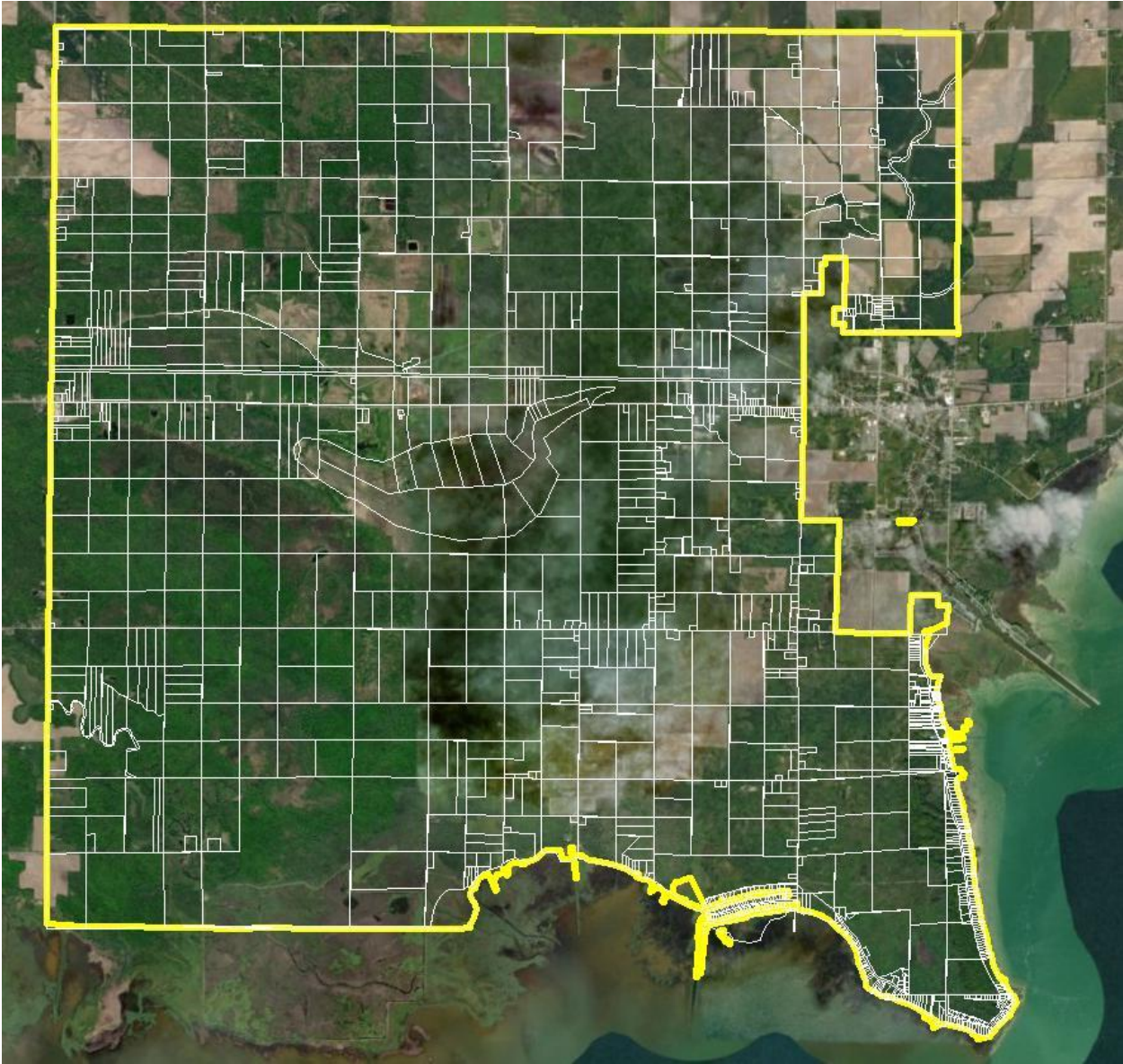


Au Gres Township Zoning Ordinance

Arenac County, Michigan



December 11, 2018

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An ordinance to establish zoning districts and to enact provisions regulating the uses of land and natural resources in portions of Au Gres Township, Arenac County, Michigan in accordance with Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended.

Chapter 1 – Preamble

Section 1.1 – Title

This Ordinance shall be known as the “Zoning Ordinance of Au Gres Township” and shall be referred to as “this Ordinance.”

Section 1.2 – Purpose

This Ordinance is based on the Au Gres Township Master Plan and designed to be the primary means for its implementation. It sets forth regulations and standards for the uses of land, structures, and natural resources of the Township and for development, redevelopment or restoration of all property by establishing requirements requisite to proper land use. The regulations of this Ordinance accomplish the purposes and objectives as outlined below by providing for land uses within each district, by acknowledging the unique impacts of special land uses through specific standards for their development in appropriate locations within selected districts; by promoting quality development by limiting the location, height, bulk, occupancy and uses of buildings and other structures by defining maximum residential densities and specifying the percentage of a site available for building; by providing for basic site design standards to ensure that land is developed in a functional and aesthetic manner, and by requiring various setbacks from property lines and public street rights-of-way.

The objectives of the Au Gres Township Ordinance are:

- a. To promote the public health, safety, and general welfare;
- b. To ensure that land uses shall be in appropriate locations and in proper relationships with other uses;
- c. To provide for open spaces in order to prevent the overcrowding of land and congestion of population, transportation, and public facilities;
- d. To provide for adequate and efficient transportation, sewage disposal, water, and energy systems, and for recreation, public safety, and other public service and facility needs;
- e. To cause and perpetuate the wise use of lands and natural resources in accordance with their character and their adaptability to development or not;
- f. To eliminate the improper uses of land;
- g. To effect the proper and orderly development of the Township; and
- h. To accomplish the goals and objectives of the Township’s Master Plan.

To meet these objectives, the Au Gres Township Zoning Ordinance is divided into districts of such number, shape and area, and of such common purpose, adaptability or use, that are deemed most suitable to protect the common rights and interests within each district and the Township as a whole, to preserve the property owners' rights to the use of their lands, and to promote quality of life and business vitality.

The Zoning Districts Map delineates these districts within the Township into six basic zones:

- a. Forested / Rural Residential District (FR) – Sections 5.5.1 through 5.5.6
- b. Agricultural / Rural Residential District (AR) – Sections 5.6.1 through 5.6.6
- c. Lakeshore Residential District (LR) – Sections 5.7.1 through 5.7.6
- d. General Residential District (R) – Sections 5.8.1 through 5.8.6
- e. Commercial District (C) – Sections 5.9.1 through 5.9.6
- f. Industrial District (I) – Sections 5.10.1 through 5.10.6

Regulations for each district are divided into six parts:

- a. Intent and Purposes
- b. Permitted and Special Uses
- c. Property Development Standards
- d. Performance Standards
- e. Accessory Structures and Uses
- f. Miscellaneous Regulations

Section 1.3 – Scope

- a. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.
- b. This Ordinance shall not abrogate or annul any easement, covenant, or other private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- c. Zoning applies to every building, structure, or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this Ordinance.

d. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards, lots, or setback areas, created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

e. Unless otherwise provided for by this Ordinance, any conditions attached to a lot as a result of public action taken pursuant to the application of this Ordinance shall remain in effect even though said lot may change ownership.

f. The regulations herein established shall be minimum regulations for promoting and protecting the public health, safety, and welfare.

Section 1.4 – Authority

This Ordinance is enacted in accordance with Public Act 110 of 2006, as amended, and also pursuant to and in accordance with any other relevant law.

Section 1.5 – Validity and Severability

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of the Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, use, building, or structure, such ruling shall not affect the application of said provision to any other lot, use, building, or structure not specifically included in said ruling.

Section 1.6 – Effective Date

a. The existing zoning ordinance of Au Gres Township and its amendments to date are hereby repealed. However, the adoption of this ordinance shall not affect, hinder, or prevent any pending or future prosecution of, or action to abate, any existing violation of the prior ordinance or its amendments if the use or violation is in violation of the provisions of this Ordinance.

b. This Ordinance shall take effect on the eighth (8th) day after publication thereof.

Chapter 2 – Definitions

Section 2.1 – Rules Applying to The Text

The following rules of construction shall apply to the text of this Ordinance.

- i. Except with respect to the headings contained in Section 2.2, the headings that title a chapter, a section or a subsection of this Ordinance are for the purposes of organization and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting any of its terms or provisions in any respect.
- j. The illustrations contained within this Ordinance are intended to exemplify hypothetical applications of the provisions of the text that refer to them and shall not have the effect of enlarging or restricting those terms or provisions. In the event of any conflict between the provisions of the written text of the Ordinance and the illustrations, the text shall govern.
- k. When inconsistent with the context, words used in the present tense shall include the future tense, words in the singular shall include the plural and words in the plural shall include the singular.
- l. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- m. A "building" or "structure" includes any part thereof unless specifically excluded.
- n. The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or any combination of them as well as a natural person.
- o. The words "used" and "occupied", as applied to any land, building or structure, shall be construed to include the phrases "intended to be", "arranged to be" or "designed to be" used or occupied.
- p. The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built", "constructed", "reconstructed", "moved upon", or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
- q. The particular shall control the general.
- r. Terms not herein defined shall have common, customary meanings.

Section 2.2 – Definitions

For the purpose of their use in this Ordinance, the following terms and words are hereinafter defined:

ACCESSORY BUILDING OR STRUCTURE. is a building or structure that is detached from the principal building located on the same lot and is customarily incidental to the principal building. Where an accessory building is structurally attached to a main building, it shall be subject to and must conform with all regulations applicable to the main building. An accessory structure does not include boat boxes or pumps. See Section 4.2(b) to determine when a zoning permit and/or a building permit is required.

ACCESSORY USE. shall mean a use incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of such lot or building.

ADULT ENTERTAINMENT ESTABLISHMENT. is any one, or combination of the following: adult bookstore, adult tavern or bar, adult cabaret, adult live entertainment, adult mini-motion picture theater, adult motion picture theater, adult novelty, adult video sales or rental, or related adult amusement. Any business that devotes more than thirty (30%) percent of its total sales, stock, or trade to adult uses shall be considered an adult entertainment establishment. "Adult" in this context shall mean sexually explicit materials and actions not intended for exhibit to minors.

ADULT-USE MARIJUANA ESTABLISHMENT OR ESTABLISHMENT. is a Marijuana Grower, Marijuana Safety Compliance Facility, Marijuana Processor, Marijuana Microbusiness, Marijuana Retailer, Marijuana Secure Transporter, Marijuana Designated Consumption Establishment, or any other type of Marijuana-related business licensed to operate by the Marijuana Regulatory Agency under the Medical Marijuana Facilities Licensing Act (MMFLA), 2016 PA 281, MCL 333.27101 to 333.27801 or the rules of the M.R.A.

AGRICULTURE LAND. means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables Christmas trees, and other similar uses and activities.

AIRPORT. means an airport licensed by the Michigan Department of Transportation, bureau of aeronautics under section 86 of the aeronautics code of the State of Michigan, 1945 PA 327, MCL 259.86.

AIRPORT APPROACH PLAN AND AIRPORT LAYOUT PLAN. mean a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the State of Michigan, 1956 PA 327, MCL 259.151.

AIRPORT MANAGER. means that term as defined in Section 2 of the aeronautics code of the State of Michigan, 1945 PA 327, MCL 259.2.

AIRPORT ZONING REGULATIONS. means airport zoning regulations under the Airport Zoning Act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

ALLEY, LANE, OR SERVICE DRIVE. is a service way providing a secondary means of public access to abutting properties and not intended for general traffic circulation.

APPLICATION OR APPLICATION PACKAGE. is an Application for a Marijuana Facility or Establishment Permit under this Ordinance and includes all supplemental documentation attached or required to be attached thereto; the person filing the Application shall be known as the APPLICANT.

BED AND BREAKFAST ESTABLISHMENT. is a use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests do not stay more than seven (7) consecutive days and are provided a sleeping room and a breakfast in return for payment.

BONAFIDE COMMERCIAL AGRICULTURAL OPERATION. is the raising of plants or animals, commonly grown in Central Lower Michigan, on a parcel of land appropriate for a continuing agricultural enterprise.

BUILDING. is any structure which is erected having a roof supported by columns or walls.

BUILDING HEIGHT. Shall mean the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the highest point of the highest gable of a pitch or hip roof, but exclusive of vents, mechanical equipment, chimneys, or other such incidental appurtenances.

BUILDING SITE. shall mean a legally created parcel or contiguous parcels of land in single or joint ownership that provides the area and the open spaces required by this Ordinance for the location or construction of a building, exclusive of all vehicular and pedestrian rights-of-way and all other easements that prohibit the surface use of the property by the owner thereof.

BUFFER. is an area or a device that can lessen the effects of a use or structure. A buffer may separate different antagonistic uses and may have various means to accomplish this end; a buffer may also be used to minimize or eliminate effects upon natural resources, e.g., to protect water quality or a particular habitat.

COMMERCIAL MEDICAL MARIJUANA FACILITY, MARIJUANA FACILITY OR FACILITY. is an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq., including a Marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Medical Marijuana Act, MCL 333.26421 et seq.

CONSERVATION EASEMENT. means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

COORDINATING ZONING COMMITTEE. means a coordinating zoning committee as described under section 307.

DESIGNATED MARIJUANA CONSUMPTION ESTABLISHMENT. is a commercial space that is licensed by the Marijuana Regulatory Agency and is authorized to permit adults 21 years of age and older to consume Marijuana products at the location indicated on the state license.

DEVELOPMENT RIGHTS. means the rights to develop land to the maximum intensity of development authorized by law.

DEVELOPMENT RIGHTS ORDINANCE. means an ordinance, which may comprise part of a zoning ordinance, adopted under section 507.

DEVELOPMENT SITE PLAN. is the documents and drawings required by the Zoning Ordinance necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

DRIVE-THROUGH BUSINESS. is a business establishment organized so that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in their vehicles.

DRIVEWAY. is that portion of a lot or parcel of land devoted to affording the principal means of access for no more than two (2) dwellings to and from a Public Road or Private Road.

DWELLING, MULTIPLE-FAMILY. is a building containing three (3) or more dwelling units with a minimum 420 square feet per dwelling unit, designed for exclusive use and occupancy by three (3) or more families.

DWELLING, SINGLE-FAMILY. is a building designed for exclusive use and occupancy as a dwelling unit by one (1) family, complying with the following standards:

A SINGLE-FAMILY DWELLING. shall have a minimum of 1,020 square feet of living space.

g. It complies in all respects with the State of Michigan Construction Code as promulgated by the State of Michigan Construction Commission under the provisions of Public Act 230 of 1972, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards and regulations for construction are different from those imposed by the state building code, then, and in that event, such federal or state standard or regulation shall apply.

h. It is firmly attached to a permanent foundation constructed on the site in accordance with 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 herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.

i. The dwelling is connected to a public sewer and infrastructure supply or to such private facilities approved by the District Health Department.

j. 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, or of better quality than the principal dwelling, which storage area shall be equal to ten (10%) percent of the square footage of the dwelling or one hundred (100) square feet, whichever is less.

k. The dwelling contains no additions or rooms or other areas which do not meet the same construction requirement listed above and are permanently attached to the principal structure.

l. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, 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" as promulgated by the United States Department of Housing and Urban Development, being 24CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

m. The foregoing standards shall not apply to a mobile or manufactured home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

n. All construction required herein shall be commenced only after a zoning permit and building permit have been obtained in accordance with the applicable health and building code provisions and requirements.

DWELLING, TWO-FAMILY (DUPLEX). is a building containing two (2) separate dwelling units, each unit having a minimum 1,020 square feet, designed for residential use by no more than two (2) families and connected by either a common wall or an attached garage area.

DWELLING UNIT. is a building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation (abbreviated as "d.u.").

ESSENTIAL SERVICE. is a service utility which is needed for the health, safety, and welfare of the community. In Michigan, these services are controlled by the Public Services Commission.

EXCESS MARIJUANA GROWER. is a license issued to a person holding 5 class C Marijuana grower licenses and licensed to cultivate Marijuana and sell or otherwise transfer Marijuana to a Processor, Provisioning Center or Retailer.

FAMILY. is 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.

FAMILY CHILD CARE HOME AND GROUP CHILD CARE HOME. mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

FARM. is a tract of land that is directly devoted to the purpose of agriculture (see Agriculture).

FLAG LOT. is a lot not fronting on or abutting a road where access to the road is by a minimum sixty-six (66) foot private right-of-way.

FLOOR AREA. is the total area of the floor space within the outside walls of a building, excluding porches, breezeways, garages, attics, basements, utility areas, cellars or crawl spaces, but which may include that portion of a walkout basement that is finished for everyday living and not just for storage or occasional use.

FRONTAGE. is the continuous length along which a parcel of land fronts on a road or street, measured along the line where the property abuts the street or road right-of-way.

GARAGE. – PRIVATE. is a detached accessory building or portion of a main building used only for the parking or storage of vehicles.

GARAGE – PUBLIC. is a building other than a private garage used for the commercial purpose of parking, storing, repairing or equipping motor vehicles.

GAZEBO. A roofed, open sided structure designed and used for outdoor living space that requires a zoning permit.

