at full replacement value.*

*Administrative Note, Sec. 2.04, ZBA decision, 62300: *up to 50% of appraised value.*

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**ARTICLE III
GENERAL PROVISIONS**

Section 3.01 PURPOSE. General regulations apply to all districts except as noted herein. Where requirements of a general regulation differ, the more restrictive requirement shall prevail.

Section 3.02 STREETS, ALLEYS AND RAILROAD RIGHTS OF WAY. All streets, alleys and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, or railroad right of way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or such alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

Section 3.03 ALTERATIONS ON DWELLINGS. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building is located.

Section 3.04 BUILDING HEIGHTS EXCEPTIONS. No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, radio and television aerials or antennas, wireless masts, water tanks, or similar structures may be erected to exceed by more than twenty five (25) feet the height limits of the district in which it is located, except that aerials or antennas designed to aid home television reception may be erected to a height not to exceed sixty (60) feet from the ground level provided said aerial or antenna is attached to the building or erected in the rear yard area. In addition, all districts in this ordinance are zoned in accordance with Federal Air Regulation, Part 77.

Section 3.05 OPEN SPACE REQUIREMENTS. No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this Ordinance, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court or other open space requirement of or for any other building.

Section 3.06 EASEMENT TO HIGHWAY. No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public highway or permanent easement of access to a public highway, which easement shall have a minimum width of twenty five (25) feet unless an easement of lesser width was of record prior to the adoption of this Ordinance.

Section 3.07 VISIBILITY OBSTRUCTIONS. No wall, fence, or shrubbery shall be erected, maintained or planted on any lot which unreasonably obstructs or interferes with traffic visibility on a curve or at any highway intersection.

Section 3.08 "M" DISTRICT DWELLINGS. A dwelling shall not be erected in the "M" Manufacturing District; however, the sleeping quarters of watchman or caretaker are permitted.

Section 3.09 LAKE SHORE BOAT STRUCTURES. No structure for the storage or protection of a boat, or boats may be built on the shore of any lake or river unless its location and plans have been approved in advance by the Zoning Administrator who shall take into account in such approval the possible effects of such a structure on erosion of the shoreline, interference with the view, or other use of the waterfront by neighbors, and contamination of water. Aerators or bubblers shall not encroach on public accesses.

Section 3.10 SHORELINE PROTECTION STRIP. In compliance with the township master plan goal, to protect surface water quality, no building or structure, except docks or launch ramps shall be erected closer than fifty (50) feet from the shoreline at normal high water level of any lake, river or stream within the township. To help control water quality and temperature, a strip of land not less than twenty five (25) feet in width from the normal high water level of said lakes, rivers and streams is to remain in its natural state of trees and shrubs. However, a one time cut per parcel of thirty (30) percent of all living trees and shrubs may be removed by cutting them flush with the ground surface. The removal of said thirty (30) percent of trees and shrubs is to be calculated along the entire length of the shoreline, not one small area. Trees and shrubs may be pruned to afford a filtered view of the water, clear cutting in the natural vegetation is prohibited. No removal or excavation of any roots or stumps will be allowed at any time within the protection strip. The only exceptions will be that of a boat ramp, providing it's an approved private access site. A road, path or walkway may be constructed to the water's edge no more than twelve (12) feet in width. Fill materials shall not be allowed to enter the water either by erosion or mechanical means.

Section 3.11 GRADE LEVELS. All dwellings in any zone and all business places shall, subsequent to adoption of this Ordinance, conform to all established and determined grade levels. In areas where there are two (2) or more dwellings or other structures within two hundred (200) yards on the same road, on the same side of the road, the average of the grade level thereof shall determine the grade level for that area. It shall be unlawful to erect or construct a building in any zone with the top of the foundation or basement walls, together with the plates thereof, more than twenty four (24) inches above the established or determined grade level except that where the building is set back further than the required distance an additional rise of one (1) foot for each two (2) feet additional of setback shall be required.

Section 3.12 BUILDING RESTRICTIONS ON LOT OF RECORD. In any district in which single family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, subject to the following conditions:

1. Height of the structure shall not exceed two and one-half (2½) stories or thirty-five (35) feet, whichever is lesser. The height shall be measured from the established grade level.
2. Setbacks may be reduced by the same percentage that the area of such lot bears to its zone district requirements provided that minimum setbacks will be fifty (50) feet on the front and lakeside, fifteen (15) feet on the rear and ten (10) feet on the sides.

3. If two (2) or more lots or combinations of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area, said lots shall not be used for residential purposes unless they comply with the height and area requirements of this Chapter or unless approved by the Board of Appeals.

Section 3.13 BUILDING DAMAGED.

1. A building damaged by fire or other casualty to such an extent that the cost or repair and reconstruction exceeds one hundred percent (100%) of the assessed valuation for taxes on the building at the time the damage occurred, shall not be repaired or reconstructed unless made to comply in all respect with the provisions of this act relative to such buildings thereafter erected.
2. A building damaged by wear and tear, deterioration and depreciation to such an extent that the cost of repair and rehabilitation to place it in a safe, sound and sanitary condition exceeds one hundred percent (100%) of the assessed valuation for taxes at the time when the repairs or rehabilitation are to be made, shall not be so repaired or rehabilitated unless the building is made to comply in all respect with the provisions of this act relative to such building hereafter erected. A building so damaged by wear and tear, deterioration, and depreciation to such an extent that the cost of repair and rehabilitation shall exceed the assessed valuation for taxes, shall be deemed unfit for occupation and use unless repaired and rehabilitated pursuant to the provisions of this Ordinance, and incase such building so damaged is not so repaired and rehabilitated, it shall be vacated and not again occupied. Before any reconstruction of any such building shall be commenced, a zoning permit must be secured as provided in Article VI. It shall be the duty of the Zoning Administrator to determine the extent of such destruction, deterioration or depreciation before issuing a zoning permit.

Section 3.14 GREENBELT. A Greenbelt, as defined herein, shall be required for any commercial or industrial use that abuts a residential or agricultural use on either the side yard or the rear yard. In all instances, this shall be provided as part of the side or rear yard requirements. If waived in writing by the adjacent residential or agricultural property owners, the Greenbelt may be omitted or a fence substituted for the Greenbelt if, after public hearing and notice, the Planning Commission finds that there would be no adverse effects upon the neighboring property resulting from the waiver or omission.

Section 3.15 CONTINUED CONFORMANCE WITH REGULATIONS. The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

Section 3.16 HIGHWAY INTERSECTIONS. At intersections of highway, setback lines are hereby established across each sector between the intersecting highways. Such setback lines shall be straight lines connecting points on the intersecting highway right of way lines. At intersections of any Antrim County Primary Road or any Michigan State trunk line highway with any other highway, said connection points shall be located one hundred (100) feet distant from the intersections of the highway

right of way lines. At the intersection of any highway which is not included in either the Antrim County or Michigan State trunk line system with any other such highway, said points shall be located fifty (50) feet distant from the intersection of the highway right of way lines.

Section 3.17 BUILDING SETBACKS. No building or structure of any kind except: necessary highway and traffic signs and open fences through which there shall be clear vision, shall hereafter be constructed, erected or moved into the space within such setback lines. Except as herein provided, no building or structure, except necessary highway and traffic signs, presently existing within such setback lines shall be renewed or replaced hereafter in any way, except outside the setback lines. No building or structure within the established setback lines, except necessary highway and traffic signs and open fences herein before mentioned, shall be altered, enlarged or added to in any way which will increase or prolong the permanency of any portion within the established setback lines. When any highway, or part thereof, is officially adopted into the Antrim County Primary Road or the Michigan State Trunk line system, such highway shall automatically be subject to the provisions of this Ordinance.

Section 3.18 ESSENTIAL SERVICES. Essential Services are those services as defined in Article I, Section 1.04 and as such are permitted by right in this Ordinance except that radio towers, electric substations, telephone exchange buildings and gas regulator stations are permitted by special use permit under Article V of this Ordinance. Telecommunication towers, Alternative Tower Structures and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

Section 3.19 STORAGE USE. No yard or open space lot shall hereafter be used for the open air parking disposition, storage, wrecking, dismantling, accumulation, or abandonment, for a period of more than thirty (30) days, of disused, discarded, worn out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk or other personal property unless screened. Without limiting the meaning of junk, the term shall include used or salvaged metals and their compounds, or combinations, used or salvaged lumber, ropes, bags, paper, glass, rubber and similar articles and materials.

Section 3.20 STORAGE OF VEHICLES. Storage or parking for a period of more than thirty (30) days of an unoccupied house trailer, camper, camping trailer or boat trailer which is the property of the occupant of the dwelling and in the rear or side yard when located not less than ten (10) feet from side lot lines and at least twenty (20) feet from the highway right of way, is permitted.

Section 3.21 INOPERATIVE OR DISMANTLED CARS, TRUCKS AND BUSES. The storage of dismantled, unlicensed, wrecked or inoperative vehicles within any district is expressly prohibited unless stored for financial security reasons or contained within a junk yard or an enclosed structure or provided said storage does not exceed one (1) month.

Section 3.22 DWELLING STANDARDS.

1. Every dwelling hereafter erected in a zoning district permitting such use shall comply with the height, floor area, and width requirements contained in Table 1 of the Appendix to this Ordinance. Utility rooms and rooms intended for living, eating, or sleeping purposes that are roughed in and are to be completed within one year from the date construction began may be included when computing this minimum square footage requirement. However, cellars,

basements, open porches, garages, and other areas not used frequently or during extended periods for living, eating, or sleeping purposes shall not be included when computing this minimum square footage requirement.

2. In addition to the requirements of paragraph 1 above, multiple family dwellings shall comply with the requirements of Article IV, Section 4.04 of this Ordinance.

Section 3.23 PERMITTED USES. The following uses are specifically permitted in any zone:

1. Telecommunication towers and Alternative Tower Structures located on property owned, leased, or otherwise controlled by Kearney Township provided a license or lease authorizing such telecommunication tower or Alternative Tower Structure has been approved by Kearney Township.
2. Antenna, if said antenna are co-located on telecommunications towers or Alternative Tower Structures which have received a special use permit which included review of the standards set forth in Section 5.01 L(1) of this Ordinance.

Section 3.24 TEMPORARY DWELLINGS.

1. The Zoning Administrator may issue a zoning permit, pursuant to the procedures of this section, to allow a temporary dwelling within any zoning district on the same lot or parcel as a permanent dwelling under any of the following circumstances:
 - A. Where a permanent dwelling is destroyed or damaged by fire, wind, or other natural causes to the extent it is no longer habitable, a temporary dwelling may be placed on the same lot or parcel as the permanent dwelling during the time the permanent dwelling is repaired.
 - B. A temporary dwelling may be placed on a lot or parcel while the property owner is constructing a permanent dwelling on the same lot or parcel.
 - C. A temporary dwelling may be placed on the same lot or parcel as a permanent dwelling when the property owner establishes by written documentation from the treating physician involved that the property owner or a person residing with or intending to reside with the property owner suffers from a medical condition that necessitates full-time residential care and a temporary dwelling is needed for the person with the medical condition, the care-giver, or their families.
2. When requesting a zoning permit for a temporary dwelling, the property owner shall file an application with the Zoning Administrator and pay the fee established by the township board pursuant to Section 6.06 of this Ordinance. The application shall specify the grounds under subsection 1 above for the temporary dwelling and shall include the information needed to allow the Zoning Administrator to make the findings required under subsection 3 below.

3. Before issuing a zoning permit for a temporary dwelling, the Zoning Administrator shall find that the proposed temporary dwelling will meet all of the following standards:
 - A. In the case of repairs to or construction of a permanent dwelling, the property owner shall possess a valid building permit for the contemplated repairs or construction issued by the Antrim County Building Department.
 - B. The temporary dwelling shall meet all height and setback requirements for the zoning district in which it is located.
 - C. The temporary dwelling shall be connected to safe, sanitary, and effective systems for the supply of potable water and the disposal of sewage wastes.
 - D. Adequate off-street parking shall be provided for the occupants of the temporary dwelling.
4. The Zoning Administrator may attach reasonable conditions to a zoning permit for temporary dwelling to ensure compliance with the above standards.
5. The use of a temporary dwelling shall be limited to one (1) year, or the completion of repairs to or construction of the permanent dwelling or the termination of the medical condition that gave rise to the need for the temporary dwelling under subsection 1 above, whichever comes first. The Zoning Administrator shall grant annual extensions of the zoning permit for a temporary dwelling based on a medical condition upon the filing each year of a written statement by the property owner from the treating physician involved that the circumstances giving rise to the original need for the temporary dwelling continue to exist. The Zoning Administrator shall grant a one-time, one (1) year extension of the zoning permit for a temporary dwelling based on the repairs to or construction of a permanent dwelling upon the filing of a written statement by the property owner that the circumstances giving rise to the original need for the temporary dwelling continue to exist. If the property owner desires to continue the use of a temporary dwelling based on the repairs to or construction of a permanent dwelling beyond the time of the zoning permit extension, he or she shall file a request for a temporary dwelling zoning permit, which shall then be processed by the Zoning Administrator in the same manner as a new application.
6. A temporary dwelling shall be removed from the lot or parcel on which it was placed within thirty (30) days after the expiration of the zoning permit for the temporary dwelling, and the lot or parcel shall be restored to its condition immediately prior to the placement of the temporary dwelling. Provided, however, this provision shall not require the removal of a travel trailer or recreational vehicle used as a temporary dwelling from the lot or parcel, but shall require that the travel trailer or recreational vehicle no longer be used as temporary dwelling.

Section 3.25 ANIMALS IN ZONED AREAS: The keeping of animals shall be permitted in the zones R1, R2, & R3 where the lot size is five (5) acres or larger with a minimum width of two hundred (200) feet and where an enclosure of fencing is provided. Two (2) animals will be permitted on five (5) acres with one (1) animal allowed per each additional acre. All qualifying property must comply with the applicable generally accepted agricultural and management practices, (GAAMP). This restriction

shall not prohibit the keeping of ordinary household pets in any zone.

Section 3.26 WIND ENERGY SYSTEMS.

WIND ENERGY DEFINITIONS:

Accessory Wind Turbines. A turbine placed on an existing structure, of which the turbine would be a secondary use of that structure.

Ambient. Ambient is defined as the sound pressure level exceeded ninety (90) percent of the time.

Anemometer. A device used to measure wind speed.

DB(A). The sound pressure levels in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

Decibel. The unit of measure used to express the magnitude of sound pressure and sound intensity.

Hub Height. The distance measured from the ground level to the center of the turbine hub.

Wind Energy Systems (Small On-site). A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control of conversion electronics which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.

Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a wind turbine casting shadows on the ground and stationary objects, such as windows of a dwelling.

Sound Pressure. Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level. The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Wind Energy Facility. A power generating facility consisting of one or more wind turbines under common ownership or operation control, and included substations, towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Wind Energy Generator. A wind energy conversion system which converts wind energy into power. Includes a tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.

3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Wind Turbine Generator Total Height.

1. **Horizontal Axis Wind Turbine Rotors.** The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.
2. **Vertical Axis Wind Turbines.** The distance between the ground and the highest point of the wind turbine generator including the top of the blade in its vertical position.

Section 1: SMALL ON-SITE WIND ENERGY SYSTEMS.

1. **Small On-Site Wind Energy Systems.** A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located shall be considered an accessory structure.
2. **Small On-Site Wind Energy Systems up to one hundred (100) feet in height.** Shall be permitted by right in the (A) Agricultural district only.
3. **Small On-Site Wind Energy Systems over one hundred (100) feet in height.** Shall require a Special Use Permit in all districts.
4. **All Small On-Site Wind Energy Systems.** Shall require a Special Use Permit in the following districts: R1, R2, RR, C, M & PD.

Section 1.1: ACCESSORY WIND TURBINES.

D

1. **Accessory Wind Turbine Regulations:** In addition to the regulations contained in Section 2, Accessory Wind Turbines are subject to the following specific regulations:
 - A. **Location:** Accessory Wind Turbines are permitted by right in all zoning districts.
 - B. **Number:** There shall be no more than one (1) Accessory Wind Turbine located on a structure.
 - C. **Height:** All Accessory Wind Turbines are subject to a maximum height of the overall height of the structure it is attached to, plus ten (10) feet. (See Appendix Page 3)

Section 2: SITE STANDARDS:

1. A site plan is required for approval of installation. Upon approval the site plan is valid for

twelve (12) months, and is not transferable to any other person. The site plan shall include the following standards in Sections 2 and 3:

- A. **Site Plan:** Site Plan requirements should include a map of the following:
1. The project area boundaries including required setbacks.
 2. The location, height and dimensions of all existing and proposed structures and fencing.
 3. The location, grades and dimensions of all temporary and permanent roads.
 4. Existing topography.
 5. Water bodies and wetlands.
 6. All new above ground infrastructure related to the project.
- B. **Blade Clearance:** There shall be a minimum vertical blade tip clearance from the ground of twenty (20) feet. (See Appendix Page 3)
- C. **Guy Wires:** If the small wind energy system is supported by guy wires, such wires shall be covered with a high visibility material so as to make it visible to a height of at least six (6) feet above the ground.
- D. **Noise:** Wind Energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dB(A) above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- E. **Potential Ice Throw:** The potential ice throw or ice shedding for wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
- F. **Safety:**
1. All collection system wiring shall comply with all applicable safety and stray voltage standards.
 2. Wind Turbine towers shall not be climbable on the exterior.
 3. All access doors to wind turbine towers and electrical equipment shall be lockable.
 4. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.

5. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.

G. **Setbacks:** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:

1. **Setback from Property Line:** Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top structures, the wind turbine of the blade in its vertical position. The Planning Commission may reduce this setback to no less than one hundred (100) feet; providing the adjoining property is owned or leased by the applicant or an easement is obtained. If the adjoining property that is owned or leased by applicant includes more than one (1) parcel, the properties may be considered in combination in determining setback relief. The amount of setback relief approved by the Planning Commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission that any potential blade and ice throw will not cross the property line and that sound levels will not exceed fifty-five (55) decibels on the dB(A) scale at the property line from the proposed setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation and other relevant factors.
2. **Setback from Road:** In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height as defined in the Ordinance.
3. **Setback from Structure:** Each wind turbine generator shall be setback from the nearest inhabited structure a distance not less than one and one-half (1½) times the total height of the wind turbine generator.
4. **Setback from Communication and Power Lines:** Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and one-half (1½) times the total tower height, whichever is greater, determined from the existing power or communication lines.
5. **Building Setbacks:** Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.

H. **Shadow Flicker:**

1. The wind turbine generator shall be designed in such a manner as to minimize shadow flicker on a roadway. The wind turbine generator shall be designed in

such a manner as to prevent shadow flicker on any existing structures located off the property on which the wind turbine generator is located. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.

2. The Planning Commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
- I. **Signal Interference:** No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.

Section 3: REGULATIONS FOR INSTALLATION, MAINTENANCE AND REMOVAL OF WIND ENERGY SYTEMS.

1. **Wind Energy Facilities and Anemometer Towers:** Anemometer towers and wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers shall be allowed as a Special Use and shall adhere to the following requirements in addition to the requirements contained in Sections 1 and 2 of this ordinance:
 - A. **Approvals:** All required approvals from other local, regional, state or federal agencies must be obtained prior to approval of a site plan. In the case where site plan approval is a requirement for other local, regional, state or federal agency approval, evidence of such shall be submitted with the site plan.
 - B. **Equipment Replacement:** Major components of the wind turbine generator may be replaced without a modification of the Special Use Permit provided all regulations contained herein are adhered to.
 - C. **Hazard Planning:** An application for a wind turbine generator shall be accompanied by a hazard prevention plan. Such plan shall contain:
 1. Certification that the electrical wiring between turbines and the utility right-of-way does not pose a fire hazard.

2. Location of landscaping to be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and locations of vegetation below the turbine and on the site.
 3. A listing of any hazardous fluids that may be used on site shall be provided, including Material Safety Data Sheets (MSDS).
 4. Certification that the turbine has been designed to contain any hazardous fluids shall be provided.
 5. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.
- D. **Height:** Regarding wind turbine height, the applicant shall demonstrate compliance with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), FAA guidelines, and Michigan Aeronautics Commission guidelines as part of the approval process.
- E. **Maximum Vibrations:** Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.
- F. **Minimum Ground Clearance:** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than twenty (20) feet.
- G. **Minimum Site Area:** The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required wind energy setbacks and other standards of this Article.
- H. **Noise:** Wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dB(A) or in excess of five (5) dB(A) above the background noise, whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- I. **Potential Ice Throw:** The potential ice throw or ice shedding, the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
- J. **Principal or Accessory Use:** A wind energy facility or anemometer tower may be considered either a principal or an accessory use. A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- K. **Removal of Wind Turbine Generators:**

1. The applicant shall submit a decommissioning plan at the time of the application for the site plan approval. The plan shall include:
 - a. The anticipated life of the project.
 - b. The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
 - c. The method of ensuring that funds will be available for decommissioning and restoration.
 - d. The anticipated manner in which the project will be decommissioned and the site restored.
2. Any wind turbine generator or anemometer tower that is not operational for a continuous period of twenty-four (24) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer shall remove the same within one hundred eighty (180) days of abandonment. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.
3. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.
4. The Planning Commission shall require the owner of the wind turbine generator to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the wind turbine generator or anemometer tower and all associated equipment and accessory structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of five (5) feet below the natural ground level at that location. The amount of the performance guarantee shall be reviewed every five (5) years. The amount of the performance guarantee shall be increased based on inflation rate equal to the average of the previous ten (10) years Consumer Price Index. The performance guarantee shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.

L. **Safety:**

1. All collection system wiring shall comply with all applicable safety and stray

voltage standards.

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2. Wind turbine towers shall not be climbable on the exterior.
3. All access doors to wind turbine towers and electrical equipment shall be lockable.
4. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.
5. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.

M. **Setbacks:** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:

1. **Setback from Property Line:** Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top of the blade in its vertical position. The Planning Commission may reduce this setback to no less than one hundred (100) feet; provided the adjoining property is owned or leased by the applicant or an easement is obtained. If the adjoining property that is owned or leased by the applicant includes more than one (1) parcel, the properties may be considered in combination in determining setback relief. The amount of setback relief approved by the Planning Commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission that any potential blade and ice throw will not cross the property line and that sound levels will not exceed fifty-five (55) decibels on the dB(A) scale at the property line from the proposed setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.
2. **Setback from Road:** In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height as defined in the Ordinance.
3. **Setback from Structure:** Each wind turbine generator shall be set back from the nearest inhabited structure a distance not less than one and one-half (1½) times the total height of the wind turbine generator.
4. **Setback from Communication and Power Lines:** Each wind turbine generator shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and one-half (1½) times the total tower height, whichever is greater, determined from the

existing power or communications lines.

5. **Building Setbacks:** Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.

N. **Shadow Flicker:**

1. The wind turbine generator shall be designed in such a manner as to minimize shadow flicker on a roadway. The wind turbine generator shall be designed in such a manner as to prevent shadow flicker on any existing structures located off the property on which the wind turbine generator is located. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.
2. The Planning Commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.

- O. **Signal Interference:** No wind turbine generator shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.

- P. **State or Federal Requirements:** Any proposed wind turbine generator anemometer shall meet or exceed any standards and regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, Federal Energy Regulatory Commission, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the Special Land Use approval is approved.

- Q. **Sufficient Wind Resources:** The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site. Said study shall indicate the long term commercial economic viability of the project. The township may retain the services of an independent,

recognized expert to review the results of the wind resource study prior to acting on the application for special approval.

R. **Tower Separation:** Wind turbine separation distance shall be based on 1) industry standards, 2) manufacturer recommendations, and 3) the characteristics (prevailing wind, topography, etc.) of the particular site location. At a minimum, there shall be a separation between the towers of not less than three (3) times the turbine rotor diameter. Documents shall be submitted by the developer/manufacturer confirming specifications of tower separation.

S. **Visual Impact, Lighting, and Power Lines:**

1. Wind turbines shall be mounted on tubular towers. All turbines shall maintain a galvanized steel finish on the exterior, or be painted a neutral white, gray, or pale blue, unless otherwise regulated by the FAA. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards, (i.e. condition of exterior paint, signs, landscaping). A certified registered engineer and authorized factory representative shall certify that the construction and installation of the wind energy facility meets or exceeds the manufacturer's construction and installation standards.
2. The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation.
3. Wind turbine generators shall not be artificially lighted, except to the extent required by the FAA, or the MAC or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:
 - a. Shall be the intensity required under State or Federal regulations.
 - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or Federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or Federal regulations.
 - c. May be a red top light that does not pulsate or blink.
 - d. All tower lighting required by State or Federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.
4. Wind turbines shall not be used to display any advertising except the reasonable identification of the manufacturer or operator of the wind energy facility.

5. The electrical collection system shall be placed underground within the interior of each parcel at a depth designed to accommodate the existing agricultural land to the maximum extent practicable. The collection system may be placed overhead adjacent to State and County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.

T. **Other Regulations:** All wind energy systems shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), and the Michigan Public Safety Service Commission and Federal Energy Regulatory Commission Standards.

Section 3.27 ACCESSORY BUILDING AS PRINCIPAL USE. An accessory building shall be allowed as the principal use of a lot in all zoning districts, provided that all of the following applicable requirements are met:

1. The accessory building is devoted to a use that is accessory to a principal use authorized by right or by special use permit in the zoning district in which the lot under consideration is located.
2. The accessory building is not used for dwelling, lodging, or sleeping purposes.
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3. The accessory building on the lot under consideration is in full compliance with all applicable setback requirements for the district in which the lot is located.
4. The accessory building is located on the lot under consideration in such a location that a future development envelope is preserved on the lot within which a principal building or use may be constructed or established in full compliance with all applicable setback requirements for the district in which the lot is located. This requirement, however, shall not be applicable if the future development envelope for the principal building or use will be located on another lot as provided in subsection 5 below.
5. If the lot on which the accessory building is located does not have sufficient lot area for the future development envelope as required in subsection 4 above, then the accessory building may be constructed on the lot under consideration only if the owner of the lot owns another lot with sufficient lot area for the future development envelope that is either contiguous to the lot under consideration or is separated from the lot under consideration by a public or private road and the owner of the two lots records deed restrictions (or other legal instruments) acceptable to the township attorney with the Register of Deeds Office requiring the two lots to be used and/or sold as one development site.

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE IV
ZONING DISTRICTS**

Section 4.01 ZONING DISTRICTS. The Township is hereby divided into the following districts:

A	Agricultural
R1	Residential
R2	Residential
R3	Multiple Family
C	Commercial
M	Manufacturing
PD	Planned Development
AP	Airport
RR	Resort Residential

The boundaries of designated districts are shown upon the map made a part of this Ordinance, which map is designated as the Kearney Township Zoning Districts Map. The zoning districts map is a part of this Ordinance and is on file in the office of the Township Clerk and all notations, references and other information shown thereon are a part of this Ordinance and have the same force and effect as if the zoning districts map and all such notations, references, and other information shown thereon were fully set forth or described herein.