GREENWAY. means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

HOME OCCUPATION. An occupation that is traditionally or customarily carried on in the resident's dwelling unit.

IMPROVEMENTS. means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.

INDOOR RECREATION ESTABLISHMENT. is a facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as health and fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

INTENSITY OF DEVELOPMENT. means the height, bulk, area, density, setback, use, and other similar characteristics of development.

KENNEL. is any land, building, or structure where eight (8) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold for profit.

LAND DIVISION. is any splitting or dividing of a plot of land (parent parcel) that results in the creation of a new defined parcel or parcels of land from the original parent parcel.

LAND USE PERMIT. See Zoning Permit.

LAWN. A lawn is an area of short, mown grass in a yard, and consists of typically short plants with long narrow leaves, and excludes ornamental grasses, shrubs, and wetlands.

LEGISLATIVE BODY. means the county board of commissioners of a county, the board of trustees of a township, or the council or other similar elected governing body of a city or village.

LOADING AREA. is a space on the same lot with a building, or group of buildings, for the temporary parking of commercial vehicles while loading and unloading merchandise or materials.

LOCAL UNIT OF GOVERNMENT. means a county, township, city, or village.

LOT. is a parcel of land separated from other parcels of land by a recorded description in a plat, by metes and bounds, or a condominium master deed, having frontage upon a public or private street and having sufficient size to comply with the requirements of this Ordinance.

LOT AREA. is the total area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall not include that part which is in the public right-of-way.

LOT COVERAGE. is a part or percent of a lot occupied by buildings or structures and other impervious surfaces.

LOT DEPTH. is the arithmetic mean of the shortest and longest distance from the front lot line to the rear lot line.

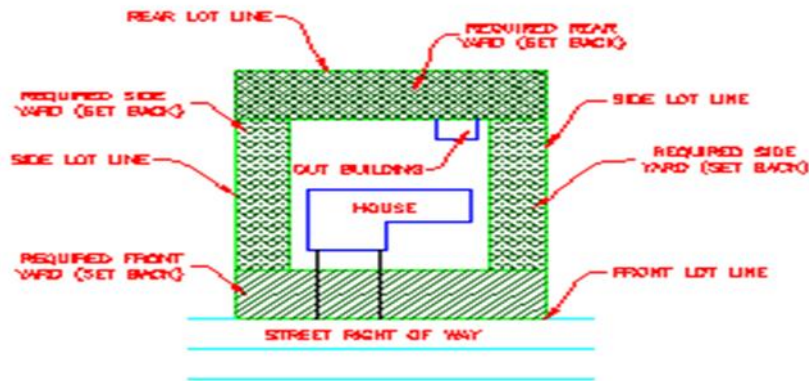
LOT LINE. is the line bounding a lot, parcel, or general or limited common element that separates the lot, parcel, general or limited common element from another lot, parcel, general or limited common element, existing street right-of-way, approved private road easement, or the ordinary high water mark.

LOT LINE, FRONT. is the lot line separating a lot or parcel from a street right-of-way (refer to Figure 1), or in the case of a lake lot, the ordinary high water mark.

LOT LINE, REAR. is the lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (refer to Figure 1).

Figure 1

LOT LINES AND MINIMUM REQUIRED YARDS



LOT LINE, SIDE. is any lot line not a front or rear lot line (refer to Figure 1).

LOT WIDTH. is the horizontal distance from a side lot line to the opposite side lot line as measured at 90° at the right-of-way. In the event the right-of-way is curved the measurement may be taken along the curve.

MANUFACTURED HOME. is a residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term residential use and is wholly or substantially constructed at an off-site location, transported to a site, and erected.

MARIJUANA OR MARIHUANA. is the term as defined in the Public Health Code. MCL 333.1101 et seq.; the Medical Marijuana Act MCL 333.26421 et seq.; the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marijuana Tracing MCL 333.27901 et seq.; and the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 et seq. For the purpose of this ordinance, the spellings are interchangeable.

MARIJUANA GROWER. is a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages Marijuana for sale to a Processor, Provisioning Center or Retailer.

MARIJUANA MICROBUSINESS. is a licensee, in a single location, that is authorized to cultivate not more than 150 plants, process and package marijuana and to sell or transfer to only an individual 21 years of age or older, but not to other marijuana establishments.

MARIJUANA PROCESSOR. is a licensee that is a commercial entity located in this state that purchases Marijuana from a grower and that extracts resin from the Marijuana or creates a Marijuana-infused product for sale and transfer in packaged form to a Provisioning Center, Retailer or other Processor.

MARIJUANA RETAILER. is a licensee authorized to purchase or transfer Marijuana only from a Marijuana grower or Marijuana processor and sell or transfer to only an individual 21 years of age or older.

MARIJUANA SAFETY COMPLIANCE FACILITY. is a licensee that is a commercial entity that receives Marijuana from a Marijuana Facility, Establishment or Registered Primary Caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the Marijuana to the Marijuana Facility, Establishment or Registered Primary Caregiver.

MARIJUANA SECURE TRANSPORTER. is a licensee that is a commercial entity located in this state that stores Marijuana and transports Marijuana between Marijuana Facilities and/or Establishments for a fee.

MEDICAL MARIJUANA FACILITIES LICENSING ACT OR MMFLA. is the 2016 PA 281, MCL 333.27101 to 333.27801, which allows for the licensing of medical Marijuana facilities.

MICHIGAN REGULATION AND TAXATION OF MARIJUANA ACT OR MRTMA. is the 2018 Initiated Law 1, MCL 333.27951 to 333.27967, which allows for the licensing of Adult-Use Marijuana Establishments.

MOBILE HOME. is a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, HVAC, and electrical system in the structure. Mobile home does not include a recreational vehicle or motor home.

MOTOR VEHICLE SALES AND/OR REPAIR FACILITY. is any establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, pick-up trucks, recreational vehicles, or travel trailers, or a business performing repairs on such vehicles.

MOTOR VEHICLE SERVICE FACILITY. is any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, performing interior or exterior cleaning, sale of tires, parts or accessories, inspection, lubrication, engine tuning, or repair for automobiles, vans, pick-up trucks, or other motor vehicles.

NON-CONFORMING STRUCTURE. is a structure, or portion thereof, lawfully existing at the time this Ordinance or amendments become effective and fails to meet the minimum requirements of the zoning district in which it is located.

NON-CONFORMING USE. is the use of a building or of land lawfully existing at the time this Ordinance or any amendments become effective but does not conform with the use regulations of the district in which it is located.

OFF-SITE SIGN. is a sign which advertises or directs attention to products or activities that are not provided on the parcel upon which the sign is located.

ORDINARY HIGH WATER MARK. is the line between upland and bottom land which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland, and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, levee, or other water controlling device, it shall be the natural ordinary high water mark.

OTHER ELIGIBLE LAND. means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

OUTDOOR RECREATION ESTABLISHMENT. is a facility designed and equipped for the conduct of sports, amusement or leisure activities, and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and amusement parks.

OWNER(S). shall mean any combination of persons who have equitable or legal title to the premises, dwelling, or dwelling unit.

PAVED. shall mean the same as a gravel, asphalt, or concrete surface.

PERMIT. is an approval issued by the Township pursuant to the MMFLA or MRTMA that allows a Person to operate a Facility or Establishment in the Township under this Ordinance, which Permit may be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

PERMIT HOLDER. is the person that holds a current and valid Permit issued under this Ordinance.

PERMITTED PREMISES. is the particular building or buildings within which the Permit Holder will be authorized to conduct the Facility's or Establishment's activities pursuant to the Permit.

PERSON. means an individual, partnership, corporation, association, governmental entity, or other legal entity.

PLANNED DEVELOPMENT. is an area of a minimum contiguous size, as specified by this Ordinance, developed according to a plan as a single entity to contain one or more structures with appurtenant common areas.

POPULATION. means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

PRIMARY STRUCTURE. See Principal Structure.

PRINCIPAL BUILDING. A building on a lot in which the principal use exists or is served by.

PRINCIPAL STRUCTURE. A building on a lot in which the principal use exists or is served by. In a residential district, the primary dwelling shall be deemed to be the principal structure on the lot.

PRINCIPAL USE. The main use to which the premises are devoted and the main purpose for which the premises exist.

PRIVATE ROAD. is any road or thoroughfare for vehicular traffic which is privately owned and maintained and provides the principal means of access to three (3) or more abutting properties.

PROCESS OR PROCESSING. is to separate or otherwise prepare parts of the Marijuana plant and to compound, blend, extract, infuse, or otherwise make or prepare Marijuana concentrate or Marijuana-infused products.

PROVISIONING CENTER. is a licensee that is a commercial entity located in this state that purchases Marijuana from a grower or processor and sells, supplies, or provides Marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's Marijuana registration process in accordance with the Michigan Medical Marijuana Act, 333.26421 et, seq., is not a provisioning center for purposes of this act.

PUBLIC STREET. is a public thoroughfare for vehicular traffic which is publicly owned and maintained and provides the principal means of access to more than three (3) abutting properties.

RECREATIONAL VEHICLE. is a vehicle designed and intended primarily for recreational use, such as a motor home, camper trailer, boat, snowmobile, off-road and all-terrain vehicle, or similar vehicle or trailer. The term “recreational vehicle” shall not include a motorcycle or motor bike or other similar means of transportation intended primarily for daily on-street use.

REGISTERED PRIMARY CAREGIVER. is a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marijuana Act, MCL 333.26423.

REGISTERED QUALIFYING PATIENT. is a qualifying patient who has been issued a current registry identification card under the Michigan medical Marijuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marijuana Act, MCL 333.26423

RETAIL STORE. is any building or structure in which goods, wares, or merchandise are sold to a customer for direct consumption and not for resale.

RIGHT-OF-WAY. is a street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of an agency having jurisdiction over the rights-of-way. Public rights-of-way shall meet road commission and/or MDOT requirements; minimum private road right-of-way shall be thirty-three (33) feet in width.

ROAD. refer to definition of “street”.

SALVAGE. is material saved for future use, recycling, or sale.

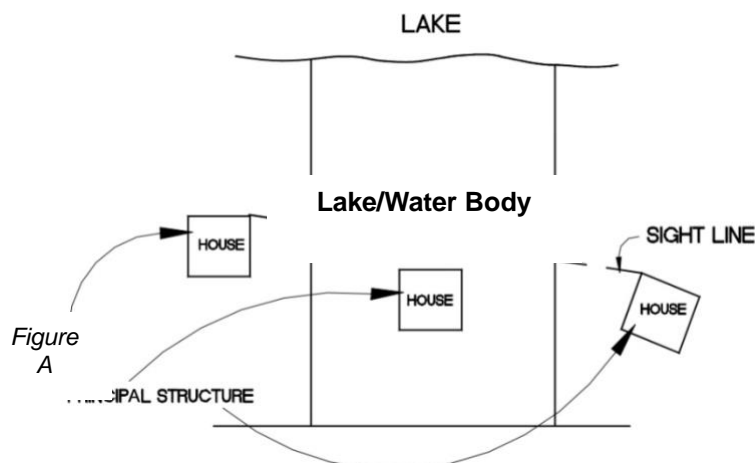
SALVAGE YARD. is any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A “salvage yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

SCREEN. is a structure such as a fence or wall, providing enclosure and visual barrier between the area enclosed and the adjacent property.

SEASONAL. is any use or activity that cannot or should not be performed during the entire year.

SETBACK. is the required minimum horizontal distance measured at 90° between a lot line or other controlling entity and a building, structure, or use line.

SIGHT LINE. A line across the width of a lake lot or other water body lot which connects the point closest to the lake/water body on the foundation of the principal structure on either side of the lot or parcel of land upon proposed structure is constructed (see Figure A).



If there is no principal structure located on contiguous properties to the lot or parcel upon which the proposed structure is to be constructed, the sight line will be established from the point closest to the lake on the foundation of the next principal structure within 300 feet on either side of the lot on which the proposed structure is to be built, the Zoning Administrator will establish a sight line intended to provide adequate protection of the view of the lake for future development in the area. (see Figure B)

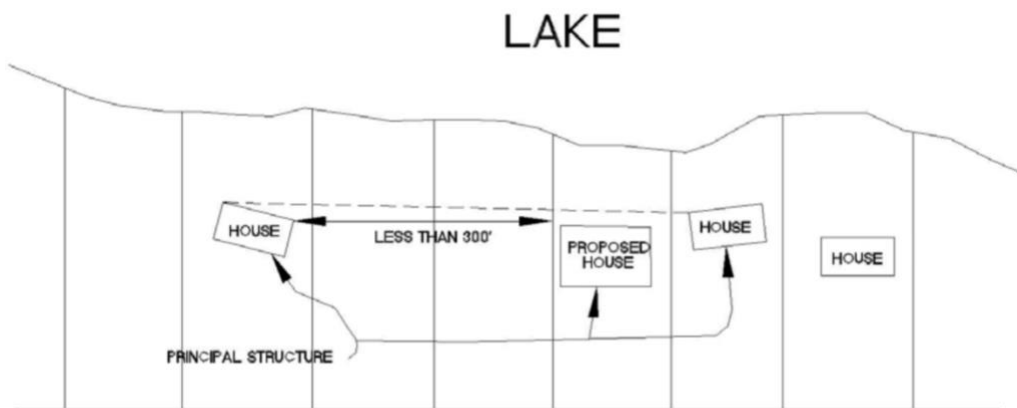


Figure B

If there is not a principal structure within three hundred (300) feet on either side of the lot on which the proposed structure is to be built, the Zoning Administrator will establish a sight line intended to provide adequate protection of the view of the lake for future development in the area.

SIGN. is an outdoor sign, display, figure, painting, drawing, message, placard, or poster which is designated, intended, or used to advertise or inform.

SITE CONDOMINIUM. Projects are land developments done in accordance with the Condominium Act (Public Act 59 of 1978), as amended. All such developments shall follow the

standards and procedures of Section 5.12, Planned Developments, and meet the requirements of the district(s) for which they are intended.

SITE PLAN. includes the documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

STATE LICENSED RESIDENTIAL FACILITY. means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for six (6) or fewer individuals under 24-hour supervision or care.

STREET. is an approved thoroughfare which affords the principal means of access to abutting properties.

STRUCTURE. is anything constructed, assembled or erected, the use of which is intended to be permanent or lasting, and requires location on the ground or attachment to something having a location on or in the ground. The word "structure" shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground, nor agricultural fencing.

TELECOMMUNICATION TOWER OR ANTENNA. is any device erected for receiving or transmitting radio, television, or data communication signals excluding satellite dish antennas, television antennas, amateur radio antennas for residential non-commercial use accessory to the residence located on the parcel upon which the equipment is located.

TEMPORARY MARIJUANA EVENT. is a state license held by a Marijuana event organizer for an event where the onsite sale or consumption of Marijuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

UNDEVELOPED STATE. means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

UNIFORM SETBACK. is where fifty (50%) percent or more of the frontages of existing structures along a roadway between two (2) intersecting streets maintain the same minimum setback.

USE. is the purpose for which land or a building (or buildings) is arranged, designed or intended, or for which land or a building (or buildings) is or may be occupied and used.

VARIANCE. is a modification to the rules or provisions of this Ordinance which may be granted by the Zoning Board of Appeals where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this Ordinance.

VEHICLE. is any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

YARD. is a space open to the sky and unoccupied or unobstructed, except by structures or uses specifically permitted by this Ordinance. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

YARD, FRONT. is the yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the main building (refer to Figure 1). In the case of a waterfront property, the portion of the yard facing the water side of the lot.

YARD, REAR. is the yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear foundation line of the main building (refer to Figure 1).

YARD, SIDE. is the yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (refer to Figure 1).

ZONING COMMISSION. means a zoning commission as described under section 301 of Public Act No. 12 of 2008.

ZONING PERMIT. A Zoning Permit, as outlined in Chapter 10, shall be required for all accessory structures and uses with a floor area between 50 and 200 square feet. Any accessory structure and use greater than 200 square feet in floor area shall require a building permit, in addition to the required zoning permit.

ZONING JURISDICTION. means the area encompassed by the legal boundaries of a city or village or the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

Chapter 3 – Non-Conformities

Section 3.1 – Intent and Purpose

It is the intent of this Chapter to provide for the use of lands, buildings, and structures which were lawfully established prior to the effective date of this Ordinance to continue even though the use may be prohibited or differently regulated under the terms of this Ordinance. Such non-conforming lots, uses of land, structures, and uses of structures are declared by this Ordinance to be incompatible with permitted conforming uses, buildings, and structures. In order to adequately regulate the conflicts between conforming and non-conforming uses, buildings, and structures, the regulations that follow are enacted.

Section 3.2 – Non-Conforming Lots

Any lot or parcel created and recorded prior to the effective date of this Ordinance may be used even though the lot does not comply with the dimensional requirements of this Ordinance providing the Lot or parcel meets the requirements of Section 4.4 Substandard Lots.

Section 3.3 – Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use on a parcel of land exists that becomes non-conforming under the terms of this Ordinance such use may be continued so long as it remains otherwise lawful.

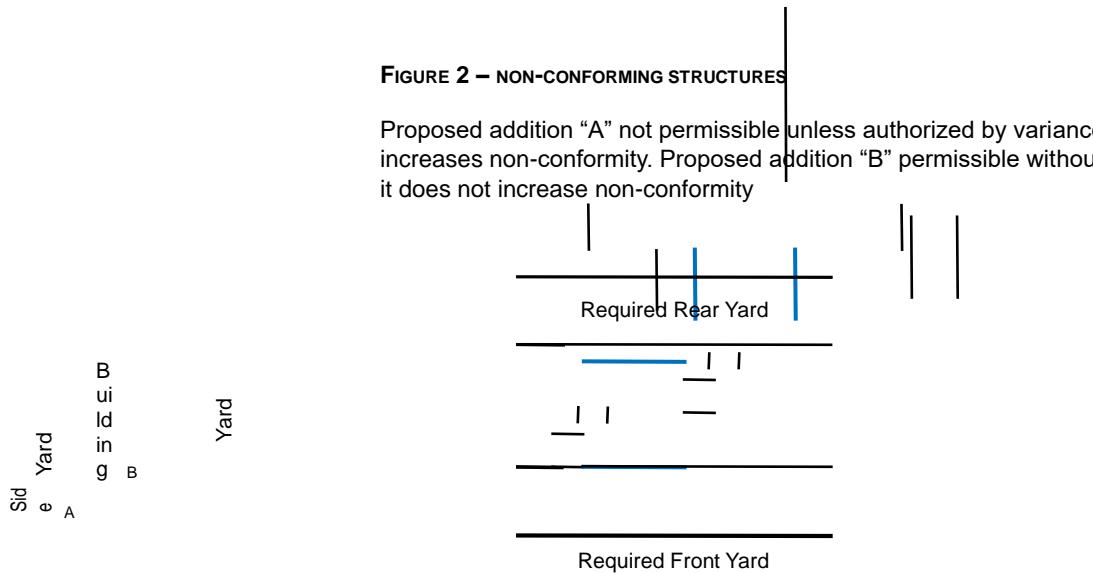
Section 3.4 – Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction of area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions (refer to Figure 2):

- a. No such structure may be enlarged or altered in a way which increases its non-conformity.
- b. Any such structure destroyed by fire or an act of God may be reconstructed, but as nearly conforming with the provisions of this Ordinance as possible.
- c. Should structures be moved to another location for any reason for any distance it shall thereafter conform to the regulations for the area into which it is located.

FIGURE 2 – NON-CONFORMING STRUCTURES

Proposed addition “A” not permissible unless authorized by variance as it increases non-conformity. Proposed addition “B” permissible without variance as it does not increase non-conformity



Section 3.5 – Repair and Replacement of Non-Conforming Structures

On any building devoted in whole or in part to any non-conforming use, ordinary maintenance may be done. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 3.6 – Change of Tenancy or Ownership

There may be change of tenancy, ownership or management of any existing non-conforming use of land, structure, or premises provided there is no change in the nature of the character of such non-conforming use that would be at variance with the provisions of this Chapter and Ordinance.

Section 3.7 – Abandonment of Non-Conforming Uses and Structures

- a. If for any reason a non-conforming use is abandoned or discontinued for a period greater than 365 consecutive days, the use shall not be allowed to be re-established, and any subsequent use shall conform to all the requirements and provisions of this Ordinance. Under extraordinary circumstances, a petition may be made to the Zoning Board of Appeals to extend the period of disuse or re-establish the non-conforming use.
- b. If for any reason the use of a non-conforming structure ceases to exist or is discontinued for a period of more than 365 consecutive days, no use shall be allowed to occupy the structure, unless authorized by the Zoning Board of Appeals.

Chapter 4 – General Provisions

Section 4.1 – Intent and Purpose

In addition to the development and performance requirements set forth in Chapter 5, other standards and requirements are necessary to ensure that the development of land occurs in an efficient and orderly manner. It is the intent of this Chapter to set forth provisions that will regulate the uses allowed in all districts.

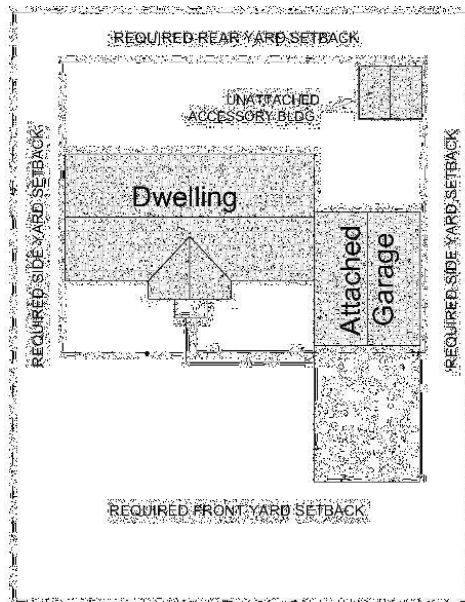
Section 4.2 – Accessory Buildings

a) Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulation:

Where an accessory building is structurally attached to a main building, except where otherwise noted, it shall be subject to and must conform with all regulations applicable to the main building.

Figure 3 – ATTACHED AND DETACHED ACCESSORY STRUCTURES

- Unattached accessory structures must meet all requirements for accessory structures within each district.



b) **Generally (applies to all zoning districts):**

1. Accessory structures and uses shall be subject to all other applicable codes and ordinances regarding construction, installation, and operation. A Zoning Permit, as outlined in Chapter 10, shall be required for all accessory structures and uses with a floor area between 50 and 200 square feet. Any accessory structure and use greater than 200 square feet in floor area shall require a building permit, in addition to the required zoning permit.
2. An accessory structure or detached garage may not be greater than 35-feet in height and accessory structures cannot be greater in square footage than the footprint of the principal structure/primary dwelling.

c) **Lakeshore Residential (LR) Requirements:**

1. Buildings as Permitted with Zoning Permit on Undeveloped Pre-Existing Lots
 - a. A building with a floor area between 50-square feet and 2,000-square feet, may be permitted with a zoning permit when located on a pre-existing lot of record when submitted with a survey of the lot or parcel by a registered land surveyor showing the location of the future Permitted Principal Use (single-family dwelling, etc) and all required setback areas.
 - b. Such structures may not be greater than 35-feet in height and cannot be greater in square footage than the anticipated footprint of the future Permitted Principal Use (single-family dwelling, etc).
 - c. No more than two (2) accessory structures are allowed on a parcel or lot.
 - d. Such structures will be allowed when placed at the rear setback line, or as close as practical.
 - e. Such structures must comply with setback lines and any required permits as specified in this Ordinance.
 - f. Such an approval shall be required to:
 - i. Record the approval and survey with the Register of Deeds,
 - ii. Submit an affidavit proclaiming the building shall be used for storage only and not used for human habitation, and
 - iii. The approval and survey shall clearly indicate the building will be constructed in the rear yard of the lot.
2. Buildings as Permitted with Special Use Permit on Undeveloped Pre-Existing Lots
 - a. A building in excess of 2,000-square feet, may be permitted as a Special Use when located on a pre-existing lot of record when submitted with a survey of the lot or parcel by a registered land surveyor showing the location of the future Permitted Principal Use (single-family dwelling, etc) and all required setback areas.
 - b. Such structures may not be greater than 35-feet in height and cannot be greater in square footage than the anticipated footprint of the future Permitted Principal Use (single-family dwelling, etc).
 - c. No more than two (2) accessory structures are allowed on a parcel or lot.
 - d. Such structures will be allowed when placed at the rear setback line, or as close as practical.

- e. Such structures must comply with setback lines and any required permits as specified in this Ordinance.
- f. Pre-qualification for Special Use consideration shall be for applicants already with a waterfront property interest in the LR zoning district.
- g. Such an approval shall be required to:
 - i. Record the Special Use approval and survey with the Register of Deeds,
 - ii. Submit an affidavit proclaiming the building shall be used for storage only and not used for human habitation, and
 - iii. The Special Use approval and survey shall clearly indicate the building will be constructed in the rear yard of the lot.

Section 4.3 – Space Used Once

Any yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall not again be used as a yard or other required open space for another building or structure existing or intended to exist at the same time as such building or structure.

Section 4.4 – Substandard Lots

Any lot or parcel created and recorded prior to the effective date of this Ordinance may be used even though the lot does not comply with the dimensional requirements of this Ordinance, provided:

- a. That a proposed building, structure, or use for the lot satisfies the yard requirements set forth in Chapter 5 of this Ordinance to the greatest extent possible.
- b. That the requirements set forth in Section 4.16 of this Chapter are fulfilled.

Section 4.5 – Corner Clearance

No fence, wall, shrubbery, crops, signs, or other visual obstruction shall be permitted above a height of thirty-six (36) inches within a triangular area formed by the intersection of any street or road right-of-way lines at a distance along each such line consistent with MDOT standards.

Section 4.6 – Number of Dwelling Units per Lot

- a. Unless otherwise permitted by this Ordinance, only one (1) single-family detached dwelling unit shall be constructed or placed on one lot meeting the minimum lot area requirements set forth in Chapter 5. In the case of condominium developments, unit area and limited common areas may be used to satisfy lot area requirements; general common areas shall not be applied toward satisfying minimum lot area requirements.
- b. Visitor's exception, for Lakeshore Residential (LR) only. The owner of any property may permit the location of an occupied recreational vehicle of a guest or visitor on the premises for a period not to exceed thirty (30) days in the case of any one party in any

calendar year in LR (Lakeshore Residential Districts). Tent camping is limited to a visit of seven (7) days in any one year in LR (Lakeshore Residential Districts). The property owner must apply for an appropriate permit, to be submitted the Zoning Administrator for review prior to occupancy, for each tent and occupied recreational vehicle of a guest or visitor.

Section 4.7 – Miscellaneous Storage

Storage of any goods shall be in rear yards or shall be contained either within a structure or behind fencing or opaque screening that hides them from public view.

Section 4.8 – Essential Services

Essential service transmission lines, such as electric, telecommunication, gas or other similar utilities, are permitted in all districts provided that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services, however, are subject to the requirements set forth in this Ordinance. Telecommunication towers and antennas are not essential services (see Section 4.11).

Section 4.9 – Fences, Walls, and Screens

Fences, walls, or screens are permitted in all yards, but shall be subject to sight distance requirements at drives and roadways.

Section 4.10 – Porches and Decks

Open, unenclosed porches and decks without foundations may not project into required rear, side or front yards.

Section 4.11 – Satellite Dish Antennas, Telecommunications Towers and Antennas, and Similar Structures

a. Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

1. All satellite dish antennas, television antennas, amateur radio antennas and other similar structures shall be subject to the following setback requirements:

i. All satellite dishes shall be located no closer than ten (10) feet from any side or rear lot lines unless there is no other placement suitable for acceptable reception.

ii. All antennas and antenna towers shall be located no closer than the height of the tower from any lot line. Antennas and antenna towers greater than ninety (90) feet in height shall require a Special Use Permit.

- iii. Satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard unless there is no other placement suitable for acceptable reception.
- iv. Satellite dishes may be placed or mounted on poles, however, they shall be subject to building height limitations.
- b. Telecommunication towers and antennas shall be subject to the regulations of the districts in which they are allowed in addition to the following:
 - 1. All towers, tower structures, poles for holding telecommunication antennas, and other like structures require zoning and building permits.
 - 2. All towers and antennas must meet applicable state and federal regulations.
 - 3. All towers shall be designed to accommodate co-location of antennas by additional users.
 - 4. Tower height shall be limited to 199 feet unless justified to the Township's full satisfaction.
 - 5. No tower shall be closer to any boundary of the lot on which it is sited than its height.
 - 6. Towers shall be separated from one another in accordance with the following table:

Table 1: Separation distances between towers (feet)

	Lattice	Guyed	Monopole Greater Than 75 Ft in Height	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole Greater Than 75 Ft in Height	1500	1500	1500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

- 7. Towers shall be of galvanized steel or be painted to blend with the surrounding environment.
- 8. No advertising or signage of any kind shall be attached to a tower or its appurtenant structures.
- 9. No lighting of any kind shall be allowed on or to illuminate a tower or its appurtenant structures except that required by FAA requirements if the structure is allowed to exceed 199 feet.
- 10. Plantings and fencing are required to screen a tower and its appurtenant structures from public view as much as possible. Native trees and other vegetation shall be retained on site and landscaping installed to achieve this objective.

11. An applicant for the installation of a telecommunication tower shall provide the Township a statement explaining the necessity for such a proposed tower.
12. The owner of any tower installed in the Township shall provide a Certificate of Insurance listing Au Gres Township as an additional insured party.
13. The Township may require the owner of any tower installed in the Township to provide a bond or performance guarantee that will ensure the removal of its tower and all appurtenance structures and equipment if its use shall be discontinued for more than 365 consecutive days.
14. The Township may retain a qualified expert to aid in its review of an applicant's request; the expense of this review shall be borne by the applicant.

Section 4.12 – Road Access Requirements

- a. Every lot shall have access to a public road by either abutting a public road or access by way of private road and/or driveway to a public road.
- b. A new road or driveway access to an existing public road shall be allowed no closer than three hundred fifty (350) feet from another existing or proposed public or private road or driveway. If the lot and driveway configurations existing prior to the date of adoption of this Ordinance preclude this action, or the lay of the land is such that meeting this requirement would create an unsafe or non-functional condition, the Zoning Administrator shall approve the location for a new proposed driveway which will meet the required distance as closely as possible. In industrial and commercial areas, service drives shall be used to meet this requirement.
- c. Driveways providing access to three (3) or more dwellings shall allow for unobstructed passage for a minimum width of thirty-three (33) feet.

Section 4.13 – Private Road Standards

Private roads shall be reviewed under Chapter 9 Development Site Plan Review.

Section 4.14 – Temporary Outdoor Event Uses

Temporary outdoor event uses may be permitted in any zoning district provided that the temporary use is similar in nature to those uses that are allowed by right in the district. Any others require a review by the Planning Commission and may require an approved site plan at the Commission's discretion in accordance with Chapter 9.

A zoning permit identifying the location, sponsoring group or individual, and the beginning and ending dates of the use must be obtained from the Zoning Administrator by an event sponsor. The Zoning Administrator shall determine the off-street parking requirements for the event.

Section 4.15 – Permits

- a. Construction activity requiring a building or grading permit shall not commence until a zoning permit and building or grading permit has been issued.
- b. Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within one year after the date the permit was issued.

Section 4.16 – Required Water Supply and Sanitary Sewerage Facilities

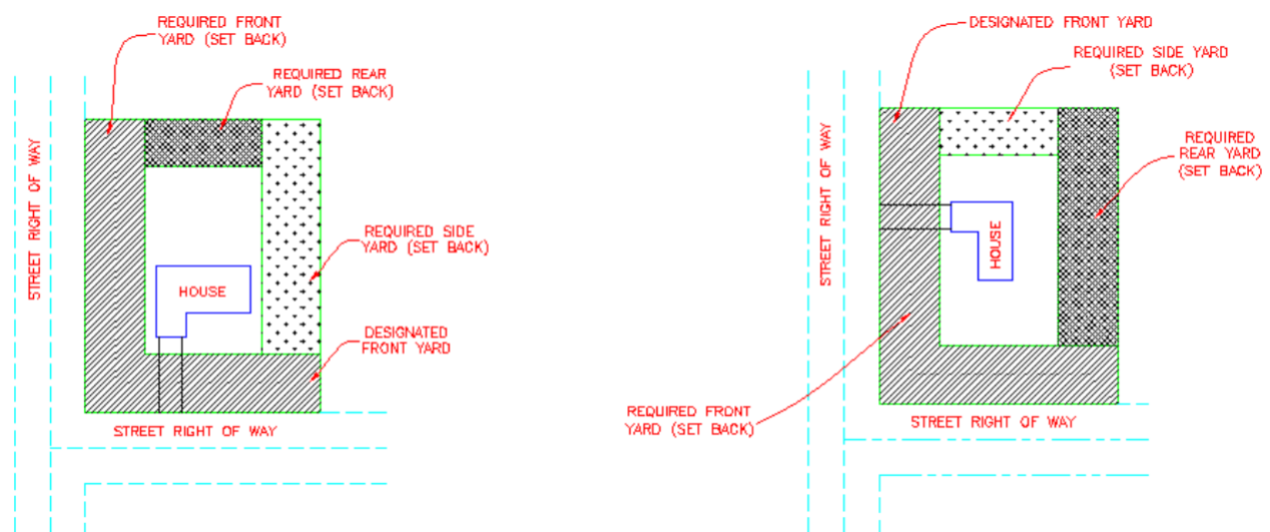
No structure shall be erected, altered, or moved upon any parcel for use as a dwelling, office, business, industry or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, or industrial waste. All such installations and facilities shall conform with the requirements of the District Health Department and applicable state agencies and all applicable permits authorizing said facilities shall be obtained. The owner or applicant for any zoning permit shall demonstrate the availability of potable water and public sewer connections or adequate space for septic fields with appropriate reserve areas and setbacks specific to site conditions, but in no case shall a septic field be closer than ten (10) feet to a lot line.

Section 4.17 – Corner Lots

Lots or parcels which have frontage on two (2) or more streets shall be subject to the following (refer to Figure 4):

- a. All yards having frontage on a street shall be considered front yards for the purposes of satisfying dimensional requirements.
- b. The lot or parcel owner shall designate which yard shall be considered the front yard for the purposes of establishing the rear and side yards.