Section 4.01 “A” AGRICULTURAL DISTRICT.

Section 4.01A USES PERMITTED BY RIGHT. The following land or building uses shall be permitted by right in the “A” Agricultural District.

1. Single Family dwellings.
2. Crop and livestock farms, including truck garden, tree farms and other specialty crops, fur bearing animals.
3. Processing of products on the farm premises, including a roadside stand for the sale of products.
4. Florist shops, nurseries, garden supplies and greenhouses.
5. Forest preserves and farm wood lots.
6. Parks and playgrounds.
7. Riding, boarding and training stables.

8. Home occupations.
9. Home-based businesses.
10. Buildings or structures accessory to any of the above permitted uses.

Section 4.01B USES PERMITTED BY SPECIAL USE PERMIT. The following land and/or building uses may be permitted by a Special Use Permit in the "A" Agricultural district:

1. Churches, and related religious buildings and facilities customarily incidental thereof.
2. Essential service buildings and structures.
3. Mobile home parks (see Section 5.01I).
4. Lodging, boarding, and tourist homes.
5. Publicly owned buildings and structures.
6. Real estate sales offices in connection with a specific development for a period of not more than one (1) year with the privilege of extensions for six (6) month periods.
7. Schools.
8. Golf courses, including clubhouse, golf driving range and the incidental sale of food, beverages and golf equipment.
9. Bed and breakfast establishments.
10. Telecommunications towers and facilities and alternative tower structures.

Section 4.01C AREA, HEIGHT AND BULK REGULATIONS. See Table 1 in the Appendix.

Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this Ordinance.

Section 4.02 "R1" RESIDENTIAL DISTRICT.

Section 4.02A USES PERMITTED BY RIGHT. The following land and/or building uses shall be permitted by right in the "R1" Residential district:

1. Single family dwellings.
2. Public Parks and playgrounds.
3. Home occupations.

4. Buildings and structures accessory to any of the above permitted uses.

Section 4.02B USES PERMITTED BY SPECIAL USE PERMIT. The following land and/or building uses may be permitted by a Special Use Permit in the "R1" Residential district:

1. Churches, and related religious buildings and facilities customarily incidental thereof.
2. Essential service buildings and structures.
3. Publicly owned buildings and structures.
4. Bed and breakfast establishments.

Section 4.02C AREA, HEIGHT AND BULK REQUIREMENTS. See Table 1 in the Appendix.

Section 4.03 "R2" RESIDENTIAL DISTRICT.

Section 4.03A USES PERMITTED BY RIGHT. The following land and/or building uses shall be permitted by right in the "R2" Residential district:

1. Single family dwellings.
2. Dwellings for two (2) families.
3. Public Parks and playgrounds.
4. Home occupations.
5. Home-based business.
6. Buildings or structures accessory to any of the above permitted uses.

Section 4.03B USES PERMITTED BY SPECIAL USE PERMIT. The following land and/or building uses may be permitted by a Special Use Permit in the "R2" Residential District:

1. Churches, and related religious buildings and facilities customarily incidental thereof.
2. Essential service buildings and structures.
3. Mobile home parks (see Section 5.01I).
4. Publicly owned buildings and structures.
5. Multiple-family dwellings (see Section 4.04).
6. Bed and breakfast establishments.

Section 4.03C AREA, HEIGHT AND BULK REQUIREMENTS. See Table 1 in the Appendix.

Section 4.04 "R3" MULTIPLE FAMILY DWELLINGS.

Section 4.04A INTENT. It is the intent of this Section to provide for multiple family dwellings in portions of the Township located near county primary roads and near a concentration of natural amenities that can be protected by grouped housing.

Section 4.04B SITE DEVELOPMENT STANDARDS. The development of multiple family dwellings shall conform to the Area, Height and Bulk requirements as noted in Table 1 of the Appendix.

Section 4.04C PARKING STANDARDS FOR MULTIPLE FAMILY DWELLINGS. The minimum number of motor vehicle parking spaces for a multiple family dwelling shall be provided in accordance with the following schedule:

Efficiency	One (1) space
One bedroom unit	Two (2) spaces
Two bedroom unit	Two (2) spaces
Three bedroom unit	Three (3) spaces

Section 4.04D EXTERIOR LIGHTING. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

Section 4.04E OUTDOOR STORAGE, SCREENING. External areas for storage of rubbish, trash and other discarded materials shall be enclosed on at least three (3) sides by an opaque fence not less than five (5) feet in height. The waste storage area shall be maintained free from litter. Heating, ventilation or air condition units, heating oil storage tanks or similar appurtenances shall be properly screened.

Section 4.05 "C" COMMERCIAL DISTRICT.

Section 4.05A USES PERMITTED BY RIGHT. The following land and/or building uses shall be permitted by right in the "C" Commercial district:

1. General Retail Establishments.
2. Personal Service Establishments.
3. Office Establishments which perform services on the premises.
4. Professional Service Establishments.
5. Restaurants.
6. Veterinary Establishments including commercial kennels.

7. Commercial Recreation Establishments.
8. Hotels, Motels, Boarding, Lodging, and Rooming Houses.

Section 4.05B USES PERMITTED BY SPECIAL USE PERMIT. The following land and/or building uses may be permitted in the “C” Commercial district provided that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between:

1. Traffic generated primarily by these facilities.
2. Traffic generated by other uses contained in this district.
3. Traffic on adjacent streets and thoroughfares.
 - A. Establishments which provide primarily retail sales to the general public including those which require service and repair facilities which constitute more than twenty five percent (25%) of their entire floor area. Such establishments shall be limited to:
 1. Boat and other sporting goods sales establishments.
 2. Motorcycle and bicycle sales and service establishments.
 3. Auto parts, tire, battery and accessory dealers.
 4. Garden supply stores.
 5. Stores selling electrical and plumbing goods at retail.
 6. Motor vehicle sales.
 7. Farm equipment sales.
 - B. Indoor commercial recreation establishments which are distinguished from other indoor commercial recreation establishments by virtue of:
 1. Possible incompatibility with surrounding land uses.
 2. Generation of large traffic volumes at certain periods of the day which could create vehicle turning movement problems in the vicinity of the use and increase traffic on adjacent streets.
 3. Hours of operation which may be later than those of surrounding commercial uses. These indoor commercial recreation establishments shall include but shall not be limited to the following:
 - a. Bowling alleys.

- b. Movie theaters and play houses.
- c. Arcades.
- 1 d. Roller and ice skating rinks.
- C. Essential services structures or buildings.
- D. Automobile service stations and Commercial garages (see Section 5.01G).
- E. Drive in retail establishments.
- F. Planned shopping centers (see Section 5.01K).
- G. Drive In or fast food restaurants (see Section 5.01H).
- H. Auto salvage lots and junk yards must be at least forty (40) acres in size and properly screened from view of the public. If not screened naturally the use shall be completely screened by a finished fence or masonry wall eight (8) feet in height or by a well maintained evergreen planting.
- I. Liquefied Petroleum Bulk Plants and Propane Gas Sales to State Fire Marshall requirements pursuant to National Fire Prevention Association Handbook #58, as amended.
- J. Sexually Oriented Businesses (see Section 5.01M).

Section 4.05C ACCESSORY USES. Accessory uses, and minor buildings, and structures customarily incidental to any Primary Use, or Use with Special Approval, except that dredging, filling, construction of piers or docks, buildings extending over the natural water course, or other substantial alteration or encumbrance of the natural shore line is prohibited unless a Special Approval is issued by the Township Board.

Section 4.05D AREA, HEIGHT AND BULK REQUIREMENTS. See Table 1 in the Appendix.

Section 4.06 "M" MANUFACTURING DISTRICT.

Section 4.06A USE REGULATIONS. The following land and/or building uses shall be permitted in the "M" Manufacturing District:

- 1. Uses such as light manufacturing or processing operations, warehouses, research and office buildings shall be permitted by right within the "M" Manufacturing District, subject to all of the following conditions.
 - 1 A. All operations shall be conducted within enclosed structures.

- B. Exterior yard storage shall be screened on sides and rear by solid uniformly finished and maintained wooden or masonry wall or fence of durable material, or a well maintained dense evergreen hedge, each of which shall be no less in height than the enclosed storage, loading activities or accessory structures or trucks except landscapng.
 - C. No unuseable or abandoned cars shall be stored in the open.
2. All uses permitted by right in the "C" Commercial District under Section 4.05A of this Ordinance shall be permitted by right in the "M" Manufacturing District, subject to all of the dimensional regulations applicable to those uses as specified in Table 1 in the Appendix within the "C" Commercial District.
 3. All uses permitted by special use permit in the "C" Commercial district under Section 4.05B of this Ordinance shall be permitted by special use permit in the "M" Manufacturing District, subject to all of the dimensional regulations applicable to those uses as specified in Table 1 in the Appendix within the "C" Commercial District and subject to all of the applicable regulations within Section 4.05B of this Ordinance.
 4. All accessory uses permitted in the "C" Commercial District under Section 4.05C of this Ordinance shall be permitted accessory uses in the "M" Manufacturing District, provided that those uses are accessory to the principle uses permitted under subsections 2 and 3 above.

Section 4.06B AREA, HEIGHT AND BULK REGULATIONS. See Table 1 in the Appendix.

Section 4.06C OFFENSIVE AND HAZARDOUS EMISSIONS. No use shall discharge any produced dust, smoke, odorous matter, toxic fumes, physical vibrations, heat or glare beyond the boundaries of the premises. No noise created from any use shall be allowed that would cause a nuisance to an adjacent "R" District.

Section 4.07 "PD" PLANNED DEVELOPMENT DISTRICT.

Section 4.07A DESCRIPTION AND PURPOSE. A development constructed on a tract of land requiring no minimum lot area, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PD district. This zone shall be established only upon application by the owner of the property for special uses such as, extraction of natural resources, outdoor theaters, drive-ins, race tracks, shopping centers, industrial parks, sanitary landfills, seasonal trailer parks, country clubs, golf clubs, golf courses, riding stables, mobile home parks, hotels, motels, boarding, lodging, and rooming houses, ski areas, skeet, trap and archery ranges, site condominiums, and similar uses not otherwise authorized by this Ordinance and which may require special treatment with regard to screening or setbacks and side and rear yards or which may generate special traffic or other police problems. This Zone shall also be available for areas where problems of terrain may require special treatment on matters of setback or side and rear yard or land area restrictions.

Section 4.07B USE REGULATIONS AND PROCEDURE. The owner of any parcel of land which is situated in an area which is not substantially fully developed, or of fully developed land on which it is proposed to raze buildings may make application to the Planning Commission for a change of zoning to the "PD" Zone. Such application shall be accompanied by a development plan, which shall include the following:

1. A topographic map showing contour lines at five (5) foot intervals.
2. A plot plan which shall show the following:
 - A. The location of all proposed buildings.
 - B. All non-enclosed uses.
 - C. All drainage.
 - D. Parking.
 - E. Loading.
 - F. Traffic handling facilities.
 - G. All screening and landscaping.
 - H. All exterior lighting and signs.
 - I. Sewage disposal system.
3. A detailed statement of the proposed use or uses to be made of the land. The statement shall include a legend detailing the density of buildings, dwelling units, structures, and other amenities.
4. Floor plans and elevation drawings showing architectural style of all buildings.
5. Where the proposed development includes extraction of natural resources, the plans shall indicate the proposed final contours of the land and quantity of material to be removed.

Such portions of the development plan may be waived by the Planning Commission and Township Board if both such Planning Commission and Township Board find, because of the nature of the proposed use, the same would be unnecessary and serve no useful purpose.

Section 4.07B.1A PLANNING COMMISSION PUBLIC HEARING.

1. Planning Commission Public Hearing: The Planning Commission shall review the application for a PD at its next regular meeting following filing and shall set a date for a public hearing within forty five (45) days thereafter. The Township Clerk shall provide notice of the public hearing meeting all of the following requirements:

- A. The content of the notice shall include all of the following information:
1. A description of the nature of the proposed planned unit development request.
 2. A description of the property on which the proposed planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 3. The time, date, and place the proposed planned unit development request will be considered.
 4. The address where and the deadline when written comments will be received concerning the proposed planned unit development request.
- B. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
- C. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed planned unit development will be located not less than fifteen (15) days before the scheduled public hearing.
- D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the proposed planned unit development will be located and to the occupants of all structures within three hundred (300) feet of the property on which the proposed planned unit development will be located not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.
- E. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the planning commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

Section 4.07C PERFORMANCE GUARANTEE. The Township Board may require a performance guarantee by the applicant to insure completion of improvements associated with a development project. The improvements subject to the performance guarantee are those features or actions considered necessary by the Township to protect natural resources, or the health, safety and welfare of the residents of the Township, the project area, or the project itself. The performance guarantee is exclusive of those improvements that are guaranteed and deposited in accordance with the Subdivision Control Act. The performance guarantee bond shall be in an amount as determined by the Township Board.

Section 4.07D FEES. The required fees for “PD” Zoning are as established by the Township Board.

Section 4.07E TIME LIMIT ON CONSTRUCTION, REVERSION AND REZONING TO FORMER CLASSIFICATION. Every application for rezoning, when approved by the Planning Commission and Township Board, either as submitted or resubmitted in modified form shall constitute an agreement by the applicant that the use permitted under this Article shall be made, completed and operated as shown on the plan as part of the project in accordance with the provisions of this Article and that the area which has been zoned "PD" shall lose that status and revert to and be resumed to its former zoning classification upon the happening of any one of the following events:

1. If the construction of the approved buildings and improvements shall not be undertaken within one (1) year of the rezoning or within such additional time extension as may be authorized by the Township Board.
2. If, as a result of voluntary sale or conveyance, or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

Section 4.08 “AP” AIRPORT DISTRICT.

Section 4.08A PURPOSE.

The purpose of this district is intended to provide an area in and around the Antrim County Airport to both protect the airport, including collateral uses from intrusions, while protecting the surrounding properties from negative impacts from the airport and its related activities.

This township ordinance is not intended to conflict with the Antrim County Airport Zoning Ordinance #1 of October 2000 or the State Airport Zoning Act of 1950 (Act #23 of the Public Acts of the State of Michigan) or the Federal Aviation Regulations.

Section 4.08B USES PERMITTED BY RIGHT IN “AP” DISTRICT.

1. Airport, landing strips, heliports, hangars and related accessory buildings.
2. Offices of operation.
3. Research, development and testing facilities related to airport operations.
4. Communication and technology oriented operations related to the functioning of the airport.
5. Signs, as allowed by the township ordinance.
6. Loading and unloading of cargo and passengers.
7. Sale of fuel and maintenance supplies.

Section 4.08C USES PERMITTED BY SPECIAL USE PERMIT IN “AP” DISTRICT.

1. Restaurants and food service.
2. Motels and Hotels.
3. Parking lots and garages operating as a business.
4. Air cargo shipping business.
5. Other accessory uses customarily appurtenant to a permitted use.

Section 4.08D AREA, HEIGHT AND BULK REGULATIONS IN “AP” DISTRICT.

1. All plans for facilities shall have received approval by the Federal Aviation Agency (FAA) and the Michigan Department of Aeronautics based on airport classification prior to submitting to the Township Board for their approval.
2. Height and bulk restrictions are those required by the FAA and Michigan Department of Aeronautics but not exceeding thirty-five feet (35') in height, excluding the control tower portion of the airport terminal.

Section 4.09 “RR” RESORT RESIDENTIAL DISTRICT.

Section 4.09A PURPOSE. The purpose of this district is to provide for recreational facilities requiring large land area (such as golf courses and ski resorts), and associated residential development which may include both short term overnight rental accommodations and year round residential structures ranging from detached single family dwellings to attached multiple family structures. Retail and service businesses are allowed to the extent that they are a usual and necessary part of the recreational and residential development and that exist for, and are of a scale appropriate to the primary purpose of serving the resort.

Section 4.09B USES PERMITTED BY RIGHT. Subject to Section 4.09C of this Ordinance, the following land and/or building uses shall be permitted by right in the “RR” Resort Residential district:

1. Single family dwellings.
2. Multiple family dwellings.
3. Recreation facilities such as golf courses, horse riding stables, downhill and cross country skiing, ball fields, tennis and basketball courts, and swimming pools. Specifically excluded are hunting preserves, gun clubs and shooting ranges and other uses generating excessive levels of noise on a regular basis.

4. Commercial establishments related to the larger development including ski and golf equipment sales and service, sporting apparel, restaurant/bar, delicatessens, and resort land sales offices provided they are determined to be of an appropriate size and scale by the Planning Commission.
5. Hotels and motels.
6. Campgrounds and recreational vehicle parks.
7. Agricultural and silvicultural activities.

Section 4.09C DESIGN STANDARDS. The uses permitted by Section 4.09B above shall meet all of the following design standards:

1. All buildings within the perimeter of the Resort Residential District shall establish a perimeter setback of fifty (50) feet from the edge of the road right of way or property lines of abutting districts (whichever is greater), except where special setback conditions are imposed due to the specific nature of the proposed use. The project perimeter setback area shall be maintained as open space in lawns or be landscaped, or wooded areas, but shall exclude paved surfaces, parking areas, or buildings of any kind. Pathways and trails may occupy a perimeter setback area, and such space may be used for storm water management, snow storage, and/or drainage systems.
2. The maximum residential density for a site shall not exceed the equivalent of one (1) dwelling or three (3) motel or hotel rooms per acre. This density calculation is for the entire site and shall not be construed to prohibit the use of innovative siting techniques such as the use of clustering, for dwellings on a portion of the site to allow for common open space elsewhere on the site.
3. No single family dwelling shall contain less than seven hundred twenty (720) square feet in floor area and shall be no less than twenty (20) feet in width throughout its length. (See Appendix Table 1).
4. Building heights shall be limited to thirty five (35) feet. (See Appendix Table 1).
5. Setbacks from natural water bodies or manmade water bodies that have outlets to natural water bodies that form one or more perimeter boundaries shall be a minimum of fifty (50) feet.
6. Setbacks from neighboring buildings shall be a minimum of twenty (20) feet or a distance equal to the height of the tallest building, whichever is greater. Setback requirements may be varied at the discretion of the Planning Commission if the use or uses are determined to result in noise, glare, or other impacts upon adjacent properties or other uses proposed within the development.
7. All uses in this district shall be subjected to a site plan review and approval in accordance with Article V, Section 5.02 of this Ordinance.

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE V
SPECIAL USE PERMITS**

Section 5.01 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.

Section 5.01A APPLICATION PROCEDURES.

1. Applicant: Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this Ordinance in the zoning district in which the land is situated.
2. Application: Applications shall be submitted through the Township Clerk to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
3. Data Required in Application: Every application shall be accompanied by sufficient copies of the following information and data:
 - A. Special form supplied by the Township Clerk filled out in full by the applicant.
 - B. Site plan, plot plan, or development plan, drawn to a readable scale, and containing that information specified in Section 5.02C, part 2.
 - C. Preliminary plans and outline specifications of the proposed development, if applicable.
 - D. A statement with supporting evidence regarding the required findings specified in Section 5.01C.
4. Upon receipt of such materials by the Township Clerk, the Township may transmit one (1) copy to each of the following agencies considered to be impacted or affected by the land use request (e.g. county drains-Antrim County Drain Commissioner; curb cut access-Antrim County Road Commission, etc.):
 - A. Antrim County Planning Department.
 - B. Antrim County Road Commission.
 - C. District No. 3 Health Department.

- D. Antrim County Drain Commissioner.
- E. Antrim County Soil Erosion Control Committee.
- F. Bellaire School District Superintendent of Schools.
- G. Fire Chief (if applicable).
- H. Police Chief (if applicable).

For their review and comment. The Clerk shall transmit the remaining copies of the preliminary site plan to the Planning Commission for review. The Planning Commission, upon receiving the comments of the above affected agencies shall proceed with a public hearing on the request.

Section 5.01B REVIEW AND FINDINGS.

1. Planning Commission Public Hearing: The Planning Commission shall review the application at its next regular meeting following filing and shall set a date for a public hearing within forty five (45) days thereafter. The Township Clerk shall provide notice of the public hearing meeting all of the following requirements:
 - A. The content of the notice shall include all of the following information:
 1. A description of the nature of the proposed special use request.
 2. A description of the property on which the proposed special use will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 3. The time, date, and place the proposed special use request will be considered.
 4. The address where and the deadline when written comments will be received concerning the proposed special use request.
 - B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.
 - C. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use will be located not less than fifteen (15) days before the scheduled public hearing.
 - D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the proposed special use will be located and to the occupants of all structures

within three hundred (300) feet of the property on which the proposed special use will be located not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

- E. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the planning commission may adjourn, from time to time, a duly called public hearing, by passing a motion specifying the time, date, and place of the continued public hearing.

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Section 5.01C GENERAL STANDARDS FOR MAKING DETERMINATIONS. The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.
2. Will not be hazardous or disturbing to existing or future neighboring uses.
3. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
4. Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such service.
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
6. Will not involve uses, activities, processes, materials and equipment and 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.
7. Will be consistent with the intent and purposes of this ordinance.

Section 5.01D CONDITIONS AND SAFEGUARDS.

1. Prior to granting any Special Use Permit, the Township Board may impose any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Special Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize 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; and be consistent with the general standards as established in this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.

2. Conditions and requirements stated as part of Special Use Permit authorization shall be a continuing obligation of Special Use Permit holders. The Zoning Administrator shall make periodic investigations of developments authorized by Special Use Permit to determine compliance with all requirements.
3. Special Use Permits may be issued for time periods as determined by the Township Board. Special Use Permits may be renewed in the same manner as originally applied for.
4. In authorizing a Special Use Permit, the Township Board may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the Township Board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
5. Continuance of a Special Use Permit by the Township Board shall be withheld only upon a determination by the Zoning Administrator to the effect that:
 - A. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period.
 - B. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued.
6. All plans, specifications and statements submitted with the application for a Special Use Permit shall become, along with any changes ordered by the Township Board, a part of the conditions of any Special Use Permit issued thereto.
7. No application for a Special Use Permit which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Township Board.
8. The foregoing general standards are basic to all special uses; and the specific requirements accompanying the following Sections relating to particular uses are in addition and shall be required in all applicable situations.

Section 5.01E APPEALS. Recourse for a person considering himself aggrieved by a decision of the Township Board in the granting or denial of a Special Use Permit shall be to the Circuit Court of Antrim County as provided by law.

Section 5.01F NONRESIDENTIAL STRUCTURES AND USES.

General Standards: Inasmuch as the nonresidential uses permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following general standards must be met prior to development of such uses:

1. Hazardous areas must be adequately fenced to avoid accidents; such areas include public utility substations.
2. If possible, all permitted nonresidential uses should front on a major street (minor arterial or collector).
3. Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the nonresidential use upon the residential area.
4. Site locations should be chosen which offer natural or manmade barriers that would lessen the effect of the intrusion of a nonresidential use into a residential area.
5. Nonresidential uses should not be located so as to cause costly public improvements.
6. Nonresidential structures shall be located no closer than one hundred (100) feet to adjacent property lines.

Section 5.01G AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES.

1. Intent: It is the intent of this Section to provide standards for automobile service and commercial garages. Generally, automobile service stations will be located adjacent to arterial or collector streets and intended to serve residential neighborhoods. Commercial garages shall be located near high volume arterial highways.
2. Permitted Uses:
 - A. The following uses may be permitted in conjunction with automobile service stations:
 1. Retail sales of gasoline, oil and similar products.
 2. Automobile washing.
 3. Automobile maintenance, including minor mechanical repairs.
 - B. The following uses may be permitted in conjunction with commercial garages:
 1. Automobile towing, including parking of a wrecker and operative vehicles waiting for immediate repair.
 2. Parking and storage of inoperative vehicles, provided that such parking or storage area shall be within an enclosed building or shall be screened by an opaque fence not less than six (6) feet in height.

3. Automobile body repairs.

3. Site Development Standards: The Township Board shall only issue Special Use Permits for automobile service stations and commercial garages which comply with the following site development standards:

A. The minimum site size shall be fifteen thousand (15,000) square feet and, in addition, the following:

1. Gasoline service station shall have five hundred (500) square feet of site area for each additional pump over four (4), and one thousand (1,000) square feet of site area for each additional vehicle storage space.
2. Commercial garages shall have one thousand (1,000) square feet of site area for each additional service bay over two (2). There shall also be threehundred (300) square feet of additional site area for each space intended for storage of inoperable vehicles.

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3. The minimum site width shall be one hundred fifty (150) feet.
4. All points of entrance or exit for motor vehicles shall be no closer than thirty (30) feet from the intersection of the right of way lines for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than twenty (20) feet from any adjacent property line. The minimum driveway width at the curb line shall be twenty-two (22) feet and the maximum driveway width at the curb line shall be thirty (30) feet. The minimum width of access drive shall be sixteen (16) feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than sixty (60) degrees unless separated acceleration and deceleration lanes are provided.
5. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing areas shall consist of a solid masonry wall or equivalent, approved by the Zoning Administrator, with no openings other than those required for access. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.
6. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.

Section 5.01H DRIVE-IN OR FAST FOOD RESTAURANTS.

1. Intent: It is the intent of this Section to provide development regulations for DRIVE-IN or fast food restaurants which potentially present special problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.
2. Site Development Standards: The Township Board shall only issue Special Use Permits for DRIVE-IN restaurants, which comply with the following site development standards:
 - A. The minimum site size shall be twenty thousand (20,000) square feet.
 - B. The minimum lot width shall be one hundred fifty (150) feet.
 - C. All points of entrance or exit for motor vehicles shall be no closer than thirty (30) feet from the intersection of the right of way lines of two streets. The minimum driveway width at the curb line shall be thirty (30) feet. No more than two driveway approaches shall be permitted on any street frontage. The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained.
 - D. All areas used for the storage of trash and rubbish shall be enclosed on at least three sides by a structure with the fourth side or access point having a view obstructing door.
 - E. DRIVE-IN restaurant management shall provide adequate trash and litter containers, and policing for the parking lot and the shoulders of adjacent roadways.

These areas shall be completely cleared of accumulated debris as often as necessary.

Section 5.01I MOBILE HOME PARKS.

1. Intent: It is the intent of this Section to provide for the establishment in a district of comparable intensity of land use, well designed mobile home parks. The regulations and conditions contained in this Section are designed to ensure that mobile home parks will provide a comfortable and pleasing environment for persons who seek mobile home residence. Regulations and conditions contained in this Section are intended to ensure that mobile home park developments will be served adequately by essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, refuse disposal, schools, and police and fire protection.
2. The Township Board may, by the issuance of a Special Use Permit, authorize the establishment of a mobile home park in the "A" Agricultural and "R2" Residential districts or such authorization shall be granted only when all the applicable procedures and requirements stated herein are complied with.
3. General Requirements, Restrictions and Standards:
 - A. Minimum Project Area: Minimum project area for a mobile home park development shall be fifteen (15) acres.