Figure 4 – CORNER LOTS



Section 4.18 – Landscaping, Screening, Buffers, and Fencing

a. The intent of this Section is to promote the public health, safety, and general welfare in commercial activities by:

1. Minimizing the nuisances that new development may cause, including additional noise, air and water pollution, and the destruction of scenic views.
2. Improving the appearance of off-street parking and other vehicular use areas.
3. Requiring buffering between incompatible land uses.
4. Regulating the appearance of property abutting the public rights-of-way.
5. Protecting and preserving the appearance, character and value of the community and its neighborhoods.
6. Preventing soil erosion and soil depletion.
7. Promoting soil water absorption.

Sizes and amounts of landscaping and plant types shall be dependent upon what is already present in the area and landscaping needs of the specific site. Generally, landscaping shall at least equal surrounding landscaping in newer areas and tend toward upgrading older areas. Landscaping needs will be determined by using the standards set forth in this Section, and other applicable sections of this Ordinance, but plantings covering a minimum of twenty (20%) percent of any site shall be used as a guideline.

b. The following standards shall be followed:

1. Additional landscaping shall be added to the retained natural landscape features to reduce the apparent mass and height of buildings, to visually break expanses of paving, to reduce the visibility of paved areas from adjacent roadways and properties, and to provide an attractive appearance from both within and without the site.
2. Except in urbanized areas where more exacting conditions may require selection of more specific and hardy species, plant materials shall be used that complement the natural landscape. Minimum required plant material sizes shall be as follows: evergreen trees, six (6) feet in height; deciduous trees, two (2) inch caliper; shrubs, three (3) gallon pot or 18-24" in height and width.
3. Ground cover shall be primarily of living materials.
4. Areas that are intended to be planted shall be provided with a minimum depth of topsoil of four (4) inches and mulched appropriately.
5. All plantings shall be maintained in a vigorous, healthy, and weed-free state. Any dead or diseased plants shall be removed and replaced.

c. The Township may retain a qualified expert to aid in reviewing landscaping requirements. The expense of a review shall be borne by the applicant.

Section 4.19 – Subdivisions, Land Divisions, and Site Condominium Development

Subdivisions, land divisions, and site condominium developments are reviewed and permitted as Planned Developments in any district where planned developments are allowed subject to the standards and conditions of Section 5.12 of this Ordinance.

Section 4.20 – Standards Applicable to Single-Family Dwellings

All single-family dwellings shall comply with the following standards:

- a. The minimum dwelling size shall be 1,020-square feet of habitable floor area that is fully enclosed and heated.
- b. If the dwelling is a manufactured home, the manufactured home must either be: a) New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the US Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or b) If the dwelling is used, it shall certified by the Building Official to be safe and fit for residential occupancy.
- c. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, mechanical, energy and other similar codes which are or may be adopted by the Township; provided however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards are different than those imposed by Township codes, then the federal or state regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official.
- d. The dwelling unit shall comply with all requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yards, and maximum building height limitation of the zoning district in which it is located.
- e. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed and the skirting shall fully enclose the chassis, undercarriage and towing mechanism.
- f. The dwelling unit shall be attached to a permanent foundation constructed on the building site. The foundation shall be constructed of such materials and type as required by the County Building Code for on-site constructed single-family dwellings.
- g. If the dwelling unit is a manufactured home, it shall be installed on the foundation referenced in accordance with (f) above, pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, as adopted or amended, or any similar or successor agency having regulatory responsibility for manufactured home parks.

Section 4.21 – Notice, Publication, Mail or Personal Delivery Requirements

- a. Except as otherwise provided under this ordinance, if Au Gres Township conducts a public hearing required under this ordinance, the Township shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than fifteen (15) days before the date of the hearing.
- b. Notice required under this ordinance shall be given to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within three hundred (300) feet of the property that is the subject of the request and to the occupants of all structures within three hundred (300) feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
- c. The notice under this ordinance is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than fifteen (15) days before the date the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
- d. A notice under this section shall do all of the following:
 1. Describe the nature of the request.
 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses 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.
 3. State when and where the request will be considered.
 4. Indicate when and where written comments will be received concerning the request.

Section 4.22 – Petitions

As it relates to any proposed amendment to this zoning ordinance, same shall be subject to petition, as provided for in MCL 125.3402, Act 110, of the Public Acts of 2006, subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

Section 4.23 – Lawn Maintenance

Grass shall be maintained and kept mowed below seven (7) inches for all developed parcels in the Lakeshore Residential (LR) zoning district. The seven (7) inch height requirement includes

fence lines, garden edge lines, and building perimeters. Failure to comply with this section of the zoning ordinance shall be a civil infraction. A lawn is an area of short, mown grass in a yard, and consists of typically short plants with long narrow leaves, and excludes ornamental grasses, shrubs, and wetlands.

Section 4.24 – Dwellings Destroyed by Fire

Within eighteen (18) months of an event whereby a dwelling has been destroyed by a fire and is uninhabitable, such structure shall be eliminated by the property-owner.

Section 4.25 – Home Occupations

An occupation that is traditionally or customarily carried on in the resident's dwelling unit. No more than two non-family members may be employed in such activity; outdoor storage shall be completely screened; and no activity shall become a nuisance to its immediate neighbors or neighborhood.

Chapter 5 –District Regulations

Section 5.1 – Intent and Purpose

For the purposes of this Ordinance, all land within Au Gres Township, excepting the roadways and alleys, is divided into the following Zoning Districts:

FR – Forested / Rural Residential District – Sections 5.5.1 through 5.5.6

AR – Agricultural / Rural Residential District – Sections 5.6.1 through 5.6.6

LR – Lakeshore Residential District – Sections 5.7.1 through 5.7.6

R – General Residential – Sections 5.8.1 through 5.8.6

C – Commercial District – Sections 5.9.1 through 5.9.6

I – Industrial District – Sections 5.10.1 through 5.10.6

For the specific regulations and requirements of each of the districts listed above, refer to Sections 5.5 - 5.10. Section 5.12 allows for and regulates Planned Developments (PD) within the above districts.

Section 5.2 – Official Zoning Map

The boundaries of zoning districts are defined and established as shown on a map entitled the Au Gres Township Zoning Map. This map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning Map shall be kept by the Township Clerk and shall be maintained by the Zoning Administrator.

Section 5.3 – Interpretation of Boundaries

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official Zoning Map, the following rules shall apply:

- A. Boundaries shown following streets or highways shall be presumed to follow the centerline of these roadways.
- B. Boundaries shown approximately following Township boundary lines or property lines shall be presumed to follow these lines.
- C. Boundaries shown approximately parallel to the centerline of streets or alleys shall be interpreted as being parallel thereto and at such a distance therefrom as indicated by given distance or scaled dimension.

Section 5.4 – Classification of Uses Not Listed

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned by this Ordinance, as described in Chapter 11. Said use shall be treated in a like manner with comparable uses, as determined by the Zoning Board of Appeals, and permitted or prohibited in accordance with the District Regulations found in any Zoning District.

Section 5.5 – Forested/ Rural Residential (FR)

The purpose and intent of this district is to preserve the forests and woodlots of the Township while allowing residential development and a wide range of uses in such ways that will not detract from this end. To the greatest degree practicable, the integrity and contiguity of forest lands shall be maintained.

Section 5.5.1 – Permitted Principal Uses

- a. Agricultural uses.
- b. Farm markets when in compliance with Michigan’s Generally Accepted Agricultural and Management Practices (GAAMPs).
- c. Single-family dwellings
- d. Two-family dwellings
- e. State licensed residential facilities for six (6) or fewer persons.
- f. Child care, whereby a residence is used for the care of six (6) or fewer children for a period of less than 24-hours a day
- g. Churches and other religious institutions.
- h. Small tower-mounted wind energy turbines (STMWET) – See Chapter 12.
- i. Small structure-mounted turbines (SSMWET) – See Chapter 12.
- j. Planned developments (Section 5.12).

Section 5.5.2 – Special Uses

- a. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for Landscaping Standards.
 1. Farm equipment establishments.
 2. Feed stores.
 3. Lodges and clubs.
 4. Bed and breakfast establishments.
 5. Cemeteries.
 6. Forestry related businesses.
 7. Horse stables.
 8. Kennels.
 9. Natural resource extraction operations.

10. Outdoor recreation establishments.
11. Schools.
12. Telecommunication Towers.
13. Large wind energy turbine systems (LWET), if located in the Wind Overlay District – See Chapter 12.
14. Rural businesses providing needed services to local and seasonal residents of areas surrounding a particular use. These may include convenience stores with or without gasoline and other automotive products, garages or repair shops, offices, shops, other small business establishments.
 - b. A roadside stand for the sale of agricultural products, provided that:
 1. No more than one stand be allowed for each six hundred (600) lineal feet of road frontage.
 2. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
 3. The products sold at any stand are mainly grown or produced on the premises.
 - c. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:
 1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
 2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.
 3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,
 4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

Section 5.5.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

- a. All lots shall meet the following standards:
 1. Minimum lot size – 1 acre
 2. Minimum lot width – 200 feet
 3. Minimum front setback – 60 feet, from the road right of way.
 4. Minimum side yard setback – 10 feet each
 5. Minimum rear setback – 20 feet
 6. Maximum height – 2½ stories or 35 feet

Section 5.5.4 – Performance Standards

- a. All structures, roads and other infrastructure shall be placed in such a manner that will avoid the destruction of as few trees and natural terrain on a site or parcel as possible.
- b. Wooded unbuilt areas of a site or parcel shall be contiguous with forested areas of adjoining sites to promote the maintenance of large forested expanses without buildings, other structures, or infrastructure.
- c. Trees and other vegetation within buffer or setback areas shall be preserved to the greatest degree practicable.
- d. Unbuilt areas, suitable for such, may be reforested as part of a parcel's Development Site Plan.
- e. All non-residential uses shall be situated and designed such that any potential nuisances or disturbances of surrounding properties shall be eliminated or mitigated to the greatest degree possible.
- f. Residences or other structures shall not be placed within fifty (50) feet of a creek or stream and a streamside non-disturbance area of twenty-five (25) feet shall be maintained except for an access route of cleared area to the water of no more than twenty (20) feet in width.

Section 5.5.5 – Accessory Structures and Uses

Zoning Permits, as described in Chapter 10, are required for the following (See Section 4.2 for additional requirements):

- Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall generally be located in side or rear yards.

- A pole building, or other storage building may be constructed without a principal structure provided compliance with the development standards as described in Section 5.5.3 and the performance standards described in Section 5.5.4.
- Home occupations are allowed as an accessory use. Accessory structures may be used for home occupations if there is a principal structure on the same parcel. See Section 4.25 for more information.

Section 5.5.6 – Miscellaneous Regulations

- The keeping of horses, ponies, or other livestock shall be in compliance with MDARD's current Generally Accepted Agricultural and Management Practices (GAAMPs).
- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.

Section 5.6 – Agricultural/ Rural District (AR)

The purpose and intent of the Agricultural / Rural Residential District is to provide areas for commercial agricultural and farming operations, as well as limited residential areas. This district is established to conserve and protect agricultural lands as an ecologically and economically valued resource by preventing the encroachment of urban land uses in predominantly agricultural areas where geographic and social conditions favor continued agricultural production. A range of farming activities shall be permitted in this zone in order to foster the continuation of agriculture in the Township.

Section 5.6.1 – Permitted Principal Uses

In the Agricultural / Rural Residential District, no building, structure, land or water use shall be permitted except for one or more of the following:

- a. Farms for Production of Food, Feed, or Fiber
- b. Farm labor housing:
 - Single-family dwellings for temporary housing for workers and their families during the season in which they are employed in the planting, harvesting, or processing of crops or other essential but temporary agriculturally related employment associated with an active farm operation shall comply with the following:
 1. Farm labor housing shall comply with the Michigan Public Health Code (P.A. 368 of 1978, as amended) and County Health Department requirements. Such housing shall comply with the State Construction Code and other codes and standards that apply to the type of construction. Proof of all required outside agency permits and approvals shall be provided to the Township.
 2. Construction, expansion, and alteration of farm labor housing shall be subject to site plan review. The number of permitted farm labor housing units shall be subject to Planning Commission approval, based upon site conditions, availability and capacity of potable water and sanitary sewerage or septic facilities, and proximity to non-farm land uses.
 3. All structures for farm labor housing shall comply with all development standards, and shall be set back a minimum of 150 feet from any off-site single-family dwelling located on a separate parcel of property and owned by another individual or entity.
 4. The occupants shall be employed for farm labor by the farm operation owner at least fifty percent (50%) of the time while they occupy the housing.
- c. Single-family dwellings
- d. Two-family dwellings
- e. Churches and other religious institutions.
- f. State licensed residential facilities for six (6) or fewer persons.

- g. Child care, whereby a residence is used for the care of six (6) or fewer children for a period of less than 24-hours a day.
- h. Farm markets when in compliance with Michigan’s Generally Accepted Agricultural and Management Practices (GAAMPs).
- i. Small tower-mounted wind energy turbines (STMWET) – See Chapter 12.
- j. Small structure-mounted turbines (SSMWET) – See Chapter 12.
- k. Planned Developments (see Section 5.12).

Section 5.6.2 –Special Uses

a. The following uses are permitted in this district upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for Landscaping Standards.

- 1. Large scale livestock enterprises.
- 2. Agricultural research and development facilities, public and private.
- 3. Agricultural businesses.
- 4. Public and private schools.
- 5. Bed and breakfast establishments.
- 6. Slaughter houses.
- 7. Salvage yards.
- 8. Riding stables.
- 9. Kennels.
- 10. Cemeteries.
- 11. Public or private outdoor recreation or park facilities.
- 12. Sawmills and other forestry related businesses.
- 13. Small contractors and builders establishments.
- 14. Telecommunication towers and antennas (see Section 4.11).
- 15. MMFLA Medical and MRTMA Adult-Use Marijuana Grower.
- 16. MMFLA Medical and MRTMA Adult-Use Marijuana Processor.
- 17. MMFLA Medical and MRTMA Adult-Use Marijuana Secure Transporter.
- 18. MMFLA Medical and MRTMA Adult-Use Marijuana Safety Compliance facility.
- 19. MRTMA Adult-Use Excess Marijuana Grower.
- 20. Large wind energy turbine systems (LWET), if located in the Wind Overlay District – See Chapter 12.

- b. A roadside stand for the sale of agricultural products, provided that:
 - 1. No more than one stand be allowed for each six hundred (600) lineal feet of road frontage.
 - 2. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
 - 3. The products sold at any stand are mainly grown or produced on the premises.

b. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:

- 1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
- 2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.
- 3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,
- 4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

Section 5.6.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

- a. All lots shall meet the following standards:
 - 1. Minimum lot size – 1 acre
 - 2. Minimum lot width – 200 feet
 - 3. Minimum front setback – 60 feet, from the road right of way
 - 4. Minimum side yard setback – 10 feet each
 - 5. Minimum rear setback – 20 feet
 - 6. Maximum height – 2½ stories or 35 feet

Section 5.6.4 – Performance Standards

- a. Farming and approved ancillary activities shall be carried out conscious of neighboring uses. Wherever feasible and justifiable, buffers of hedgerows, tree lots or other barriers should be maintained between different districts and uses to minimize conflicts. Michigan’s “Generally Accepted Agricultural and Management Practices” (GAAMPS) shall be used to determine whether a new use may be sited as proposed. Setbacks prescribed in the GAAMPS shall be used to assess the distances needed by a new use from existing residences and other uses.
- b. To the greatest degree practicable, land divisions, including single lot splits, must be designed to protect and preserve natural resources, productive farmland, and the culture and character of the area.
- c. Within all setbacks, landscape plantings shall be required by residential uses to buffer them from adjacent agricultural, or potential agricultural operations, and to retain the rural character of the area.

Section 5.6.5 – Accessory Structures and Uses

Zoning Permits, as described in Chapter 10, are required for the following (See Section 4.2 for additional requirements):

- Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall generally be located in side or rear yards.
- A pole building, or other storage building may be constructed without a principal structure provided compliance with the development standards as described in Section 5.6.3 and the performance standards described in Section 5.6.4.
- Home occupations are allowed as an accessory use. Accessory structures may be used for home occupations if there is a principal structure on the same parcel. See Section 4.25 for more information.

Section 5.6.6 – Miscellaneous Regulations

- The keeping of horses, ponies and other large farm animals is allowed on residential parcels of five (5) acres or larger within this district. No manure piles or other similar debris shall be kept within fifty (50) feet of any lot line. In all cases, compliance with MDARD’s current Generally Accepted Agricultural and Management Practices (GAAMPs) is required.
- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.

Section 5.7 – Lakeshore Residential (LR)

The purpose and intent of this district is to provide for medium-density single-family residential uses in lakefront areas of the Township.

Section 5.7.1 – Permitted Principal Uses

- a. Single-family dwellings.
- b. State licensed residential facilities for six (6) or fewer persons.
- c. Child care, whereby a residence is used for the care of six (6) or fewer children for a period of less than 24-hours a day.
- d. On-Site Wind Energy System – Allowed as an accessory use, see Chapter 12.
- e. Planned developments (Section 5.12).
- f. Storage buildings on undeveloped pre-existing lots, with a floor area between 50-square feet and 2,000-square feet: See Section 4.2(c)(1) for requirements.