B. Location: Mobile home parks may be located only in the "A" Agricultural and "R2" Residential districts upon approval of the Zoning Board and in accordance with the following standards:

1. The site shall be adjacent to and serviced by a major arterial or county primary street.
2. The site shall be serviced by existing or programmed essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, and police and fire protection.

C. Uses Permitted: Only the following land and or building uses may be permitted under the provisions of this Section:

1. Mobile homes as defined in this Ordinance.
2. One office building exclusively for conducting the business operations of the mobile home park.
3. Utility buildings for laundry facilities and auxiliary storage space for mobile home tenants.
4. Recreation areas, community building, playground and open space for use by mobile home park tenants.
5. Such additional accessory buildings and uses as are customarily incidental to mobile home park development, except that this shall not include the sale of mobile home units other than by their individual resident owners or the servicing of mobile home units except as is required for normal maintenance by the individual resident owner or his contractors.
6. Signs pertaining exclusively to the mobile home park.

6

D. General Development Standards: The design and development of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are here by incorporated by reference as a part of this Ordinance.

E. Operating Standards:

1. The operation and business practices of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are hereby incorporated by reference as a part of this Ordinance.
- 2.

2. No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of mobile home parks.
- 3.
3. The keeping of livestock shall be prohibited from mobile home parks.

Section 5.01J PUBLIC OR PRIVATE JUNK YARDS.

1. Intent: It is the intent of this Section that certain minimum standards of operation be established for junk yards as uses that because of prior functional characteristics have a high potential of impacting surrounding properties or the aesthetic quality of the community as a whole.
2. Such uses shall be established and maintained in accordance with all applicable State of Michigan statutes and regulations.
3. The Township Board may, by the issuance of a Special Use Permit, authorize the establishment of a public or private junk yard in the "A" Agricultural district, such authorization shall be granted only when all the applicable procedures and requirements stated as specified in Section 5.01J are complied with.
4. The minimum site area allowable for a junk yard shall be forty (40) acres in size and properly screened from the view of the public. If the junk yard is not screened naturally the use shall be completely screened by a finished fence or masonry wall eight (8) feet in height or by a well maintained evergreen planting.
5. All activities shall be confined within the fenced areas. No equipment, material, signs, or lighting shall be used or stored outside the fenced area.
6. Fences shall be set back one hundred (100) feet from any public street.
7. No burning beyond the limited amount normally associated with a residence shall be permitted.
8. Junk, automobiles or other debris may not be stacked in any manner such that it could be visible outside the site. Junk yards or landfills shall not be located in areas which are impossible to screen from view from adjacent properties or public streets.

Section 5.01K PLANNED SHOPPING CENTERS.

1. Intent: It is the intent of this Section to provide for the establishment of planned shopping centers, which can efficiently serve day-to-day shopping needs. Consolidation of convenience shopping facilities into planned shopping centers is encouraged in order to avoid strip commercial development, lessen traffic conflicts and improve the safety and convenience of customers. Consolidation is also encouraged in order to economically provide for the appropriate landscape buffers needed to protect property values in adjacent areas. The regulations and conditions contained in this Section are designed to insure that planned

shopping centers will be developed at locations which will most efficiently serve the convenience shopping needs of the community.

2. Site Development Standards:

- A. Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector).
- B. Where possible, existing trees on the site shall be reserved. In addition, new landscaping shall be added to enhance the beauty of the development. A landscaping plan shall be included with the site plan.

Section 5.01L TELECOMMUNICATION TOWER OR ALTERNATIVE TOWER STRUCTURE PURPOSE.

The following defined purpose is per Ordinance No. 5 of 1997.*

Purpose. The purpose of this ordinance is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Township recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Kearney Township from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

- 1. Protect residential areas from potential adverse impact of towers and antennas;
- 2. Encourage the location of towers in nonresidential areas;
- 3. Minimize the total number of towers throughout the community;
- 4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- 5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
- 6. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- 7. Consider the public health and safety of telecommunication towers and alternative tower structures; and
- 7
- 8. Avoid potential damage to adjacent property from tower failure.

*Administrative Note: The Purpose Statement, including paragraph 1 through 8 noted above at the beginning of Section 5.01L is not an adopted portion of the Zoning Ordinance.

Section 5.01L TELECOMMUNICATION TOWER OR ALTERNATIVE TOWER STRUCTURE STANDARDS.

1. In addition to the standards set forth in a particular zone and the standards set forth in Section 5.01C of this Ordinance, the uses below must meet the following additional standards:

1

A. Telecommunication tower or alternative tower structure.

1. **Application.** The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower 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 alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - a. No existing towers or alternative tower structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or alternative tower 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 alternative tower structures, or the antenna on the existing towers or alternative tower 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 alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other 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 alternative tower structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be

presumed to render the technology unsuitable.

2. **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this Ordinance would be better served thereby:
 - a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
3. **Security Fencing.** Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.
4. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this Ordinance would be better served thereby.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
5. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

6. **Aesthetics.** Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
7. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
8. **Compliance with Codes.** Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
9. **Interference with Residential Reception.** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
10. **Signs.** No signs shall be allowed on an antenna or tower, except for any sign related to emergency service or controlling agency or owner of tower.
11. **Spacing - Towers.** Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure containing one or more antenna, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.

12. **Spacing - Residences.** A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
13. **Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond or other letter of credit equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

Section 5.01M SEXUALLY ORIENTED BUSINESSES.

STATEMENT OF RATIONALE: Sexually Oriented Businesses require supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they locate.

There is convincing evidence that sexually oriented businesses because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential area adjacent to them, causing increased crime and downgrading the quality of life in the adjacent area.

Kearney Township desires to prevent these adverse effects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

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

It is not the intent of Kearney Township to condone or legitimize the distribution of obscene material, and the Township recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against such illegal activities within Kearney Township.

Section I: PURPOSE AND INTENT. It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of the Ordinance do not have the purpose of imposing limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

Section II: DEFINITIONS.

Adult: Any person eighteen (18) years or older.

Adult Bookstore or Adult Video Store: Means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
2. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and may still be categorized as Adult Bookstore or Adult Video Store. The sale or rental of those items described in subparagraphs (1) and (2) above shall be deemed to constitute a principal business purpose of an establishment if it comprises fifty percent (50%) or more of sales volume or fifty percent (50%) or more of the floor area or visible inventory within the establishment.

Adult Motion Picture Theater: Means a commercial establishment where, for any form of consideration, film, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Mini-Theater: Means a commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis of specified sexual activities or specified anatomical areas.

Adult Entertainment Establishment: Means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an

admission fee and which are characterized by the exposure of specified anatomical areas or specified sexual activities.

Adult Cabaret: Means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity.
1
2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
4. Persons who engage in lewd, lascivious, or exotic dancing or performances that are intended for the sexual interests of titillation of an audience or customers.

Permittee: Means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individuals listed as an applicant on the application for a permit.

Permit: Means a special use permit for the operation of a sexually oriented business and issued pursuant to this Sexually Oriented Business Ordinance.

Nudity or State of Nudity: Means the appearance of a human bare buttocks, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.

Person: Means an individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.

Sexually Oriented Business: Means an adult bookstore, adult video store, adult motion picture theater, adult mini-theater, adult entertainment establishment, or adult cabaret.

Specified Anatomical Areas: Includes:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola.
2. Human male genitals in a discernible turgid state, even if complete and opaquely covered.

Specified Sexual Activities:

1. Acts of human masturbation, sexual intercourse, or sodomy.
1
2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

3. Human genitals in a state of sexual stimulation or arousal.

Transfer of Ownership or Control: Of a sexually oriented business means and includes any of the following:

1. The sale, lease or sublease of the business.
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Section III: PERMIT AND/OR LICENSE REQUIRED.

1. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Zoning Administrator.
2. An application for a permit must be made on a form provided by the township. The application must be accompanied by a sketch or diagram showing the configurations of the premises, including a statement of total floor space occupied by the business. The sketch or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.
3. Application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
 - A. (1) The name and street address and mailing address, if different, and the drivers license number of the intended operator if he/she has such a drivers license.
(2) The name and street address and mail address, if different, of the owner(s).
 - B. The name under which the establishment is to be operated and a general description of the services to be provided.
 - C. The telephone number of the establishment or, if unavailable, the operator's phone number.
 - D. The address and legal description of the tract of land on which the establishment is to be located.
4. The fact that the person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit from the township.

5. The application shall be accompanied by the following:
 - A. Payment of the application fee in full.
 - B. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance.
 - C. If the persons identified as the fee owner(s) of the tract of land in item B are not also the owners of the establishment, then the lease purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract, or portion thereof, that is to be used for the establishment for the purpose of the operation of the establishment.
6. The application shall contain a statement under oath that states:
 - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
 - B. The applicant has read the provisions of this article.

Section IV: ISSUANCE OF PERMIT.

1. The Zoning Administrator shall approve the issuance of a permit to an applicant within thirty (30) days after the receipt of an application unless he/she finds one or more of the following to be true:
 - A. An applicant is under eighteen (18) years of age.
 - B. An applicant is overdue in his/her payment of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - D. An applicant who has been denied a permit by the Township to operate.
 - E. The premises to be used for the sexually oriented business have not been approved by the health department for the use intended, if applicable, or any occupancy permit has not been issued by the Building Inspector, if applicable.
 - F. The permit fee required by this Ordinance has not been paid.

- G. An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
- H. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
 - 1. Prostitution, procuring a prostitute, or solicitation of a prostitute.
 - 2
 - 3. Sale, distribution or display of obscene material.
 - 4
 - 3. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
 - 4. Possession, sale or distribution of child pornography.
 - 5
 - 5. Public lewdness.
 - 6. Indecent exposure.
 - 6
 - 77. Indecent conduct with a child.
 - 8. Sexual assault.
 - 9. Incest.
 - 10. Sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses.

- I. Zoning approval as required by the Township Ordinance has not been obtained.
- 2. Notwithstanding compliance with the provisions of Section IV above, the Zoning Administrator, if granting the permit, may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from adult businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.
- 3. The permit if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- 4. In the event that the Zoning Administrator determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within

thirty (30) days of the receipt of application by the Zoning Administrator. The applicant may request, in writing that such a period be extended for an additional period of not more than ten (10) days at any time before the notice is issued. This would provide time to make modifications necessary to comply with this Ordinance.

5. An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Kearney Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Zoning Administrator's decision.
6. The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.

Section V: INSPECTION. An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

Section VI: ACTION TO REVOKE PERMIT. The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

1. A permittee gave false or materially misleading information in the application process.
2. A permittee or employee has been convicted of using and/or allowing the use of controlled substances within the establishment.
3. A permittee or employee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution within the establishment or elsewhere.
4. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct the solicitation thereof within the establishment or elsewhere.
5. A permittee or employee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
6. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

Section VII: TRANSFER OF PERMIT. A permittee shall not transfer his/her permit to another, or shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

Section VIII: LOCATION RESTRICTIONS.

1. A sexually oriented business may not be operated within five hundred (500) feet of:

- A. A church, synagogue, or regular place of religious worship.
 - B. A public or private elementary or secondary school.
 - C. A boundary of any residential zoned district or any residential structure within or without a zoned area.
 - D. A public park.
 - E. A licensed daycare center.
 - F. Another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
 3. For purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot or licensed day care center.
 4. For purposes of Subsection 3 of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

Section IX: REGULATIONS PERTAINING TO ADULT ENTERTAINMENT

ESTABLISHMENTS. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required. Each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without prior approval of the Township Zoning Administrator.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is admitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's stations.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this section. ("of" not in Ordinance)
7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
10. Hours of operation shall be limited to 11:00 a.m. to 11:00 p.m.
11. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that state: 1) "Persons under the age of eighteen (18) are not permitted to enter the premises" and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
12. All off-street parking areas shall be illuminated during all open hours of the sexually oriented business, and until one hour after the business closes. ("open" not in Ordinance but makes sense.)

Section X: EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.
2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representation of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.
3. Signs shall contain no photographs, silhouettes, drawings or pictorial representation of any manner, and may contain only the name of the enterprise.

Section XI: AGE RESTRICTIONS.

1. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually operated business at any time that the sexually oriented business is open for business.
2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
 - A. A valid operator's, commercial operator's or chauffeur's license.
 - B. A valid personal identification certificate with photo reflecting that such a person is eighteen (18) years of age or older.

Section XII: EXEMPTION. It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

Section XIII: NOTICES.

1. Any notice required or permitted to be given by the Township or other agency under this

Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application that has been received by the Township, or any notices of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by postal service, the Township shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given by the Township by any person under this Ordinance shall not be deemed given until and unless it is received by the Clerk of the Township.
3. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Clerk of the Township in writing of any changes of residence or mailing address.

Section XIV: NON-CONFORMING USES.

Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be charged to a conforming use. If two or more sexually oriented businesses are within five hundred (500) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later establishment business(es) is/are non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of sexually oriented business permit and/or license of a church, synagogue, or regular place of worship, public or private elementary or secondary school, licensed daycare center, public park, residential district or residential structure, within five hundred (500) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application, permit and/or license has expired or had been revoked.

Section XV: INJUNCTION. A person who operates or who caused to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Township Zoning Ordinance.

Section 5.02 SITE PLAN REVIEW.

Section 5.02A PURPOSE. It is the purpose of this Section to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the Township; safe

and convenient traffic movement, both within a site and in relation to access streets; the stability of land values, and investments, by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or alterations thereto, without proper attention to siting or to unsightly or undesirable appearances; harmonious relationships of buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

Section 5.02B APPROVAL REQUIRED. Site plan review approval is required as follows:

1. For those uses requiring Special Use Permit review, as specified.
- 1
2. All land uses, excepting single family detached dwellings, two family dwellings and nonresidential uses requiring less than five (5) parking spaces.

Section 5.02C PROCEDURES FOR SITE PLAN REVIEW.

1. **Application:** Application for Site Plan Review shall be submitted through the Township Clerk to the Planning Commission on a special application form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover the costs of processing the application. No part of any fee shall be refundable.
2. **Data Required in Application:** Every application shall be accompanied by the following information and data:
 - A. Application form supplied by the Township Clerk filled out in full by the applicant.
 - B. Fifteen (15) copies of a site plan, plot plan, or development plan, drawn to a readable scale showing:
 1. Property dimensions.
 - 1
 2. Size, shape and location of existing and proposed buildings and structures.
 3. The location of parking areas, all parking spaces and driveways.
 - 3
 4. Existing public rights of way, and/or private easements.
 5. Water courses and water bodies, including surface drainage ways.
 6. Existing significant vegetation.
 7. A landscaping plan indicating locations of proposed planting and screening, fencing, signs and advertising features.
 8. Zoning classification of abutting properties.

9. All site plans must be signed, dated and LL sealed.

3. **Planning Commission Review.**

A. Upon receipt of an application for Site Plan Review, including all data required in Section 5.02C2, the Township Clerk may transmit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the request (e.g. county drains Antrim County Drain Commissioner; curb cut access Antrim County Road Commission, etc.):

1. Antrim County Planning Department.
2. Antrim County Road Commission.
3. District No. 3 Health Department.
4. Antrim County Drain Commissioner.
5. Antrim County Soil Erosion Control Committee.
6. Bellaire Public School District.
7. Fire Chief (if applicable).
8. Police Chief (if applicable) for their review and comment.

The Clerk shall transmit the remaining copies of the site plan to the Planning Commission.

B. The Planning Commission, upon receiving the comments of the above affected agencies shall proceed with review of the site plan to determine compliance with permitted land use, density of development, general traffic and pedestrian circulation, and other provisions of this Ordinance. The Planning Commission shall respond to the applicant within forty-five (45) days of filing as to the approval, denial or approval with modifications of the site plan. If denied, the Commission shall cite reasons for denial and if approved a Certificate of Site Plan Approval shall be issued to the applicant by the Zoning Administrator.

Section 5.02D STANDARDS FOR SITE PLAN APPROVAL.

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. The landscaping 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.

3. Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties or bodies of water or ground water recharge areas.
4. 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.
5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
6. Every structure or dwelling unit shall have access to a street, walkway or other areas dedicated to common use.
7. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares, shall be screened, by a vertical screen consisting of structural (fence) or plant materials no less than six (6) feet in height.
9. Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

Section 5.02E ACTION BY PLANNING COMMISSION. The Planning Commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways, or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of same and the construction of appropriate screens or buffers.

Section 5.02F MODIFICATION OF APPROVAL OF SITE PLAN. Once site plan approval has been granted by the Planning Commission, changes to the approved site plan shall require a resubmission and payment of fees.

Section 5.02G FINANCIAL GUARANTEES. In approving the site plan, the Planning Commission may require that a cash deposit, certified check, bond, or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the project or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

Section 5.02H APPEALS AND QUESTIONS OF INTERPRETATION OF ORDINANCE. Any person considering himself aggrieved by the decision of the Planning Commission in granting or denial of Site Plan Approval shall have the right to appeal said decision to the Township Board. The appeal shall be exclusive and must be filed with the Township Clerk within ten (10) days of the decision of the Planning Commission.

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE VA
ZONING BOARD OF APPEALS**

Section 5A.01 PURPOSE. In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Township Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in Section 603 of Act 110 of the Public Acts of 2006, as amended (MCLA 125.3603).

Section 5A.02 MEMBERSHIP, TERMS OF OFFICE, ALTERNATES, AND REMOVAL.

1. The Township Board shall appoint five (5) members of the Zoning Board of Appeals. The first member shall be a member of the Township Planning Commission for the term of his or her office. The remaining members shall be selected from the electors of the township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the township. One (1) member of the Zoning Board of Appeals may be a member of the Township Board for the term of his or her office. However, an elected officer of the township shall not serve as chairman. Finally, an employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals. Except for members serving on the Zoning Board of Appeals because of their membership on the Township Planning Commission or Township Board, each member of the Zoning Board of Appeals shall serve for a term of three (3) years, except that for the first appointments two (2) member(s) shall serve for a term of three (3) years, two member(s) shall serve for a term of two (2) years, and one (1) member shall serve for a term of one (1) year.
2. The Township Board shall appoint two (2) alternate members of the Zoning Board of Appeals for three (3) year terms, except that for the first appointments one (1) alternate member shall serve for a two (2) year term. The alternate members shall be called on a rotating basis by the chairperson of the Zoning Board of Appeals to sit as regular members if a regular member will be unable to attend one (1) or more meetings and when a regular member has abstained for reason of conflict of interest. An alternate member called to sit as a regular member shall serve in the case until a final decision has been made and shall have the same voting rights as regular members of the Zoning Board of Appeals.
3. The Township Board may remove a regular or alternate member of the Zoning Board of Appeals for nonperformance of duty or misconduct in office following written charges and a public hearing before the Township Board. A regular member shall disqualify himself or herself from a vote and an alternate member shall not sit as a regular member in which the member has a conflict of interest. Failure of a regular or alternate member to disqualify himself or herself from participating in a case in which the member has a conflict of interest constitutes a misconduct in office.

Section 5A.03 MEETINGS, MINUTES, AND VOTING REQUIREMENTS.

1. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members of the Zoning Board of Appeals are present.
2. Meetings of the Zoning Board of Appeals shall be open to the public and shall be held at the call of the chairperson and as the Board may determine necessary.
3. Minutes shall be kept of all proceedings. The minutes shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The basis and reasoning of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become a public record and as such be filed in the office of the Township Clerk.
4. The concurring vote of a majority of the members of the entire Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator, Planning Commission, or other administrative official; to decide in favor of an applicant on any matter upon which the Board is required to pass under this Ordinance; or to grant a dimensional variance under this Ordinance. However, to grant a use variance under this Ordinance, a vote of 2/3 of the members of the Zoning Board of Appeals shall be required.

Section 5A.04 JURISDICTION OF THE ZONING BOARD OF APPEALS.

1. The Zoning Board of Appeals shall have the power to hear and decide appeals from any review, any order, requirement, interpretation, decision or determination made by the Zoning Administrator, Planning Commission, or other administrative official in the administration of this Ordinance. Provided, however, the Zoning Board of Appeals shall not have jurisdiction to hear appeals from Planning Commission decisions concerning special land uses and planned developments and shall not have jurisdiction to hear appeals from decisions made by the Zoning Administrator concerning whether to take enforcement action for alleged violations of this Ordinance.
2. The Zoning Board of Appeals shall have the power to hear and decide the following interpretation matters:
 - A. To determine the meaning of zoning ordinance provisions when ambiguity exists in those provisions.
 - B. To determine the precise location of the boundary lines between zoning districts.
 - C. To classify a proposed use of land or use of a structure that is not expressly provided in this Ordinance (an unlisted property use). In determining the proper classification of an unlisted property use, the Zoning Board of Appeals shall consider the characteristics of the proposed unlisted property use in relation to similar and comparable uses listed in any zoning district and in relation to the requirements of the township master plan. Once classified, the unlisted property use shall be subject to all applicable regulations

pertaining to similar uses in the zoning district in which placed, including the regulations pertaining to uses subject to a special use permit approval, if classified as such a use by the Zoning Board of Appeals.

3. The Zoning Board of Appeals shall have the power to authorize specific dimensional and use variances from the requirements of this Ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.

A. Standards for Dimensional Variances: To obtain a variance from the dimensional requirements of this Ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.
2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.
5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

B. Standards for Use Variances: To obtain a variance from the use regulations of this Ordinance the applicant must demonstrate that unnecessary hardship exists by showing all of the following:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and are not due to the applicant's personal or economic hardship.

3. The proposed use will not alter the essential character of the neighborhood.
4. The immediate hardship causing the need for the use variance was not created by the property owner or previous owners (self-created).

Section 5A.05 PROCEDURES CONCERNING THE ZONING BOARD OF APPEALS.

1. An appeal under Section 5A.04 subsection 1 may be taken by a person aggrieved, or by an officer, department, or board of the township. Any such appeal shall be filed within twenty-one (21) days of the decision being appealed. The person taking the appeal shall file with the Zoning Administrator a completed notice of appeal form furnished by the township specifying the grounds for the appeal. The Zoning Administrator shall then transmit to the Zoning Board of Appeals all the papers constituting the record concerning the decision being appealed. Provided, however, if the appeal concerns a decision by the Zoning Administrator, then the appeal shall be filed with the Township Clerk and the Township Clerk shall transmit the appeal and the record to the Zoning Board of Appeals.
2. A request for an interpretation of the zoning ordinance under Section 5A.04 subsection 2 may be made by any person or by an officer, department, or board of the township. The person making the request shall file with the Zoning Administrator a completed application form furnished by the township specifying the zoning ordinance provision for which the interpretation is being requested and the alleged ambiguity in that provision or specifying the unlisted property use to be classified. The Zoning Administrator shall then transmit to the Zoning Board of Appeals the completed application concerning the interpretation or classification request.
3. A request for a variance under Section 5A.04 subsection 3 may be made by the owner of the property on which the variance would apply or by a person authorized in writing by the owner to request the variance. The person requesting the variance shall file with the Zoning Administrator a completed application form furnished by the township specifying the zoning ordinance provision from which the variance is being requested. The Zoning Administrator shall then transmit to the Zoning Board of Appeals the completed application concerning the variance request.
4. Following receipt of a completed notice of appeal, a request for an interpretation of the zoning ordinance, or a request for a variance, the Zoning Board of Appeals shall schedule a reasonable time, date and place for, and shall hold, a public hearing, after giving the following applicable notice:
 - A. For an appeal or a request for an interpretation, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the appeal or interpretation request.

- b. If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the appeal or interpretation request will be considered.
 - d. The address where and the deadline when written comments will be received concerning the appeal or interpretation request.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than fifteen (15) days before the scheduled public hearing.
 4. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property involved and to the occupants of all structures within three hundred (300) feet of the property involved not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant or tenant is not known, the term “occupant” may be used in making notification under this subsection.
- B. For a variance request, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the variance request.
 - b. A description of the property on which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - c. The time, date, and place the variance request will be considered.

- d. The address where and the deadline when written comments will be received concerning the variance request.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property seeking the variance not less than fifteen (15) days before the scheduled public hearing.
 4. The notice shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the requested variance will apply and to the occupants of all structures within three hundred (300) feet of the property to which the requested variance will apply not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.
- C. After providing the notice required under this section and without further notice the Zoning Board of Appeals may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.
5. Any party or person may appear in person, by an agent, or by an attorney at a public hearing considering an appeal, interpretation, or variance.
 6. In exercising the powers described in this Article the Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Planning Commission, Zoning Administrator, or other official or body from whom the appeal is taken.
 7. The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals shall be forwarded, in writing, to the party filing the appeal or requesting the interpretation or variance and to the Zoning Administrator.
 8. The Zoning Board of Appeals may attach reasonable conditions with the approval of a variance. These conditions may include those 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. Any conditions imposed, however, shall meet all of the following requirements:

- A. 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.
 - B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - C. 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.
9. In connection with the construction of improvements authorized by a variance the Zoning Board of Appeals may require the applicant to furnish the township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation to roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Zoning Board of Appeals which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Zoning Board of Appeals. Any cash deposit or certified funds shall be refunded for the development or each phase or a multi-phase development in the following manner:
- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
 - B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
 - C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Zoning Board of Appeals may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a

bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Zoning Board of Appeals may accept that bond as meeting all or a portion of the performance guarantee required by this section.

10. Any variance granted by the Zoning Board of Appeals shall expire unless substantial construction of an improvement authorized by the variance has begun within six (6) months of the approval. Thirty (30) days prior to the expiration of an approved variance, an applicant may make application to the Zoning Board of Appeals for a six (6) month extension of the variance at no fee. The Zoning Board of Appeals shall grant the requested extension, if it finds good cause for the extension and that the zoning regulations necessitating the variance and the standards for granting variances have not changed since the approval.
11. An application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall not be resubmitted for a period of one (1) year from the date of the last denial, except when a rehearing is granted pursuant to subsection 12 below.
12. Rehearings.
 - A. The Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 1. The applicant who brought the matter before the Zoning Board of Appeals made misrepresentations concerning a material issue which was relied upon by the Zoning Board of Appeals in reaching its decision.
 2. There has been a material change in circumstances regarding the Zoning Board of Appeals' findings of fact which occurred after the public hearing.
 3. The township attorney by a written opinion states that in the attorney's professional opinion the decision made by the Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
 - B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Zoning Board of Appeals on its own motion, pursuant to the following procedure:
 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 3. Whenever the Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last

known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.

4. If the Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 5A.06 APPEALS TO CIRCUIT COURT. The decision of the Zoning Board of Appeals is final. However, a person having an interest affected by this Ordinance may appeal that decision to the Circuit Court. Any such appeal shall be filed within thirty (30) days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes at which the decision was made.

Section 5A.07 STAY OF PROCEEDINGS. An administrative appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to Circuit Court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this Ordinance.