Section 5.7.2 – Special Uses

- a. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for landscaping standards.
 1. Bed and breakfast establishments.
 2. Family day care homes, child day care centers and related facilities providing care to seven (7) or more persons.
 3. Public buildings.
 4. Public or private recreation facilities or parks.
 5. Storage buildings on undeveloped pre-existing lots, in excess of 2,000-square feet: See Section 4.2(c)(2) for requirements.
- b. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:
 1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
 2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.
 3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is

required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,

4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

c. The owner of any property in the LR district may permit the location of an occupied recreational vehicle of a guest or visitor on the premises for a period not to exceed thirty (30) days in the case of any one party in any calendar year in LR (Lakeshore Residential Districts). Tent camping is limited to a visit of seven (7) days in any one year in LR (Lakeshore Residential Districts). The property owner must apply for an appropriate permit, to be submitted the Zoning Administrator for review prior to occupancy, for each tent and occupied recreational vehicle of a guest or visitor.

Section 5.7.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided. Any lot existing and of record at the time this Ordinance became effective may be used in the district in which such lot is located whether or not such lot complies with the area lot requirements of this Ordinance, except as provided in Chapter 3 – Non-Conformities of this Ordinance. Such use may be made provided that all requirements other than lot area requirements prescribed in this Ordinance are complied with, and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit.

1. Minimum lot size – 1 acre
2. Minimum lot width – 105 feet
3. Minimum front setback – 40 feet from the road right of way, or the ordinary high-water mark if located on Lake Huron, or canal
4. Minimum side yard setback – 10 feet, each
5. Minimum rear setback – 20 feet
6. Maximum height – 2½ stories or 35 feet

Section 5.7.4 – Performance Standards

- a. In designing homesites and developments, proper sanitary and storm sewer measures shall be taken to ensure protection of lakes, streams, and other water bodies.
- b. All lot areas shall be landscaped to control run-off into lakes, streams and tributaries.
- c. Based upon site conditions, specific setbacks, buffers, and other requirements may be placed upon special uses to ensure safety and harmony between these special uses and other uses within the district.

Section 5.7.5 – Accessory Structures and Uses

Accessory structures and uses shall be subject to all other applicable codes and ordinances regarding construction, installation, and operation. A Zoning Permit, as outlined in Chapter 10, shall be required for all accessory structures and uses with a floor area between 50 and 200 square feet. Any accessory structure and use greater than 200 square feet in floor area shall require a building permit, in addition to the required zoning permit.

See Section 4.2(c) for permitting requirements for storage buildings on undeveloped pre-existing lots in the Lakeshore Residential (LR) district.

- Such structures may not be greater than 35-feet in height and cannot be greater in square footage than the anticipated footprint of the future Permitted Principal Use (single-family dwelling, etc).
- No more than two (2) accessory structures are allowed on a parcel or lot.
- One gazebo is allowed in addition to the other allowed accessory structures. A gazebo is defined as a roofed, open sided structure designed and used for outdoor living space. The side walls may be screened with insect screens but not solid walls or windows. A gazebo shall require a zoning permit and must conform to the setback requirements of Section 5.7.5 and the Sight Line requirements of Section 5.7.6.
- No accessory structure shall be located beyond the line of sight in the front yard; and all accessory structures must be located a minimum of ten (10) feet from any side lot line and shall be located no nearer than twenty (20) feet from a rear lot line. (The Front Yard is the yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the foundation line of the main building. In the case of a lot on Lake Huron, the front lot line is the ordinary high-water mark.)
- No boat houses are permitted.
- Home occupations are allowed as an accessory use and shall require a zoning permit. See Section 4.25 for more information.

Section 5.7.6 – Miscellaneous Regulations

- Sight Line Requirement: On any lot or parcel touching a lake or a canal, no structure or barrier in excess of thirty-six (36) inches in height shall be erected beyond the sight line. This requirement provision may be waived if the applicant can demonstrate by clear and convincing evidence that the lot or parcel on which the structure or barrier is to be constructed is a peninsula, a point, a bay, or otherwise positioned differently, (relative to the lake), thereby making the enforcement of the sight line provision ineffective as a means of preserving a lake front property owner's reasonable view of the lake. The waiving of the sight line provision as described here shall be at the discretion of the Zoning Administrator..

The sight line requirement shall not be construed to prohibit:

- a. Gardens, garden ornaments, and usual landscape features within required yard space when less than thirty-six (36) inches in height,

b. Retaining walls, and

c. The placement of temporary fencing, which is allowed every year from November 1 through to April 30, not to exceed forty-eight (48) inches in height which is intended to minimize the movement of sand onto lawns. Such fences shall be placed across the width of the lot, as close to the edge of the lawn as practicable.

- Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any property in this district other than in enclosed buildings. Licensed vehicles, trailers, or boats of seasonal use shall not be located on a lot so as to unnecessarily restrict the view of an adjoining property occupant.

- Lawn maintenance as required in Section 4.23.

- General Provisions as permitted in Chapter 4.

- Parking as permitted in Chapter 6.

- Signs as permitted in Chapter 7.

Section 5.8 – General Residential District (R)

The purpose and intent of this district is to provide for development of homes at a wide range of densities. The district is meant to encourage the development of attractive residential areas with compatible services and amenities. Multiple-family housing developments may be appropriate within this district provided that appropriate site conditions are met.

Section 5.8.1 – Permitted Principal Uses

- a. Single-family dwellings.
- b. Two-family dwellings (duplexes).
- c. State licensed residential facilities for six (6) or fewer persons.
- d. Child care, whereby a residence is used for the care of six (6) or fewer children for a period of less than 24-hours a day.
- e. Small tower-mounted wind energy turbines (STMWET) – See Chapter 12.
- f. Small structure-mounted turbines (SSMWET) – See Chapter 12.
- g. Planned developments including mobile home parks (see Section 5.12).

Section 5.8.2 – Special Uses

- a. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for landscaping standards.
 1. Bed and breakfast establishments.
 2. Public or private outdoor recreation or park facilities.
 3. Family day care homes, child day care centers, and related facilities providing care to seven (7) or more persons.
 4. Multi-family dwellings.
 5. Churches and other religious institutions.
 6. Public and private schools.
 7. Contractor and builder establishments.
 8. Pole building or other building as the principal structure on a parcel of one (1) acre or larger when the site plan clearly shows the location of the future Permitted Principal Use (single-family dwelling, etc). Such an approval shall be required to:
 - I. Record the Special Use approval and site plan with the Register of Deeds,

II. Submit an affidavit proclaiming the building shall not be used for human habitation, and

III. The Special Use approval and site plan shall clearly indicate the building will be constructed in the rear yard of the lot.

b. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:

1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;

2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.

3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,

4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

Section 5.8.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

1. Minimum lot size – 1 acre
2. Minimum lot width – 120 feet
3. Minimum front setback – 40 feet from the road right of way
4. Minimum side yard setback – 10 feet, each
5. Minimum rear setback – 20 feet
6. Maximum height – 2½ stories or 35 feet

Section 5.8.4 – Performance Standards

a. Multi-family dwellings will only be allowed where services and facilities warrant them.

b. In designing homesites and developments, care shall be taken to preserve the quality of the Township's natural environment. Proper drainage, including retention and detention areas, shall be provided and buffer areas shall be provided along the creeks, streams and drainage swales within this district.

c. Streets and roads shall integrate rationally into the county and city road networks. Connections to existing streets shall be required where appropriate. Road and driveway accesses onto a county primary road shall be no closer than 350 feet to one and other wherever possible.

d. Residential developments in rural portions of the district shall retain trees and other vegetation between the developed portions of a project and the county road rights-of-way.

Section 5.8.5 – Accessory Structures and Uses

Zoning Permits, as described in Chapter 10, are required for the following (See Section 4.2 for additional requirements):

- Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed.
- No accessory structure shall be larger than the square footage of the footprint of the principal structure.
- Home occupations are allowed in this district as an accessory use. Accessory structures may be used for home occupations if there is a principal structure on the same parcel. See Section 4.25 for more information.

Section 5.8.6 – Miscellaneous Regulations

- The keeping of horses, ponies and other farm animals is not allowed on lots in this district that are smaller than five (5) acres.
- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.

Section 5.9 – Commercial District (C)

The purpose and intent of this district is to provide locations for common commercial uses in the Township. Permitted uses will serve Township residents and regional residents as well as visitors to the area. All proposed uses are required to submit a Development Site Plan in accordance with Chapter 9 of this Ordinance.

Section 5.9.1 – Permitted Principal Uses

- a. General retail, office, financial, and service businesses.
- b. Restaurants, not including drive-through restaurants.
- c. Planned developments (Section 5.12)
- d. Small tower-mounted wind energy turbines (STMWET) – See Chapter 12.
- e. Small structure-mounted turbines (SSMWET) – See Chapter 12.

Section 5.9.2 – Special Uses

a. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for landscaping standards.

1. Adult entertainment establishments.
2. Building supply yards, warehouses, and wholesale businesses.
3. Coin-operated laundries.
4. Contractors and builders' establishments.
5. Drive-through businesses.
6. Hotels and motels.
7. Mortuaries and funeral homes.
8. Motor vehicle, boat, or recreational vehicle sales and/or repair facilities.
9. Motor vehicle service facilities, including gas stations and car washes.
10. Outdoor and indoor recreation establishments.
11. Residential dwellings--single-family, duplex, and multi-family.
12. Self-service storage facilities.
13. Taverns, bars, and similar establishments.
14. Theaters.
15. MMFLA Medical and MRTMA Adult-Use Marijuana Grower.

16. MMFLA Medical and MRTMA Adult-Use Marijuana Provisioning Center and Retail Establishment.
17. MMFLA Medical and MRTMA Adult-Use Marijuana Processor.
18. MMFLA Medical and MRTMA Adult-Use Marijuana Secure Transporter.
19. MMFLA Medical and MRTMA Adult-Use Marijuana Safety Compliance Facility.
20. MRTMA Adult-Use Excess Marijuana Grower.

b. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:

1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.
3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,
4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

Section 5.9.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

1. Minimum lot size – 22,500 square feet
2. Minimum lot width – 100 feet
3. Minimum front setback – 60 feet from the road right of way
4. Minimum side yard setback –10 feet, each, or zero if proper access, building, and fire codes are met
5. Minimum rear setback – 30 feet, or 50 feet from a residential district
6. Maximum height – 2½ stories or 35 feet

Section 5.9.4 – Performance Standards

a. This district intends that the historic pattern of commercial development along the major trunklines be continued with the further intention that new development shall be directed toward infill and/or rehabilitation of existing commercial sites.

- b. Street tree, landscape planting and corridor improvement requirements shall be followed.
- c. Driveways shall be kept to a minimum and service drives and/or parking areas must be connected to neighboring lots or to the lot lines between adjoining commercial parcels.
- d. Parking shall be placed to the sides and rear of businesses or structures wherever possible. Screening of parking by landscaping, architectural walls, fencing, and treed landscape islands may be required.
- e. Buffers and proper drainage devices shall be provided to ensure protection of township wetlands, creeks and the lake.
- f. Where appropriate, sidewalks and bike paths shall be provided.
- g. All storage shall be within an approved structure or completely screened from view.
- h. Commercial establishments adjacent to residential areas shall provide screening (landscaping, fencing, or other) at these property boundaries and carry on no activities including parking or storage within the buffer area adjacent to a residential district.

Section 5.9.5 – Accessory Structures and Uses

- Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed but must be approved by Site Plan Review and must be located in side or rear yards only.
- Unlicensed trailers and transit containers must be housed within the principal structure or in an approved permanent accessory structure.
- Home occupations are allowed in this district as an accessory use only when associated with an approved residential use. A Zoning Permit, as described in Chapter 10, is required to allow a home occupation. See Section 4.25 for more information.
- See Section 4.2 for additional requirements.

Section 5.9.6 – Miscellaneous Regulations

- Outdoor Advertising Structures are permitted in this district as a part of the Michigan Department of Transportation Tourist Oriented Signs Program only in accordance with Chapter 7.
- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.

Section 5.10 – Industrial (I)

The purpose of this district is to provide for areas where moderate scale industrial activities may occur within the Township. These areas will abut the City of Au Gres along its northwest boundary and where utilities, roads, and other necessary services are available.

Section 5.10.1 – Permitted Principal Uses

- a. Building supply yards, warehouses, and wholesale businesses.
- b. Contractors and builders' establishments.
- c. Design, manufacture, processing, packaging, treatment or use of previously prepared materials.
- d. Laundry and dry cleaning plants.
- e. Motor vehicle sales and/or repair operations.
- f. Motor vehicle service businesses.
- g. Office buildings.
- h. Printing and publishing plants.
- i. Storage facilities.
- j. Utility transforming stations and other installations.
- k. Planned developments (Section 5.12).
- l. Small tower-mounted wind energy turbines (STMWET) – See Chapter 12.
- m. Small structure-mounted turbines (SSMWET) – See Chapter 12.

Section 5.10.2 – Special Uses

- a. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.18 for Landscaping Standards.
 1. Telecommunications towers and antennas (see Section 4.11)
 2. Outdoor advertising structures (see Chapter 7)
 3. MMFLA Medical and MRTMA Adult-Use Marijuana Grower.
 4. MMFLA Medical and MRTMA Adult-Use Marijuana Provisioning Center and Retail Establishment.
 5. MMFLA Medical and MRTMA Adult-Use Marijuana Processor.
 6. MMFLA Medical and MRTMA Adult-Use Marijuana Secure Transporter.
 7. MMFLA Medical and MRTMA Adult-Use Marijuana Safety Compliance Facility.
 8. MRTMA Excess Marijuana Grower.

Any industrial use not specifically listed above may be submitted for a Special Use Permit in accordance with Chapter 8 of this Ordinance. The primary criterion for the Planning Commission accepting an application for review, to be determined solely at the Commission's discretion, will be the suitability of the proposed use at the proposed location. Factors used in this determination will include, but will not be limited to, the character of the neighborhood, necessary infrastructure availability, availability of a more appropriate site within the Township, traffic and roadway requirements, and the other elements of the proposed site plan submitted by the applicant.

b. A temporary house trailer, recreational vehicle, or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot or for an elderly or infirm family member during the period of convalescence or debility, provided that:

1. The trailer house will be removed within eighteen (18) months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
2. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.
3. The trailer, recreational vehicle, or an approved detached accessory structure will be connected to the approved well and septic system. The septic system is required for both the principal structure and the trailer/recreational vehicle/detached accessory structure; and,
4. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

Section 5.10.3 – Development Standards

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

1. Minimum lot size – 1 acre
2. Minimum lot width – 200 feet
3. Minimum front setback – 60 feet from the road right of way
4. Minimum side yard setback – 25 feet, each, or 50 feet from another district
5. Minimum rear setback – 25 feet, or 50 feet from another district
6. Maximum height – 50 feet

Section 5.10.4 – Performance Standards

- a. Proposed activities shall provide for all necessary infrastructure to the site.
- b. Ingress and egress drives shall be kept to a minimum, and where appropriate, service drives shall connect businesses. Flare or turning lanes may be required at highway entries.
- c. Buffers and proper drainage devices shall be provided to ensure protection of township creeks, streams, and other waterways.
- d. A street tree and landscape planting plan shall be followed.
- e. All storage shall be within a structure or screened from public view.
- f. Industrial operations adjacent to residential areas shall provide screening (landscaping, fencing, or berms) at these property boundaries and carry on no activities including parking or storage within a rear or side yard setback adjacent to a residential district.

Section 5.10.5 – Accessory Structures

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed but must be approved by Site Plan Review and must be located in side or rear yards only.

See Section 4.2 for additional requirements.

Section 5.10.6 – Miscellaneous Regulations

- a. General Provisions as permitted in Chapter 4.
- b. Parking as permitted in Chapter 6.
- c. Signs as permitted in Chapter 7.

Section 5.11 – Table of Dimensional Requirements

Zoning District	Minimum Lot Size ¹	Minimum Lot Width	Minimum Front Yard Setback ³	Minimum Side Yard Setback	Minimum Rear Yard Setback	Maximum Structure Height (Feet) ²
FR	1 acre	200'	60'	10' each	20'	2 1/2 stories or 35 feet
AR	1 acre	200'	60'	10' each	20'	2 1/2 stories or 35 feet
LR	1 acre	105'	40' from the road right of way, or the ordinary high-water mark if located on Lake Huron, or canal	10 feet, each	20'	2 1/2 stories or 35 feet
R	1 acre	120'	40'	10' each	20'	2 1/2 stories or 35 feet
C	22,500 sf	100'	60'	10 ⁴	30' ⁵	2 1/2 stories or 35 feet
I	1 acre	200'	60'	25 ⁶	25' ⁶	50'

1Parcel size variations may be granted by Planning Commission as part of a Special Use Permit.

2Telecommunication tower and antenna heights are governed by Section 4.11.

3From road right-of-way.

4Or zero if proper access, building, and fire codes are met.

5Or 50 feet from any residential district.

6Or 50 feet from another district.