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE VI
ADMINISTRATION AND ENFORCEMENT**

Section 6.01 ZONING PERMITS.

1. No building or structure subject to the provisions of this Ordinance shall be erected, substantially altered, reconstructed, used, or moved, nor shall any excavation of land commenced until a zoning permit application has been filed with the Zoning Administrator, or other official designated by the township board, and a zoning permit has been issued by the Zoning Administrator, or other official designated by the township board. Except upon a variance being granted by the Zoning Board of Appeals, no zoning permit shall be issued for the use of any land or for any building or structure where the use, construction, addition, or alteration thereof would be in violation of any provisions of this Ordinance. No zoning permit shall be required for any lawful use of land, building or structure in existence on the effective date of the zoning ordinance or any applicable amendment.
2. Following the issuance of a zoning permit by the Zoning Administrator, or other official designated by the township board, the applicant shall construct the improvements authorized by the zoning permit in complete conformity with the zoning permit and the plans submitted in conjunction with the zoning permit application. Failure to do so shall be deemed a violation of this Ordinance.
3. A zoning permit issued pursuant to this section shall expire one (1) year following issuance, unless substantial construction has begun pursuant to the permit, or prior to the expiration of the permit the property owner applies for and receives an extension of the zoning permit for no more than one (1) year from the Zoning Administrator upon a showing of good cause and that the zoning regulations applicable to the use authorized by the zoning permit have not substantially changed since the issuance of the original permit or the most recent extension of the permit. Upon commencing substantial construction of a building pursuant to a zoning permit issued under this Ordinance, the exterior of the building shall be completed within one (1) year, unless prior to the expiration of this time period the property owner applies for and receives an extension for completing the exterior construction of the building from the Zoning Administrator upon a showing of good cause.
4. The Zoning Administrator shall have the power to revoke or cancel any zoning permit for failure of the zoning permit applicant or owner of the lot on which the improvements authorized by the zoning permit will be located to comply with the provisions of this Ordinance or when false statements or misrepresentations were made in the zoning permit application. The zoning permit applicant and/or owner of the lot on which the improvements authorized by the zoning permit will be located shall be notified of such revocation and the factual basis for such revocation in writing. In addition, the Zoning Administrator shall have the authority to issue a stop work order on work in progress when that work violates any provision of this Ordinance.

5. All zoning permits issued pursuant to this Ordinance shall be displayed face out within twenty-four (24) hours of its issuance by placing the permit in a conspicuous location on the property facing the nearest street. The zoning permit shall be continuously displayed as required in this subsection until all work authorized by the zoning permit is completed.

Section 6.01A POTENTIAL WETLANDS IDENTIFICATION MAP. Potential wetland areas are designated on a Potential Wetlands Identification Map. The property identified as potential wetland areas are not intended to be exclusive, and there could be other areas subject to wetland regulations under state law. Although not an official wetlands designation by the State of Michigan, the areas identified are likely to show the physical and biological characteristics of wetlands. As a result, the Zoning Administrator shall notify each applicant for a zoning permit on property identified as a potential wetland area of the need to contact the Michigan Department of Natural Resources, or other state agency with jurisdiction over wetlands, concerning a wetlands determination and, where necessary, the need to obtain a state wetlands permit prior to the commencement of any construction or development activity on the property.

Section 6.02 ADMINISTRATIVE OFFICIALS. Except as otherwise provided in this Ordinance, the Kearney Township Zoning Administrator shall administer and enforce this Ordinance including the receiving of applications, the inspection of premises, the issuing of zoning permits, and the institution of proceedings for enforcement of the provisions of this Zoning Ordinance. Relative to the issuance of a permit, any decision rendered by the Board of Appeals, Planning Commission, or Township Board on a matter required to be reviewed by that body shall be binding on the Zoning Administrator.

Section 6.03 ZONING PERMIT APPLICATION; INSPECTION.

1. An application for a zoning permit shall be filed in writing with the Zoning Administrator, or other official designated by the township board, and signed by the owner of the property or the owner's designated agent. When an agent of the property owner is applying for the zoning permit, the zoning permit application shall be accompanied by a written letter from the property owner giving authorization to the agent to secure the zoning permit. The applicant for a zoning permit shall certify in writing that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. An application for a zoning permit shall be accompanied by the applicable fee established pursuant to Section 6.06 of this Ordinance and by all of the following information, unless waived by the Zoning Administrator showing that the required information is not necessary for determining compliance with this Ordinance:
 - A. Evidence of ownership of all property affected by the proposed zoning permit (deed or land contract).
 - B. The existing and intended use of the property building, or structure.
 - C. A site plan, if required, or a sketch in a scale sufficient to thoroughly detail the location and the dimensions of the lot to be developed; the size, dimensions, location on the lot, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the location and dimensions of

sewage disposal facilities both on the lot to be developed and on adjacent lots; the location of all wells on the lot to be developed and on adjacent lots.

- D. Other information deemed reasonably necessary by the Zoning Administrator to determine compliance with the requirements of this Ordinance.
2. No zoning permit shall be issued by the Zoning Administrator, or other official designated by the township board, without that official first conducting a site inspection. The applicant for the zoning permit shall mark all property lines and proposed building or structure sites on the ground and shall notify the Zoning Administrator, or other official designated by the township board, when such markings have occurred.

Section 6.03 A HOME OCCUPATION AND HOME-BASED BUSINESS DECLARATION. The occupant of a dwelling located within the Agricultural District, the R1 Residential District, or the R2 Residential District, upon deciding to conduct a home occupation or home-based business, as permitted in those zoning districts, shall declare his or her intentions by providing information about the home occupation or home-based business on a form approved by the Township Board and provided by the Zoning Administrator. No fees shall be charged for this declaration.

Section 6.04 DUTY TO INSPECT; ADMINISTRATIVE SEARCH WARRANT. It shall be the duty of the Zoning Administrator, or other official designated by the township board, to inspect land, buildings and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator, or other official designated by the township board, shall exercise this right of inspection by consent of the person having the right to possession of the land, building and/or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction.

Section 6.05 AMENDMENTS. Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- 1. Procedure.
 - A. The township board may amend this ordinance (either a text amendment or a rezoning of property) as authorized by the state zoning enabling act, Public Act 110 of 2006, being MCL 125.3101 *et seq.* following the procedures specified in this section.
 - B. Proposals for zoning ordinance amendments may be initiated by the township board, the township planning commission, or by petition of one (1) or more property owners to be affected by the proposed amendment.
 - C. A request for a zoning ordinance amendment shall be processed under the following procedures:
 - 1. The request for a zoning ordinance amendment shall be submitted in writing to the Zoning Administrator. Except for amendments proposed by the township board or the township planning commission, the request shall be accompanied by the fee required by this Ordinance.

2. Upon receiving the written request for a zoning ordinance amendment and the applicable fee, the Zoning Administrator shall transmit the request for a zoning ordinance amendment to the township planning commission for its consideration.
3. The township planning commission shall review the request for a zoning ordinance amendment and may make additions, deletions, or modifications to the original request as it deems appropriate for the orderly development of the township.
4. The township planning commission shall then prepare or cause to be prepared a formal zoning ordinance amendment in proper legal format which reflects the requested amendment as finally determined by the planning commission.
5. After the formal zoning ordinance amendment is prepared, the township planning commission shall hold at least one (1) public hearing on the proposed amendment. The notice for all public hearings before the planning commission concerning proposed zoning ordinance amendments shall comply with the following applicable notice provisions:
 - A. For a proposed amendment to the text of the zoning ordinance, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:
 - a. A description of the nature of the proposed zoning ordinance amendment.
 - b. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - c. The places and times at which the proposed zoning ordinance amendment may be examined.
 - d. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
 2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
 - B. For a proposed zoning ordinance amendment rezoning an individual property or ten (10) or fewer adjacent properties, the notice shall comply with all of the following:
 1. The content of the notice shall include all of the following information:

- a. A description of the nature of the proposed zoning ordinance amendment.
 - b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
 - c. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - d. The places and times at which the proposed zoning ordinance amendment may be examined.
 - e. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.
 4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property or properties proposed for rezoning and to the occupants of all structures within three hundred (300) feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
- C. For a proposed zoning ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:
1. The content of the notice shall include all of the following information:

- a. A description of the nature of the proposed zoning ordinance amendment.
 - b. The time, date, and place the proposed zoning ordinance amendment will be considered.
 - c. The places and times at which the proposed zoning ordinance amendment may be examined.
 - d. The address where and the deadline when written comments can be sent concerning the proposed zoning ordinance amendment.
2. The notice shall be published in a newspaper of general circulation within the township not less than fifteen (15) days before the scheduled public hearing.
 3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.
 4. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving the notice of public hearing.
6. When considering a proposed zoning ordinance amendment, the township planning commission shall consider the following applicable factors:
- A. Is the proposed amendment reasonably consistent with surrounding uses?
 - B. Will the proposed amendment cause an unreasonably adverse physical impact on surrounding properties?
 - C. Will the proposed amendment cause an unreasonably adverse effect on property values in the adjacent area?
 - D. Have there been changes in land use or other conditions in the immediate area or in the township in general which justify the proposed amendment?
 - E. Will the proposed amendment create an unreasonable deterrent to the improvement or development of adjacent property in accord with existing regulations?
 - F. Will the proposed amendment grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
 - G. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications or under the current use regulations?

- H. Is the proposed amendment in conflict with the planned use for the property as reflected in the master plan?
 - I. Is the site served by adequate public facilities or is the petitioner able to provide them?
 - J. Are there sites nearby already properly zoned that can be used for the intended purposes?
7. Following the public hearing on the proposed zoning ordinance amendment, the township planning commission shall do both of the following:
- A. The planning commission shall transmit its recommendation concerning the proposed amendment and a summary of the comments received at the public hearing to the township board.
 - B. The planning commission shall transmit the proposed zoning ordinance amendment to the county planning commission for its review and recommendation. If the recommendations from the county planning commission is not received by the township within thirty (30) days from the date the proposed zoning ordinance amendment is received by the county planning commission, then the county planning commission shall be deemed to have waived its right to review and make recommendations concerning the proposed amendment.
8. The township board may hold additional public hearings on a proposed zoning ordinance amendment if it considers it necessary. The township board shall grant a public hearing on a proposed zoning ordinance amendment to a property owner who requests a public hearing by certified mail, addressed to the township clerk. Notice of any public hearing before the township board shall be the same as the applicable notice requirements for a public hearing on a proposed amendment before the township planning commission.
9. After receipt of the recommendations by the county planning commission, or after the expiration of the thirty (30) day county planning commission review period, whichever is sooner, and after conducting any public hearing, the township board shall consider and vote upon the proposed zoning ordinance amendment, with or without amendment. The zoning ordinance amendment shall be approved by a majority of the entire township board and shall be effective eight (8) days after publication of the required notice of ordinance adoption or at such later date after publication as may be specified in the amendment.
10. Once adopted by the township board, the zoning ordinance amendment shall be filed with the township clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation within the township within fifteen (15) days after adoption. The notice of ordinance adoption shall include all of the following information:
- A. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

**ZONING ORDINANCE
KEARNEY TOWNSHIP
ANTRIM COUNTY MICHIGAN**

**ARTICLE VIA
KEARNEY TOWNSHIP SIGN ORDINANCE**

Section 6A.01 TITLE. This Ordinance shall be known as the Kearney Township Sign Ordinance.

Section 6A.02 STATEMENT OF PURPOSE. These standards are adopted to:

- A. Maintain and enhance aesthetics of our community.
- B. Enhance pedestrian and traffic safety.
- C. Limit the intrusion of visual messages.
- D. Minimize the adverse effects of signs on nearby public and private property.
- E. Minimize driver distraction.
- F. Encourage native plants and landscaping materials.
- G. Avoid excessive signage.
- H. Protect and enhance the scenic views and natural landscape.
- I. Protect and enhance economic viability by assuring aesthetic appeal for tourists, resorters, visitors and residents.
- J. Promote the use of aesthetically pleasing sign materials and colors.
- K. Avoid obstacles, distractions or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs or vehicles.
- L. Preserve the right to enjoy scenic amenities.
- M. Preserve public health, safety and welfare.
- N. Enhance the effectiveness of necessary directional and warning signs.
- O. Preserve property values.
- P. Provide for the effectiveness of permitted signs.
- Q. Reduce the blighting influence of signs.

- R. Protect the night sky from stray lighting.
- S. Avoid adverse lighting or reflection.
- T. Require structurally safe signs.

The standards in this ordinance are determined to be the minimum necessary to achieve the above stated purposes.

Section 6A.03 DEFINITIONS.

- A. **Abandoned:** A sign shall be deemed abandoned if:
 - 1. It does not display a well-maintained message for a consecutive one hundred twenty (120) day period.
 - 2. The owner of the sign cannot be located at the owner's last known address, as reflected on the records of Kearney Township.
 - 3. A structure designed to support a sign no longer supports the sign for a period of one hundred twenty (120) consecutive days.
- B. **Directional Sign:** A sign on private property without a commercial message to give directions such as entrance, exit or street number.
- C. **Electronic Message Sign:** A sign or portion thereof that displays electronic, nonpictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combination of light emitting diode (LED's), fiber optic, light bulbs or programmable, microprocessor controlled displays. Electronic message signs do not include official or time and temperature signs.
- D. **Governmental Sign:** A sign authorized by this municipality, governmental agency, the State of Michigan, or federal government, for street direction, destination, hazardous condition, or traffic control purposes.
- E. **Ground Sign:** A sign authorized by this municipality, a governmental agency, the State of Michigan, or the federal government, for street direction, destination, hazardous condition, or traffic control purpose.
- F. **Owner:** A person owning a sign.
- G. **Parcel:** Contiguous real estate taxed as a single parcel on one side of a public road.
- H. **Permit:** The authorization for a sign issued by the Designated Agent.
- I. **Person:** Any individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee and their legal successors.