Section 5.12 – Planned Developments (PD)

Section 5.12.1 – Purpose

Planned Development regulations furnish a beneficial and productive means to design site plans within areas designated in the Master Plan for housing, commercial, or special purpose developments. These regulations, while adhering to the underlying densities specified in the various districts of the zoning ordinance, provide for better design and planning of land uses by making the geography, the history and culture, and the ecology of the area the standards and determinants of that design rather than the singular enforcement of lot sizes and standard setbacks.

These regulations intend to promote the efficient and thoughtful use of the land, while encouraging a diversity of housing types, and mixed uses where appropriate, by maintaining the high degree of quality control necessary for the preservation of the natural and scenic elements that are integral to the rural character of the Township.

Projects approved hereunder shall be designated (PD) Planned Development.

Section 5.12.2 – Overlay District

Planned Developments, when approved by the Township Board pursuant to this Ordinance, shall constitute an overlay district to the zoning map. As an overlay district, the portions of this Section 5.12 and the conditions, if any, placed on the Planned Development by the Township Board shall apply and control over conflicting provisions in the underlying zoning district.

All legal methods of land subdivision may be used in the design of a Planned Development. All pertinent regulations addressed elsewhere in the zoning ordinance or in separate ordinances of the Township shall be complied with. Condominium projects and mobile home parks shall be administered and reviewed under this Section.

Section 5.12.3 – Table of District Regulations for Planned Developments

Zoning District	Minimum Project Area	Minimum Continuous Project Area ¹	Max DU/ Developable Acreage	Required Percent of Project as Open Space ²	Area, Yard and Other Requirements ³
FR	40 acres	200 feet	1 DU/ 0.5 acre	35%	see Section 5.11
AR	20 acres	200 feet	1 DU/ 0.5 acre	35%	see Section 5.11
LR	10 acres	105 ⁴ feet	1 DU/ 0.5 acre	35%	see Section 5.11
R	10 acres	120 ⁴ feet	1 DU/ 0.5 acre	40%	see Section 5.11

¹ On a county or state highway.

² Public or private easements, rights-of-way, drives, streets or alleys, parking areas or required lots shall not be counted as part of required open space.

³ Standards set forth in Section 5.11 shall be used as guides to development design; modifications shall be reviewed and approved based upon standards of this chapter.

⁴ Dependent upon sewer availability.

Section 5.12.4 – Dimensional Requirements

- a. See Section 5.12.3, above, and Section 5.11.
- b. “Open space” as used in this section shall be defined as land areas that are open and unbuilt and permanently preserved as such by easement or other means suitable to the Township Board.

Section 5.12.5 –Performance Standards

The following development requirements shall apply to all Planned Developments:

- a. The Planned Developments should be designed and developed in a manner compatible with and complementary to existing uses or development indicated by the current Master Plan for the immediate vicinity of the project site. Site planning on the property perimeter shall provide for the protection from adverse surrounding influences, as well as protection of the surrounding areas from potentially adverse influences from within the development.
- b. Open space may be left undeveloped or may be improved. If it is improved, provisions for its maintenance must be provided. If land is to remain undeveloped, measures may be required to mitigate construction, to improve natural habitat, and to prevent erosion and control drainage. Open space left in its natural state shall be kept free of litter. Open spaces shall link with those on adjoining properties to ensure maximum landscape cover and wildlife habitat.
- c. If development is to be done in stages, the development plan shall schedule the improvement of the open space, the construction of buildings, structures, and improvements in such open space, and the construction of dwelling units in order that each development stage achieves a proportionate share of the total open space and planned amenities of the total development.
- d. All or any part of designated open space may be reserved for use in common by the owners or residents of the Planned Development. Areas permanently preserved for common open space shall be reserved for the use and enjoyment of the owners and residents. The Township may, with the developer’s consent, require that open space easements be conveyed to the Township or to another responsible entity.
- e. All public streets within or abutting the proposed Planned Development shall be improved to Township and County specifications for the particular classification of street. When the developer desires to retain any streets within the development as private streets, such streets shall be maintained for their intended purposes by the development’s landowners association or other means acceptable to the Township and County. All roads and passageways must be designed to allow emergency vehicle access.

- f. Planned Developments shall be in harmony with the topography of the site, shall preserve water courses, drainage areas, wooded area, rough terrain, and similar natural features and areas.
- g. All utilities within a Planned Development shall be placed underground where feasible; otherwise, they shall be placed in the most unobtrusive manner possible. Sufficient easements shall be provided for all necessary utilities.
- h. The designation of building plots or building areas within which structures must be sited is required to ensure proper placement of homes in relation to the geography and ecology of the site as well as in relation to structures on surrounding properties.
- i. A property owners association shall be formed to hold title to and to manage any land, structures, or improvements to be held in common. Necessary stipulations of the Planned Development approval shall be conveyed by deed restrictions and covenants or within the condominium master plan, whichever is applicable.
- j. The development must meet all the standards and requirements of the various agencies that have jurisdiction over the development area. No Planned Development shall be granted final approval until all necessary approvals are obtained.
- k. A development schedule, including all contiguous or adjacent land owned or controlled by the applicant, shall be submitted indicating planned phases, including construction of roads, utilities, dwellings and amenities--all the major components of the project. An annual updated schedule shall be submitted to the Planning Commission until the entire development is completed. This annual report shall include, at minimum, the percentage complete to date and forecasted construction for the ensuing year of each component of the project. Approval of subsequent stages of a development shall be based upon adherence to the approved schedule or modifications agreed upon by the Planning Commission.

Section 5.12.6 – Accessory Structures and Uses

Accessory uses and structures shall be located as specified on the development plans as approved by the Township.

Section 5.12.7 – Miscellaneous Regulations

- a. General Provisions as permitted in Chapter 4.
- b. Parking as permitted in Chapter 6.
- c. Signage as permitted in Chapter 7.

Section 5.12.8 – Conceptual Development Plan; Application Requirements

a. Seven (7) copies of a conceptual development plan encompassing all phases of the proposed PD, prepared at a scale not less than one (1) inch equals fifty (50) feet if the property is less than three (3) acres and one (1) inch equals one hundred (100) feet, if more, containing the following information:

1. Name of development, applicant name, preparer name, if different, date of preparations, written and graphic scale, north arrow, property lines and dimensions, size of property in acres.
 2. Zoning and use of all adjoining properties.
 3. Existing natural features of the site, including predominant vegetative cover, major tree stands, and existing drainage ways.
 4. Existing site improvements, including existing buildings or other structures, existing utilities with sizes shown, and any existing easements of record.
 5. Existing site elevation contours at a minimum of twenty (20) foot intervals.
 6. If applicable, identify existing shoreline, existing one-hundred (100) year flood hazard area boundary and existing wetlands.
 7. Existing rights-of-way lines, pavement edges and names of public streets; proposed layout of new public streets or private roads.
 8. Layout and typical dimensions of proposed lots, including building plots or pads. If the proposed Planned Development zone includes construction of buildings or other structures, identify proposed footprints and dimensions, proposed number of stories; identify uses proposed within the Planned Development and the acreage allotted to each use.
 9. Locations of proposed access driveways and parking areas.
 10. If multi-phase development is proposed, identify areas included in each proposed phase.
- b. A legal description of the land to be included in the Planned Development.
- c. A sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within five-hundred (500) feet of the Planned Development.
- d. A narrative statement describing the overall objectives of the Planned Development.
- e. A complete application on a form supplied by the Township.
- f. Payment of the fee established, from time to time, by resolution of the Township Board to cover the cost of the Planned Development project review.

Section 5.12.9 – Planning Commission Review of Conceptual Development Plan

a. The Planning Commission shall review the conceptual development plan at a public hearing. Recommendations made by the Planning Commission shall be based upon its

consideration of the standards for approval of a Planned Development contained in this section, and based upon the intent of the Ordinance. The recommendation of the Planning Commission shall be transmitted in written form to the Township Board, and a copy of the recommendations transmitted to the applicant.

b. Review Procedure:

1. The Planning Commission shall review the conceptual site plan to ensure that:
 - i. The uses, buildings, and structures shown on the conceptual site plan are not in conflict with the Master Plan of current adoption.
 - ii. That the proposed uses, buildings, and structures are compatible with surrounding uses of land, or that measures to mitigate adequately non-compatible uses have been included on the conceptual site plan.
 - iii. That the plan meets the applicable development and performance standards of this section and of the district in which it is proposed to be situated.
2. Based on the findings of its review, the Planning Commission shall do one of the following:
 - i. Grant conceptual site plan approval.
 - ii. Grant conceptual site plan approval subject to conditions and the submission of a revised site plan.
 - iii. Reject the conceptual site plan, stating the specific reasons for the rejection.

Section 5.12.10 – Application for Rezoning/Zoning Map Amendment

Once the Planning Commission has granted concept development plan approval, an application for Planned Development zoning may be filed and processed in accordance with Chapter 13 of this Ordinance. The approved conceptual site plan shall be made part of the application, and shall be considered as part of the rezoning request.

Section 5.12.11 – Site Plan Review Required

Either concurrent with the application for rezoning or upon rezoning approval, the applicant must apply for development site plan approval in accordance with Chapter 9. Prior to any new construction, site plan approval must be obtained.

In addition to the information required for development site plan approval, the applicant shall submit, where relevant, the following:

- a. Lot lines and building pads.
- b. Details of proposed project lighting.
- c. A copy of all of the following that are applicable: proposed deed restrictions, covenants, condominium or landowner association documents.

- d. Summary data schedules:
 - 1. Number and sizes of proposed units, including accessory or ancillary structures.
 - 2. Area and percentage of building site coverage.
 - 3. Area and percentage of impervious surface coverage.
 - 4. Area and percentage of open, undeveloped space.
 - 5. Parking space calculations, if applicable.

Section 5.12.12 – Changes to an Approved Planned Development

- a. No changes to an approved development plan for a Planned Development shall be made, except by mutual agreement between the applicant and the Township. Revisions to an approved final development plan or to any conditions imposed on an approval, with the exception of minor administrative changes, which do not alter the layout, number of units or other details of the plan by more than five (5%) percent, shall be processed in the same manner as an application for approval of a Development Site Plan, as specified in Chapter 9.
- b. Minor administrative changes may be made by the Planning Commission or the Commission may delegate this responsibility to the Zoning Administrator.

Section 5.12.13 – Time Limit for Approved Planned Developments

- a. Construction of an approved Planned Development shall commence and shall proceed meaningfully toward completion within one (1) year from the date of the approval of the Planned Development by the Township Board.
- b. The owner or applicant of the Planned Development may apply to the Township Board for one (1) extension of the original approval for an additional term of one (1) year. The Township Board may, in its discretion, authorize this extension. In considering such authorization, the Township Board shall use the following standards:
 - 1. The Planned Development has encountered unforeseen difficulties beyond the reasonable control of the owner or applicant.
 - 2. The Planned Development is likely to commence and to be completed.
- c. If the Planned Development has not commenced and proceeded meaningfully towards completion at the end of the initial one (1) year time period, or the one permitted extension thereof, then the Planned Development approval shall automatically become invalid and void.

Chapter 6 – Parkin

Section 6.1 – Intent and Purpose

It is the purpose of these regulations to ensure that adequate parking facilities are provided for and that they are adequately maintained. Off-street parking as required by this Ordinance shall be in accordance with the following provisions.

Section 6.2 – Adequate Off-Street Parking

For all uses, adequate off-street parking shall be required. Off-street parking areas shall be designed with enough capacity to provide safe and sufficient parking for all vehicles during normal times of use. Direct access to off-street parking areas shall be provided from a county street or an approved private street, service drive, lane, or alley. Street rights-of-way shall not be construed as satisfying the requirements of this Chapter except as allowed by specific districts and uses in this Ordinance. Parking needs shall be reviewed as a part of Development Site Plan Review, Chapter 9.

Section 6.3 – Table of Off-Street Parking Recommendations

The following table provides a guide for surfaced parking areas. The total parking recommended is the sum of spaces for all land uses proposed on the site, plus employee parking, as outlined in the table.

	# of	
	Spa	
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Ho		Un
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Pa	2	
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Senior Citizen Housing	1	Dwelling Unit
Day Nursery	1	4 Children
Doctor, Dentist, Veterinarian	2	Exam or Treatment Room
Retail, office, Service, Financial	1	250 sq. ft. of Public Area
Vehicle Sales	1	800 sq. ft. of Public Area
Vehicle	3	Wash, St

Service/Wash, Gas Station		all or Fuel Pump
Truck Stop	5*	Fuel Pump (12' x 70' / truck)
Barber Shop or Beauty Salon	3	Chair
Bar or Restaurant (Not Drive-In)	1	2 Seats
Drive-In or Drive-	1	200 sq. ft. Gross

Th ru Re sta ur ant		s Flo or Ar ea
Ho tel, Mo tel, Be d & Br ea kfa st	1	Gu est Ro om

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Meeting Hall, Skating Rink, Community Center, Gymnasium, Auditorium	1	3 based on Fire Code	Persons Allowed in Bldg.
Bowling Alley	4	Lane	
Wholesale, Industrial	1	900 sq. ft. Gross Floor Area	
Church, Theater, Arena	1	2 Pew	Seats or 4 feet of Bench or
Grade School	1	10 Students	
High School	1	5	Students
College, Technical School	1	3	Students
Hospital, Visitor Parking	1	3	Beds
Hospital, Doctors Parking	1	2	Medical Staff Members
Nursing Home	1	3	Beds
Library, Museum, Gallery, Post Office	1	800 sq. ft. Gross Floor Area	
Private Club	1	2	Member Families

Any Employment Site	1	Employee at Peak Shift
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**Spaces should be sized as noted.*

Where an applicant can substantiate a different parking need than those indicated above, upon submittal of convincing written evidence to the Planning Commission, a deviation may be allowed. Unpaved parking areas may be allowed to handle special events or high non-routine parking requirements. These areas, though, must have a properly stabilized subsoil and meet regular landscape requirements.

Section 6.4 – Uses Not Listed

The Zoning Administrator shall determine the number of parking spaces required for all uses, including those not listed in the table above. If the use is not listed, the Zoning Administrator shall determine the number of required spaces based on a comparison of the proposed use and a similar use that is listed in the Table of Off-Street Parking Recommendations. In the event that there is a dispute over the number of spaces required, the matter shall be referred to the Zoning Board of Appeals for review and decision.

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Section 6.5 – Building, Structure, or Use Expansions or Additions

Additional parking shall be provided for any increase in floor area, change in use, addition, or expansion of a building or site.

Section 6.6 – Joint Parking

The use and construction of shared parking is encouraged and allowed when it can be demonstrated that the parking requirements of this Chapter can be met.

Section 6.7 – Off-Street Parking Area Construction Requirements

- a. The off-street parking areas shall be surfaced with a durable material that shall be graded to drain and manage storm water.
- b. Storm water collection, drainage and retention structures meeting all requirements of the Arenac County Road Commission and the Arenac County Drain Commissioner shall be installed for all off-street parking areas.
- c. Driveways and aisles for any off-street parking area shall be clearly defined meeting the following requirements:
 - 1. Each driveway lane shall be a minimum of nine (9) feet and a maximum of twenty (20) feet in width per direction. Lanes for entering and exiting traffic shall be defined.
 - 2. A driveway shall intersect the abutting street at a ninety (90) degree angle.
 - 3. Aisles shall be at least eighteen (18) feet wide.

- d. Each parcel shall have no more than one (1) driveway entrance and exit opening to an abutting public thoroughfare for each three hundred fifty (350) feet of frontage, or fraction thereof. Where more than one (1) driveway is allowed because of an existing driveway, it will be as far as possible from the nearest driveway(s), except in high density area. No parking lot driveway shall be located closer than ten (10) feet from a neighboring property line unless it is a joint driveway serving both properties.
- e. All lighting of a required off-street parking area shall be arranged in such a manner and shall be of such height that the illumination is directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.
- f. Parking and loading areas in general shall be located beside or behind structures, but in no case closer than five (5) feet from any road right-of-way.
- g. Any parking area larger than ten (10) spaces shall have a visual screen not less than four (4) feet high between the parking area and adjacent property zoned for residential uses.
- h. A zoning permit shall be required for construction of any parking lot.

Chapter 7 – Signs

Section 7.1 – Intent and Purpose

The intent of this Chapter is to regulate the number, physical dimensions, erection and placement of signs in Au Gres Township. The purpose of these regulations is to:

- a. Promote the public health, safety, and welfare of residents and visitors
- b. Reduce hazardous distractions to motorists and pedestrians
- c. Protect commercial districts from visual clutter and ugliness
- d. Protect property values
- e. Protect the rural character and natural beauty of the Township.

Section 7.2 – Definitions

For the purposes of this Chapter, the following terms and definitions shall apply:

AWNING SIGN. A building sign or graphic printed on or in some fashion attached directly to the awning material.

BUILDING SIGN. A sign attached to a building as either a wall sign, projecting sign, awning sign, window or canopy sign. No sign shall be placed above the roof line.

BILLBOARD. A sign structure advertising a service, commodity or establishment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, also known as "off -premise sign" or "outdoor advertising structure." Such sign is subject to the requirements of the Highway Advertising Act, PA 106 of 1972 (as amended) as well as to the provisions of this Ordinance.