- J. **Projecting Sign:** A sign affixed to any part of a building or structure which extends beyond the building or structure.
- K. **Residential Neighborhood Identification Sign:** A sign at the entrance of a residential neighborhood identifying the neighborhood.
- L. **Roof Sign:** A sign erected, constructed or maintained upon, or which projects above the roof line of a building.
- M. **Shared Sign:** A sign displaying more than one message on one sign: as in a strip mall, industrial park, and/or general office complex. This sign would be in addition to signs authorized in Section 5 of this ordinance.
- N. **Sign:** An object, including a structure, moveable object, wall or image displaying any message visible to the public.
- O. **Special Event Sign:** A sign for events such as grand openings, vehicle shows, displays, craft shows, benefits, fund-raisers, festivals and other limited term events.
- P. **Wall Sign:** A sign attached to, painted upon, placed against or supported by the exterior surface of any building.
- Q. **Video Display Sign:** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding contracting shapes, not including electronic message signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

Section 6A.04 SIGNS AUTHORIZED WITHOUT A SIGN PERMIT. Subject to other applicable requirements and permits, the following signs are authorized without a sign permit.

- A. **Small Sign:** One sign per parcel, not illuminated, and not exceeding three (3) square feet in area. The sign may not exceed a height of forty-two inches (42”) above ground level. Only one such sign is permitted for each parcel. This sign may carry lawful messages.
- B. **Governmental Sign:** Governmental signs are permitted.
- C. **Directional Signs:** Directional signs are permitted, however:
 1. Only one entrance/exit directional sign per legal driveway.
 2. A directional sign may not exceed one and one half (1.5) square feet.
- D. **Flags:** Two governmental flags are permitted per parcel. A flag pole may not exceed thirty (30) feet above ground level. Non-governmental flags are subject to this ordinance.

- E. **Warning Sign:** Signs exclusively devoted to warning the public of dangerous conditions and unusual hazards such as drop offs, high voltage, fire danger, and explosives are permitted. Warning signs may not exceed three (3) square feet.
- F. **Historical Site Signs:** A sign erected by a government agency which exclusively denotes a government-recognized historical site is permitted. This sign shall not exceed ten (10) square feet.

Section 6A.05 SIGNS AUTHORIZED WITH A PERMIT. The Designated Agent may issue a permit for signs in accordance with the following provisions:

- A. **Commercial/Retail Wall and Ground Signs:** This category is intended to include commercial, retail, shopping centers, malls, central business districts, and business developments by any name. One wall sign and one ground sign are permitted for each commercial/retail parcel. Such signs shall not exceed ten percent (10%) of the area of the front face of the building on the parcel or one hundred (100) square feet, whichever is less. A ground sign may not exceed a height of ten (10) feet above the uniform finished grade. Signs may be placed inside the window areas of the buildings in commercial or retail zones. The sign area may not exceed ten percent (10%) of the area of the window. The window sign area shall be deducted from sign area permitted on the parcel.
- B. **Office Wall and Ground Signs:** This category is intended to include general office, service, medical, dental, etc. One wall sign and one ground sign are permitted for each office parcel. Such signs shall not exceed ten percent (10%) of the area of the front face of the building on the parcel, for fifty-six (56) square feet, whichever is less. A ground sign may not exceed a height of eight (8) feet above the uniform finished grade.
- C. **Industrial/Manufacturing Wall and Ground Signs:** This category is intended to include manufacturing, processing, warehousing, mini-storage and industrial research developments. One wall sign and one ground sign is permitted for each industrial/manufacturing parcel. Such signs shall not exceed ten percent (10%) of the area of the front face of the building on the parcel, or fifty-six (56) square feet, whichever is less. A ground sign may not exceed a height of eight (8) feet above the uniform finished grade.
- D. **Agricultural Commercial Wall and Ground Signs:** This category is intended to include farm markets and related activities. Two wall and ground signs are permitted for each agricultural commercial parcel. The aggregate area of all signs shall not exceed thirty (30) square feet. A ground sign may not exceed a height of eight (8) feet above the uniform finished grade.
- E. **Residential Neighborhood Identification Signs:** This category is intended to include the various uses permitted in residential zoning districts.
 - 1. **Residential Neighborhood Signs:** A residential neighborhood (single family subdivision, multiple family, attached housing development, etc) is permitted to have one residential neighborhood identification sign for each entrance street. Such signs shall not extend into any public right-of-way. The face of the sign shall not exceed

twenty-four (24) square feet. The height of the sign may not exceed eight (8) feet above the uniform finished grade.

2. **Non-Dwelling Use Signs:** A non-dwelling use in a residential area such as a school, a religious facility, an institutional use, a club house, etc., is permitted to have one ground sign and one wall sign, neither of which shall exceed fifteen (15) square feet in area. The height of a ground sign may not exceed eight (8) feet above the uniform finished grade.

- F. **Electronic Message Signs:** Will be permitted in the above categories as long as it meets the specified standards. Only ONE (1) electronic message sign will be allowed per site, which must be on-site. Electronic message sign time limits will be one (1) hour before opening time and one (1) hour after closing time.

Section 6A.06 SIGN PERMIT REQUIREMENTS.

- A. **Enforcement:** The Designated Agent shall administer and enforce this sign ordinance.
- B. **Permit:** A permit is not required for “Signs authorized without a permit.” A permit must first be obtained from the Designated Agent for all other signs.
- C. **Application:** Application for sign permits shall be made upon a form provided by the Designated Agent for this purpose. The application shall contain the following information:
 1. Name, address, phone, and if available, fax, and e-mail, of the person applying for the permit.
 2. Name, address, phone, and if available, fax and e-mail, of the person owning the parcel upon which the sign is proposed to be placed.
 3. Location of the building, structure, and parcel on which the sign is to be attached or erected.
 4. Position of the sign in relation to nearby buildings, structures property lines, and existing or proposed rights-of-way.
 5. One copy of the plans and specifications. The method of construction and/or attachment to a building, or in the ground, shall be explained in the plans and specifications.
 6. Copy of stress sheets and calculations, if deemed necessary by the Designated Agent, showing the structure as designed for dead load and wind pressure.
 7. Name, address, phone, and if available, fax and e-mail of the person erecting the signs.
 8. Such other information as the Designated Agent may require to show compliance with this sign ordinance, and any other applicable laws.

9. The seal or certificate of a registered structural or civil engineer, when required by the Designated Agent.
 10. The zoning district in which the sign is to be placed.
 11. A notice stating “Any change in the information in this application, such as a change of address, shall be submitted to the Designated Agent within seven (7) days after change.”
- D. **Permit Fees:** Permit fees for signs shall be established by governing body of Kearney Township. The permit fees must relate to the cost of issuing the permit and may vary based on size, type, and height of the sign.
- E. **False Information:** A person providing false information under this Ordinance shall be guilty of a misdemeanor.

Section 6A.07 PROHIBITED SIGNS. The following limitations, obligations, and prohibitions apply to all signs:

- A. **Absence of Permit:** Any sign for which a permit has not been issued and which is not a permitted sign is prohibited.
- B. **Public Property:** No portion of a privately-owned sign, or its supporting structures, such as poles or cable, shall be placed on, or within the air space above, publicly owned property, a public right-of-way (such as a street or sidewalk), or a proposed public right-of-way.
- C. **Internally Lit-Light Background Sign:** Internally lit signs with a transparent or light background color are prohibited. Dark back ground internally lit signs are permitted when in compliance with other provisions of this ordinance.
- D. **Video Display Signs:** Video display signs are prohibited.
- E. **Revolving Signs:** A revolving sign is prohibited.
- F. **Traffic Interference:** A sign (other than a traffic sign installed by a Governmental entity) shall not simulate or imitate the size, lettering or design or any traffic sign in such manner as to interfere, mislead, or confuse the public.
- G. **Parked Vehicle:** Any sign on a motor vehicle or trailer which is parked in a position visible to traffic on a public road or parking area for a period longer than six (6) days in a sixty (60) day period is prohibited.
- H. **Portable and Special Event Signs:** Portable/moveable signs such as wheeled devices and sandwich boards, for a period of six (6) days in a sixty (60) day period are prohibited.

Section 6A.08 CONSTRUCTION REQUIREMENTS.

- A. **Material:** Signs should be made of materials that are weather tolerant.

- B. **Codes:** All signs shall conform to the latest edition of the applicable Building and electrical codes.
- C. **Fastenings:** All signs must remain safe and secure during the period of use.
- D. **Fire Escapes:** A sign may not obstruct a fire escape.
- E. **Lighting:** External lighting must be directed down only. A shield on top is required. Side shields may be necessary so that it will not glare into the road or adjacent property. Flashing, rotating and intermittent lighting are prohibited.
- F. **Proximity to Electrical Conductors:** Signs and all supporting structures shall be no closer to electric utilities than is permitted by applicable codes. No sign, including cables and supports shall, in any event, be within six feet (6') of any electrical conductor, electrical light pole, electric street lamp, traffic light, or other public utility pole.
- G. **Sanitation:** Property surrounding any ground sign shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- H. **Landscaping:** The area beneath and around a sign shall be landscaped with native plants and material so as to complement the site and integrate the sign with buildings, parking areas and natural site features.
- I. **Responsibility for Compliance:** The owner of the parcel on which a sign is placed and the person maintaining the sign are each fully responsible for the condition and the maintenance of the sign, and the area around the sign.

Section 6A.09 NON-CONFORMING SIGNS.

- A. **Intent:** This Ordinance is intended to encourage the eventual elimination of signs, which do not comply with the ordinance. The elimination of non-conforming signs is as much a subject of health, safety, and welfare as is the prohibition of any signs in violation of this ordinance. Therefore, this ordinance attempts to realize the removal of non-conforming signs and to avoid any unreasonable invasion of established property rights.
- B. **Continuance:** A non-conforming sign may be continued as long as it is maintained in good condition. It shall not, however, be replaced by another nonconforming sign. It may not be reestablished as non-conforming after damage or destruction.
- C. **Nuisance:** An unsafe or abandoned sign is declared a public nuisance which shall be removed.

Section 6A.10 FIRST AMENDMENT PROTECTION. The placement of directional signs, residential signs, neighborhood signs, historical site, signs and flags is specifically authorized in this ordinance. All other signs allowed under this ordinance may contain any lawful message.

Section 6A.11 ADMINISTRATION.

- A. **Administrator:** The Kearney Township Board shall appoint a designated agent to administer and enforce the terms and conditions of this ordinance and all other provisions relating to signs.
- B. **Enforcement:** The Designated Agent shall issue permits, as required by this ordinance. The Designated Agent shall also enforce the requirement that all signs properly comply with this ordinance by procuring a permit. The Designated Agent shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this ordinance and other applicable sign laws.
- C. **Powers:** The Designated Agent shall have the power and authority to administer and enforce this ordinance. Including among such powers are the following specific powers:
1. Every sign for which a permit is required shall be subject to the inspection and approval by the Designated Agent. The Designated Agent may request a drawing and/or photo with the proposed sign's specifications.
 2. Upon presentation of proper identification to the sign owner or owner's agent, the Designated Agent may enter the sign area for purposes of inspecting the sign, sign structure, and any fasteners securing the sign to a building or support. In cases of emergency, where imminent hazards to persons or property are known to exist and where the sign owner, or owner's agent, is not readily available, the Designated Agent may enter the sign area for purposes of inspection or remediation. When on private property, the Designated Agent shall observe rules and regulations concerning safety, internal security, and fire protection. If the Designated Agent is denied admission to inspect any sign, inspection shall be made only under authority of a warrant issued by a court of proper jurisdiction. When applying for such warrant, the Designated Agent shall submit an affidavit setting forth a belief that a violation of this ordinance exists with respect to a particular sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the person believed to own or possess the sign. If the court finds probable cause exists for the search of the sign, and supporting structures, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Designated Agent to enter the sign area and to inspect the property.
 3. Upon issuance of a stop order from the Designated Agent, work on any sign that is being conducted in any manner contrary to this ordinance shall be immediately stopped. This notice and order shall be in writing and shall be given to the owner of the parcel, the sign owner, or to the person performing the work. The stop order shall state the conditions under which work may be resumed. The Antrim County Sheriff Department shall have authority to enforce a stop order.
 4. The Designated Agent has the authority to revoke any permit authorized by this ordinance if the sign violates this ordinance or another law, provided the Designated Agent shall offer the sign owner an opportunity to be heard by the governing body. The

person whose permit is under consideration shall be given at least ten (10) days' written notice of the time, place and reason for the hearing. The sign owner and/or person identified in the permit shall be permitted to present relevant facts and legal argument concerning the pending revocation. Following this hearing the governing body shall consider the merits of the case and shall present a written opinion prior to any action. If, however, the Designated Agent believes the health, safety, or welfare of the citizens is endangered by any violation of this ordinance, the Designated Agent may immediately revoke any sign permit.

5. A sign installed after the effective date of this ordinance, and not conforming to this ordinance, shall be removed by the owner. The sign owner shall not be entitled to compensation for the sign removal and shall reimburse Kearney Township for any costs incurred in connection with the removal.
6. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than twenty five dollars (\$25.00) and not more than one hundred dollars (\$100.00) for each violation. Each day on which a violation occurs shall constitute a separate offense. In addition, injunctive and equitable relief, to assure compliance with this ordinance.