CANOPY SIGN. Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service, or entertainment.

DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

ELECTRONIC MESSAGE CENTER: A variable message sign that utilizes computer generated messages or other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

FREESTANDING SIGN . Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

GROUND SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

ILLUMINATED SIGN. Any sign designed to give forth artificial light or designed to reflect any such light given from any source which is intended to cause such light or reflection.

NONCOMMERCIAL SPEECH. Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

OFF-PREMISE SIGN. A permanent sign erected, maintained, or used in the outdoor environment for the purpose of the display of commercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

ON-PREMISE SIGN. A sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

PORTABLE SIGN. Any sign so constructed to be readily moveable from one location to another and not permanently affixed to a building or the ground. A portable sign is a temporary sign.

PROJECTING SIGN. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.

SIGN. Any device visible from a public place or right-of-way whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

SIGN AREA. The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign, including frames surrounding display areas. For signs which consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the word, or words, as a whole. For purposes of computing sign area, only one side of a sign shall be used.

WALL SIGN. Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

WINDOW SIGN. Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or services, what is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Section 7.3 – General Requirements for All Signs

NOTE: Any sign that can be displayed under the provisions of this Chapter may contain a non-commercial message.

1. **Illumination:** Internally and externally lighted, reflectorized, glowing, and other forms of illumination shall be permitted on all signs, except as otherwise regulated in this Chapter. All illumination shall be concentrated on the area of the sign or landscape feature so as to prevent glare upon the street or adjacent property. No sign shall be illuminated by other than electrical means or devices, and wiring shall be installed in accordance with the Building Code. In no instance shall such illumination be located as to be hazardous to traffic.
2. **Signs Not to Constitute a Traffic Hazard:** No sign shall be erected in such a manner as to obstruct free and clear traffic vision.
3. **Face of Sign Shall Be Smooth:** No nails, tacks or wires shall be permitted to protrude from the front of any sign. This shall not exclude, however, the use of block letters, electrical reflectors, or other devices, which may extend over the top and in front of the advertising structure.
4. **Obscene Matter Prohibited:** It shall be unlawful for any person to display upon any sign or other advertising structure any obscene matter.
5. **Removal of Certain Signs:** Any sign no longer being used shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which said sign shall be found within thirty (30) days after written notice from the Zoning Administrator. This provision may be waived by the Planning Commission for signs having historic value as determined by the Planning Commission.
6. **Sign Setbacks:** All free standing, ground, pole, portable, and pylon signs shall be setback not less than ten (10) feet from side lot lines and all road right-of-way lines except as otherwise provided herein.
7. **Construction:**
 - A. All pole signs shall be securely built, constructed and erected upon posts and standards sunk at least forty-two (42) inches below the material surface of the ground and embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment. A lightning-grounding device shall be provided in accordance with applicable electric codes.
 - B. All letters, figures, characters or representations in cutout or irregular form, maintained in conjunction with attached to, or super imposed upon any sign shall be safely and securely built or attached to the sign structure.
 - C. All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts, or expansion screws.
8. **Signs located in the US-23 Right of Way**

In addition to the requirements contained within this Chapter, a Michigan Department of Transportation permit shall be required for any sign located in the US-23 Right of Way. All conditions required by said Department shall be complied with during and after sign erection.

Section 7.4 – Permitted Signs in the General Residential and Lakeshore Residential Zoning Districts

1. **Residential Use Signs:** Wall, ground, and temporary signs, as defined in this Chapter, are allowed in the General Residential and Lakeshore Residential zoning districts provided such signs shall not be illuminated unless otherwise provided for in this Chapter and subject to the following conditions by type:

A. **Multiple-Family Residential Units and Mobile Home Park Districts:**

Any person owning or operating any multiple-family residential units or mobile home park may erect a sign such sign not to exceed thirty-two (32) square feet in area and not to exceed an overall height of six (6) feet above the ground level. No more than one (1) sign may be erected for each development entrance.

B. **Wall Signs:**

1. For each dwelling unit, one (1) nameplate not exceeding two (2) square feet in area.
2. All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws.

C. **Temporary Signs:**

1. **Signs during the development of a Subdivision or Multi-Family Development:** It shall be permissible to erect one (1) sign not to exceed a total surface area of thirty-two (32) square feet nor an overall height of ten (10) feet, the lower edge of which shall not be less than eighteen (18) inches above surrounding ground level. No such sign shall be erected or maintained within one hundred (100) feet of any occupied residence unless the written consent of the owner and occupant of such residence is first obtained.

2. **Banners and Pennants:** During periods of “open house” for new homes, banners and pennants may be allowed for periods not to exceed thirty (30) consecutive days as designated in the sign permit.

3. **Single Family Residential Construction Period Signs:** During the time a single family residential building is constructed, one (1) sign shall be allowed not to exceed six (6) square feet in total surface area and shall be located on the premises being utilized for such construction. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.

4. During the time a property is up for rental, sale, or lease: One (1) sign shall be allowed not to exceed six (6) square feet and not to exceed a height of six (6) feet.

5. **Signs during election period:** Signs up to 24 square feet in size may be displayed 30 days prior to an election. Such sign shall be removed within 10 days after the election. An election is any ballot issue conducted under federal, state, county, or township laws or Chapter in which residents of Au Gres Township are entitled to vote, including elections or votes regarding selection or recall of any federal, state, county or township officials, any ballot questions, referendum or advisory vote.

6. No temporary sign shall be strung across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the Township Board and County Road Commission.

7. Temporary signs shall be removed promptly at the end of the display period provided for above.

8. Temporary signs found by the Zoning Administrator to be in a torn, damaged, or unsafe condition must be removed by the owner within three (3) days after his receipt of notice to do so from the Zoning Administrator.

2. **Non-Residential Signs:** Churches, schools, colleges, and buildings housing governmental functions of the Township, County or State or any subdivision thereof, are permitted to erect a sign in the residential districts. Such signs may be illuminated. Such signs, when of a permanent nature, shall be constructed of materials approved by the Zoning Administrator and shall meet all the requirements of this Chapter and shall be limited to freestanding signs as defined in this Chapter and subject to the following conditions:

A. **Freestanding Signs:**

1. There shall be no more than one (1) sign.

2. Such signs shall be set back from the lot line at least one-third (1/3) of the distance from the lot line to the nearest building, but need not be set back more than one hundred (100) feet from the property line.

3. No sign shall exceed twenty (20) square feet in area, unless the sign is located more than fifty (50) feet behind the property line, then said sign may be increased by five (5) additional square feet for each additional ten (10) feet of setback, but in no event shall such sign exceed fifty (50) square feet in area.

B. **Temporary Signs:**

1. During the period of construction, not more than one (1) shall be allowed not to exceed thirty-two (32) square feet in total surface area and shall be located on the premises being utilized for construction. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.

2. During the time a property is up for rental, sale, or lease, one (1) sign shall be allowed not to exceed six (6) square feet and not to exceed a height of six (6) feet.

3. **Portable Sign:**

a. Portable signs not exceeding thirty-two (32) square feet in area for each face of such sign shall be allowed and shall be permitted as temporary signs for periods not to exceed seven (7) consecutive days in a twenty-eight (28) day period on any one (1) lot and not to exceed twenty-eight (28) days in any one (1) year. In no instance shall such signs be located so as to obstruct parking spaces or automobile or pedestrian travel lanes. Such signs shall not flash or be located so as to obstruct traffic vision and lighting shall be of a type so as not to be confused with traffic controls and not to cause distraction to vehicle driver.

b. Connections to an energy source for lighting shall be in accord with all codes of the Township and shall not be exposed in any way that may constitute a safety hazard to the public. This provision shall apply to existing portable signs and to new portable signs

4. Signs during election period: Signs up to 24 square feet in size may be displayed 30 days prior to an election. Such sign shall be removed within 10 days after the election. An election is any ballot issue conducted under federal, state, county, or township laws or Chapter in which residents of Au Gres Township are entitled to vote, including elections or votes regarding selection or recall of any federal, state, county or township officials, any ballot questions, referendum or advisory vote.

5. No temporary sign shall be strung across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the Township Board and County Road Commission.

6. Temporary signs shall be removed promptly at the end of the display period provided for above.

7. Temporary signs found by the Zoning Administrator to be in a torn, damaged, or unsafe condition must be removed by the owner within three (3) days after his receipt of notice to do so from the Zoning Administrator.

Section 7.5 – Permitted Signs in the Forest/Residential and Agriculture/Rural Residential Zoning Districts

1. All sign types allowed and as controlled for General Residential and Lakeshore Residential zoning districts shall apply to the Forest/Residential and Agriculture/Residential zoning districts.

2. Wall, freestanding, and temporary signs, as defined in this Chapter, are allowed for commercial uses in the Forest/Residential and Agriculture/Residential zoning districts, excluding home occupations. One (1) freestanding and one (1) wall sign as defined in this Chapter is permitted, subject to the following conditions by type:

A. **Freestanding Sign:** It shall be permissible for a commercial use to erect one (1) freestanding sign not to exceed thirty-two (32) square feet per sign face. The top of sign shall not exceed twenty (20) feet in height and shall have its lowest point of the sign face not less than eight (8) feet from the ground. Freestanding signs shall have a minimum setback of not less than ten (10) feet from side lot lines and all road right-of-way lines.

B. **Wall Sign:** The total surface area of all wall signs placed on buildings shall not exceed ten (10) percent of the area of the wall on which the sign shall be placed. If a single principal building is devoted to two (2) or more businesses, or commercial uses, the tenant of each such use may install a wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the wall (including doors and windows) of the principal building occupied by each such use and applying such proportion of the total sign area permitted for the wall of the building or the percent agreed to by the tenants, total not to exceed the above area limitation.

Section 7.6 – Permitted Signs in the Commercial and Industrial Zoning Districts

1. Freestanding, wall, projecting, marquee, awning, canopy, banner, portable, and temporary signs are permitted in the Commercial and Industrial Zoning Districts. One (1) freestanding and any two (2) additional signs of the applicant's choice from those signs listed in A through E below not including additional freestanding signs shall be permitted. On a corner lot or in those instances where business building entrances exist on more than one (1) wall, one (1) wall sign in addition to those allowed above may be permitted.

A. Freestanding Sign:

1. One (1) freestanding sign having a sign area of not more than eighty (80) square feet per sign face shall be allowed. The height of such pole sign shall not exceed twenty (20) feet in height and shall have its lowest point of the sign face not less than eight (8) feet from the ground. A setback of not less than ten (10) feet from side lot lines and all road right-of-way lines. Buildings grouped on a site such as a strip shopping area, shopping plaza or shopping center may provide in addition to the eighty (80) square feet allowed an additional twenty (20) square feet of sign face per each building unit occupying the grouped buildings on the site.

B. Wall Sign:

1. The total surface area of all wall signs placed on the front, side or rear of a building shall not exceed ten (10) percent of the area of the wall being utilized (including doors and windows of the principal building) or where a single principal building is devoted to two (2) or more business or commercial uses, the operator of each such use may install a wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the wall being utilized (including doors and windows) of the principal building occupied by each such use and applying such proportion of the total sign area permitted for the wall of the building or the percent agreed to by the occupants, total not to exceed the above area limitations.

2. No wall sign shall cover wholly or partially any wall opening nor project beyond the ends or top of the wall to which it is attached.

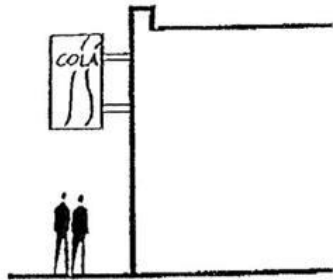
3. No wall sign shall have a greater thickness than eighteen (18) inches measured from the wall to which it is attached to the out surface. Wall signs may project over the public right-of-way or pedestrian walkways not to exceed eighteen (18) inches.

C. Projecting:

1. One (1) projecting sign limited to not more than thirty-two (32) square feet of sign area for each sign face.

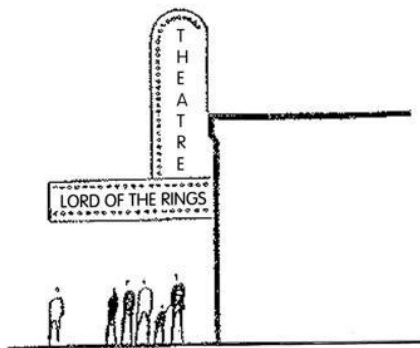
2. No projecting sign shall exceed a height greater than the front wall height of the building to which it is attached or extended below a minimum height of eight (8) feet.

3. The distance measured between the principal faces of any projecting sign shall not exceed eighteen (18) inches.
4. Projecting signs of a greater total surface area than ten (10) square feet or fifty (50) pounds in weight shall not be attached to nor supported by frame buildings nor the wooden framework of a building. All projecting signs shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces.
5. Any movable part of a projecting sign, such as the cover of a service opening, shall securely be fastened by chains, hinges or other suitable fastening device.



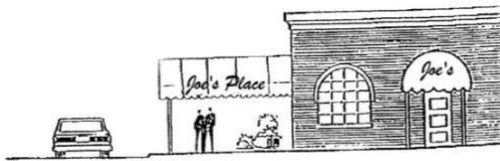
D. Marquee:

1. No marquee sign shall have a total surface area exceeding thirty-two (32) square feet.
2. No marquee sign shall extend below a minimum height of ten (10) feet.
3. Every marquee sign, including the upright supports and braces thereof, shall be constructed entirely of noncombustible materials.
4. Every marquee sign shall be thoroughly secured to the building by iron or metal anchors, bolts, supports, rods or braces.



E. **Awning or Canopy:** Letters may be painted or otherwise affixed to any permissible awning or canopy subject to the following regulations:

1. Letters or lettering shall be computed as a part of the maximum allowable sign area as provided for wall signs.
2. No awning or canopy sign shall extend below a minimum height of eight (8) feet.
3. Any awning projecting more than thirty-six (36) inches shall be required to have a building permit.



2. **Electronic Message Center (EMC):** No more than thirty-two (32) square feet of any allowable sign shall be an electronic message center.

A. An EMC sign may be a portion of a building or freestanding sign, or may comprise the entire sign area.

B. All EMC signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings in order to reduce the EMC lighting level at night down to a maximum luminance level of seven hundred fifty (750) cd/m² or Nits at least one-half hour before sunset as determined by the National Oceanic and Atmospheric Administration (NOAA). The sign must comply with this maximum luminance level throughout the night until sunrise, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate.

3. **Temporary Signs:**

A. During the period of construction, not more than one (1) shall be allowed not to exceed thirty-two (32) square feet in total surface area and shall be located on the premises being utilized for construction. The sign shall not be of greater height than the top of the wall to which it is attached. If the temporary sign is not attached to a wall, the sign shall not be of greater height than five (5) feet above the ground. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.

B. During the time a property is up for rental, sale, or lease, one (1) sign shall be allowed not to exceed six (6) square feet and not to exceed a height of six (6) feet. A corner lot shall be allowed two (2) signs, one facing each street.

C. When a new business opens, one (1) additional sign up to thirty-two (32) square feet in total surface area is allowed for up to three (3) months. The sign shall not be of greater height than the top of the wall to which it is attached. If the temporary sign is not attached to a wall, the sign shall not be of greater height than five (5) feet above the ground. Such sign shall be removed upon completion of construction or upon cessation of work for a period of six (6) months.

D. Signs during election period: Signs up to 24 square feet in size may be displayed 30 days prior to an election. Such sign shall be removed within 10 days after the election. An election is any ballot issue conducted under federal, state, county, or township laws or Chapter in which residents of Au Gres Township are entitled to vote, including elections or votes regarding selection or recall of any federal, state, county or township officials, any ballot questions, referendum or advisory vote.

E. One (1) portable sign not exceeding thirty-two (32) square feet in surface area shall be allowed up to 90 days in any one (1) year. In no instance shall such sign be located so as to obstruct parking spaces or automobile or pedestrian travel lanes. Such signs shall not flash or be located so as to obstruct traffic vision and lighting shall be of a type so as not be confused with traffic, controls and not to cause distraction to vehicle drivers. Connections to an energy source for lighting shall be in accord with all codes and shall not be exposed in any way that may constitute a safety hazard to the public.

F. No temporary sign shall be strung across any public right-of-way nor shall any temporary sign project beyond the property line except as authorized by the Township Board and County Road Commission.

G. Temporary signs shall be removed promptly at the end of the display period provided for above.

H. Temporary signs found by the Zoning Administrator to be in a torn, damaged, or unsafe condition must be removed by the owner within three (3) days after his receipt of notice to do so from the Zoning Administrator.

Section 7.7 – Off-Premise Signs

a. Location.

1. Off-premises signs are permitted by special use permit in the Industrial District.

Off-premises advertising signs are subject to the following height, location, and size restrictions:

b. Area: Shall not exceed two hundred (200) square feet in area

c. Height and Location of Sign.

1. The lowest edge of an off-premises sign shall be at least eight (8) ft. above the finished grade of the adjoining roadway.
2. Off-premises signs shall have a maximum height of 30 ft. d. Spacing: Off-premises signs shall be:
 1. Set back from the road right of way a distance of 100 feet.
 1. Located no closer than 300 feet from any residential structure on the highway or road.
 2. Located no closer than 3,000 feet from another off-premises sign on either side of the road measured linearly.
 3. Not attached to the external wall or otherwise affixed to any part of any building and shall not extend over any public property or right-of-way.
 4. Not located on sewer rights-of-way, or water, electric, or petroleum pipelines.
 5. Not located on a bridge
- e. Number of Signs per Lot: There shall be no more than one off-premises sign per lot. Vertically or horizontally stacked signs shall not be permitted.
- f. Double-Sided Off-Premises Signs: Signs may be single or double-sided, in accordance with sign area requirements.
- g. Message Sequencing: Message sequencing is prohibited.
- h. Construction and Maintenance.
 1. All plans for off-premises signs shall be certified by a licensed engineer registered in Michigan.
 2. All off-premises signs shall be constructed in accordance with industry-wide standards established by the Outdoor Advertising Association of America and the Institute of Outdoor Advertising, or their successor organizations. All off-premises advertising signs shall be structurally sound and maintained in good condition and in compliance with the Michigan Uniform Construction Code.
 3. The rear face of a single-face, off-premises advertising sign shall be painted and maintained with a single neutral color as approved by Au Gres Township.
 4. Every three years, the owner of the billboard shall have a structural inspection made of the billboard by a licensed engineer registered in Michigan and shall provide to Au Gres Township a certificate certifying that the billboard is structurally sound.
- i. Identification of Sign Owner: All off-premises signs shall be identified on the structure with the name, address, and phone number of the owner of such sign.
- j. Additional Regulations. All off-premises signs shall comply with any and all applicable zoning regulations of Au Gres Township, and any and all municipal, state and/or federal regulations. In the event any other applicable regulation is in conflict with the provisions of this Section, the stricter regulation shall apply.

k. Application/Plan Requirements. Plans submitted for off-premises advertising signs shall show the following:

1. The location of the proposed sign on the lot with the required sign setbacks from the property line and ultimate right-of-way.
2. The distance to the nearest existing off-premises advertising sign.
3. The distance to the nearest right-of-way, property line, building, structure, on-premises sign, off-premises sign, intersection, interchange, safety rest area, bridge, residential district, or institutional use, sewer rights-of-way, and water, electric or petroleum pipelines.
4. Site plan containing all of the applicable requirements set forth in the Au Gres Township Zoning Ordinance.
5. Certification under the seal by a licensed engineer that the off-premises sign, as proposed, is designed in accordance with all federal, state, and local laws, codes, and professional standards.

l. Illumination Off-Premises Signs.

1. Off-premises signs may be illuminated, provided that:
 - i. All light sources are designed, shielded, arranged, and installed to confine or direct all illumination to the surface of the off-premises sign and away from adjoining properties.
 - ii. Light sources are not visible from any street or adjoining properties.
- b. Safety. In applying for special exception relief (variance), the applicant bears the burden of proof to establish that the proposed off-premises sign will not create a public health or safety hazard in the matter and location that it is proposed and in the manner by which it is to be operated.

Off-premise signs on the interstate and primary highway system shall be in accordance with Michigan Public Act 106 of Public Acts of 1972 (Highway Advertising Act of 1972) and a permit must be obtained from the Michigan Department of Transportation or County Road Commission and also conform with Au Gres Township sign regulations.

Section 7.8 – Prohibited Signs

1. The following signs are prohibited within the Township:
 - A. It shall be unlawful for any person to display upon any sign or other advertising structure any obscene matter.
 - B. Signs, which incorporate in any manner any flashing, moving lights or animation, other than electronic message centers.
 - C. Any sign unlawfully installed, erected, or maintained.
 - D. Signs on trees or utility poles.

- E. Any sign on the roof of any building except signs on mansard roofs.

Section 7.9 – Sign Permits

1. **Permit Required:** A Zoning Permit must be obtained from the Township Zoning Administrator prior to the construction or placement of any sign.
2. **Application for Sign Permit:** Applications for permits shall be made upon forms provided by the Zoning Administrator and shall contain or have attached thereto the following information:
 - A. Name, address and telephone number of the applicant.
 - B. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - C. Position of the sign or other advertising structure in relation to nearby buildings or structures.
 - D. One (1) print or drawing of the plans and specifications and methods of construction and attachment to the building or in the ground.
 - E. Name of person, firm, corporation or association erecting structure.
 - F. Written consent of the owner where the sign is to be erected on vacant land.
 - G. In all cases where wiring is to be used in connection with the structure, it shall comply with the Electrical Code. The Electrical Inspector shall approve and affix his signature to said permit.
 - H. Such other information as the Zoning Administrator shall require to show full compliance with this and all other Chapters of the Township.
3. **Permit Issued if Application is in Order:** It shall be the duty of the Zoning Administrator, upon the filing of an application for a permit, to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign, and if it shall appear that the proposed structure is in compliance with all requirements of the Township, he shall then issue the erection permit. In the case of illuminated signs, both an electrical permit and an erection permit must be issued.
4. **Sign Permit Fee:** It shall be unlawful in the Township of Au Gres for any person to erect or alter any sign, except those signs specifically exempted herein, unless a permit shall first have been obtained from the Zoning Administrator for such erection or alteration, and a permit fee paid to the Township according to the schedule as shall be established from time to time by resolution of the Township Board.
5. **Sign Permit Revocable at Any Time:** All rights and privileges accrued under the provision of this Chapter or any amendment thereto may be revoked upon the violation of any of the conditions contained herein. If the work authorized under an erection permit has not been completed within four (4) months after date of issuance, the said permit shall become null and void.

6. Any sign not specifically permitted is prohibited. The Zoning Board of Appeals shall have the authority to classify signs not specifically permitted.

Section 7.10 – Non-Conforming Signs

A non-conforming sign or sign structure existing and in place as of the date of the enactment of this Chapter may continue to have the copy or message on the sign changed and may also have normal maintenance performed. However, a non-conforming sign existing on the day of enactment of this Chapter shall not:

- a. Be changed to another non-conforming sign.
- b. Be structurally altered so as to prolong the life of the sign or to change the shape, size, location, type, or design of the sign.
- c. Be re-established after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer.
- d. Be re-established after damage by any means if the damage is in excess of the State Equalized Value (SEV) of the sign, as determined from its most recent assessed valuation.

Section 7.11 – Unsafe and Damaged Signs and Sign Maintenance

1. **Unsafe Signs:** When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Chapter, the owner or lessee shall, upon receipt of a written notice from the Zoning Administrator, forthwith in the case of immediate danger, and in any case not more than twenty-four (24) hours, make such sign conform to the provisions of this Chapter or shall cause it to be removed. If the order is not complied with within twenty-four (24) hours, the Zoning Administrator may remove such sign at the expense of the owner or lessee. If such expense is not paid, the Township shall have a lien on the property and such cost shall be added to the tax bill for the property.
2. **Damaged Signs:** Any sign or advertising structure or supporting structure, which is torn, damaged, defaced or destroyed, shall be repaired, replaced or removed within ten (10) days of the damage. If a sign or structure is torn, damaged, defaced or destroyed and not repaired or replaced within ten (10) days of said casualty, the Zoning Administrator shall issue a written notice to the owner or lessee of the sign requiring the repair, replacement or removal within twenty (20) days. In the event said owner or lessee does not remove said sign pursuant to said notice, or cannot establish a good faith effort to comply, the Zoning Administrator is authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner or lessee of the sign or, if such person cannot be found, by the owner of the building or structure or property to which such sign or structure is affixed.
3. **Sign Maintenance:** All signs, together with all their supports, braces, guys and anchors, shall be maintained in good working order; and when not galvanized or constructed of approved corrosion-resistant, noncombustible materials, shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces,

advertising materials and lettering shall be kept painted and in good repair, so as to present a neat and orderly appearance. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign must be well maintained and in good repair. It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary and healthful condition. The Zoning Administrator may order the removal of any sign that is not maintained in accordance with the provisions of this Chapter.

Section 7.12 – Substitution Clause

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of and other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Section 7.13 – Severability Clause

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Chapter 7 of this zoning ordinance is for any reason declared invalid, such decision shall not affect the validity or enforceability of the remaining portions of Chapter 7 of this zoning ordinance.

Chapter 8 – Special Uses

Section 8.1 – Intent and Purpose

Rather than attempting to foresee and regulate all the possible land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for special uses of land or structures that allows latitude for a land owner or developer, and, at the same time, maintains sound provisions for the protection of the health, safety, and general welfare of Township inhabitants. Such uses may be authorized within certain zoning districts through the issuance of a Special Use Permit as provided in the Michigan Zoning Enabling, Public Act 110 of 2006.

Section 8.2 – Pre-Existing Use

Any existing use which is permissible by right in the district shall continue as a permissible use even if that use is later designated a special land use. The expansion or an enlargement of a portion of the original permissible use, designated now as a special use, shall conform to the requirements pertaining to non-conforming uses in Chapter 3, if applicable. The remaining portion of the original permissible use shall continue to conform to zoning district requirements.

Section 8.3 – Reviewing Authority

All applications for Special Use Permits shall be considered by the Planning Commission, hereafter referred to as the “Commission,” and a recommendation made to the Township Board. The Township Board shall have the authority to grant, to deny, or to grant with conditions such Special Use Permits. Any appeal shall be filed with the circuit court based upon the approval of the minutes of the meeting where the action was taken.

All applications for Special Use Permits shall include the requirements for site plan review per Chapter 9, for site plan review and site plan approval by the Planning Commission.

Section 8.4 – Application and Fee

An application for a Special Use Permit shall be submitted to the Commission through the Zoning Administrator. The applicant shall provide the Zoning Administrator with seven (7) copies of the application, and seven (7) sets of all required data. Each application shall be made by the owner of record of the property on which the proposed special land use is to exist or be conducted, or by an applicant, if not the owner, with a signed authorization of the property owner, and shall be accompanied by the payment of a fee as set forth in the schedule established by the Township Board to cover the costs of processing the Special Use Permit application.

Section 8.5 – Data Required

- A. Each application shall include the following information:
1. The name, address, telephone number, and signature of the property owner and applicant;
 2. A full legal description of the property on which the proposed special use is to exist or be conducted, including the property tax parcel number(s), together with proof of property ownership and applicable options on the property, if any;
 3. A detailed description of the proposed special use for which the permit is requested;
 4. Project schedule and developments plans;
 5. A vicinity map with north arrow indicated;
 6. Land uses and existing structures on the subject parcel and adjoining parcels within three hundred (300) feet of the subject parcel; and
 7. A written statement relative to the project's effects on existing infrastructure, including but not limited to, traffic, capacity of roads, schools, existing utilities, and upon the natural environment.
- B. A site plan in accordance with Chapter 9 - Development Site Plan Review.

Section 8.6 – Procedure Upon Receipt of Application

Upon receipt of a Special Use Permit application, which is supported by all the data and fees required above, the application shall be put on the agenda for preliminary consideration at the earliest Commission meeting practicable. The Planning Commission's preliminary consideration shall be to offer preliminary review of the Special Use Permit application. This preliminary review shall not constitute final review necessary for approval. The applicant shall be notified of the time and date of this preliminary consideration. At the meeting wherein preliminary consideration is given, the Planning Commission shall set the time and date for the public hearing on the application.

- A. Notice Requirements. Notice that a special use application has been received and will be considered by the Commission must be given and shall meet the requirements of Section 10. 10 of this Ordinance.
- B. The Planning Commission shall hold a public hearing on the Special Use Permit request.
- C. The Planning Commission shall review the request and shall establish that the standards and requirements of this Chapter are satisfied.
- D. Following its review of the request, the Planning Commission shall take one of the following actions:
1. To recommend approval of the Special Use Permit to the Township Board if it is found to satisfy the requirements of this Chapter;
 2. To place conditions on, and then recommend the Special Use Permit approval with conditions to the Township Board; or

3. To recommend the Township Board not approve the Special Use Permit because it is found that the proposed use fails to satisfy the requirements of this Chapter, and then forward the recommendation in writing to the Township Board.

Section 8.7 – Township Board Action

Upon receiving the Commission's written recommendation on the proposed special use, the Township Board shall schedule deliberations on the application at its next regular meeting. The Township Board may hold another public hearing on the matter if requested or at its discretion. Upon examining the application, the recommendation of the Commission, and any other evidence brought before it, the Township Board may take one of the following actions:

1. Refer the matter back to the Commission for further deliberations whereupon the Commission will re-examine the evidence and information referred to it by the Township Board and resubmit a recommendation to the Township Board.
2. To approve the Special Use Permit if it is found to satisfy the requirements of this Chapter;
3. To place conditions on, and then approve, the Special Use Permit to ensure that it complies with the requirements of this Chapter; or
4. To deny the Special Use Permit because it is found that the proposed use fails to satisfy the requirements of this Chapter.

Section 8.8 – Basis for Determination

Before approval of a Special Use Permit, the Township Board shall establish that the standards specified in this Section, as well as applicable standards outlined elsewhere in this Ordinance, shall be satisfied. Each of the proposed special land uses on the proposed location shall:

- A. Be designed, constructed, operated and maintained so as to be harmonious in affect and appropriate in appearance with the existing or intended character of the general vicinity as indicated in the Township Master Plan or other policies of the Township.
- B. Not be hazardous or disturbing to existing uses in the same general vicinity and will not have adverse effects on the market value of surrounding property and to the community as a whole.
- C. Be served adequately by essential facilities and services, such as, but not limited to, highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
- D. Not create excessive additional requirements at public cost for public facilities and services.
- E. Not involve uses, activities, processes, materials, and equipment or conditions of operations that will be detrimental to any persons, property, or the general welfare by fumes, glare, noise or odors, or any other harmful effects.

- F. Will be in general compliance with the land use policies outlined in the Township Master Plan, the principles of sound planning, and will not jeopardize the economic welfare of the Township.
- G. Will not directly or indirectly have an adverse effect upon the natural resources of the Township, including, but not limited to, prime or unique agricultural lands, water recharge areas, lakes, rivers, streams, forests, wetlands, wildlife areas.
- H. Structures, landscaping, or other land uses will not disrupt water drainage systems necessary for agricultural uses and will be in compliance with Arenac County Drainage Commissioner requirements.
- I. Phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- J. Be in compliance with the requirements of the district in which it is proposed and all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Soil Erosion Officer, County Conservation Service, area fire departments, Michigan Departments of Natural Resources and Environmental Quality, and any other applicable township, county, state and federal statutes.

Section 8.9 – Conditions and Safeguards

Additional conditions and safeguards may be imposed by the Commission if reasonable and necessary to protect the natural environment or to conserve natural resources or energy, to ensure compatibility with adjacent uses of land, to promote the use of the land in a socially and economically desirable manner, and to ensure that public services and facilities affected by the proposed use or activity will be capable of accommodating the increased activity. Any conditions so imposed shall meet the following requirements:

- A. To ensure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased service and facility loads caused by the land use of activity;
- B. To protect the natural environment and conserve natural resources and energy;
- C. To ensure compatibility with adjacent uses of land;
- D. To promote the use of land in a socially and economically desirable manner;
- E. To protect the health, safety, welfare, social and economic well-being of those who will be using the proposed special land use or activity under consideration;
- F. To protect the health, safety, welfare, social and economic well-being of Township residents, and lot owners adjoining the proposed special land use or activity, including, but not limited to, requirements such as screening, or the erection of natural or artificial barriers, or limitations on the time of day during which operations may occur or during which special land use activities may be carried on;

- G. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the land use activity under consideration, and be necessary to ensure compliance with those standards;
- H. Be necessary to ensure compliance with any part of the application received and approved by the Township Board; and
- I. Be recorded as part of the Special Use Permit.

When requiring conditions for a Special Use Permit, the following findings shall be made and documented as part of the special use review:

- 1. That such requirements and conditions will mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other harmful effects upon adjoining parcels; and
- 2. That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

Section 8.10 – Medical Marijuana Facility Special Land Use Permit Standards

A. A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of State law, may be permitted through the issuance of a special land use permit pursuant to Section 8 of the Au Gres Township Zoning Ordinance, in the specified zones, provided that:

- 1. Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by State law may not be permitted by Au Gres Township. In the event that a court with jurisdiction declares some or all of this article invalid, then Au Gres Township shall suspend the acceptance of applications for special land use permits pending the resolutions of the legal issue in question.
- 2. At the time of application for the special land use permit, the marijuana facility must be in the licensing process with the State of Michigan, and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*; and the Marihuana Tracking Act, MCL 333.27901 *et seq.*; and all other applicable rules promulgated by the State of Michigan.
- 3. At the time of application for a special land use permit (SLUP), the marijuana facility must have the Au Gres Township permit application concurrently in process with the special land use permit and site plan approval, and then must be at all times in compliance with the Zoning ordinance of Au Gres Township.
- 4. A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may NOT be permitted as a home occupation or accessory use nor may they include accessory uses, except as otherwise provided in this ordinance.

5. Signage requirement for marijuana facilities, unless otherwise specified, are as provided in Section 7 of the Au Gres Township Zoning Ordinance.

6. Security – Medical Marijuana permit holders shall at all times maintain a security system that meets State Law requirements and shall also include the following.

a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the Facility;

b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day, 7 days a week;

c. A locking safe permanently affixed to the permitted premises that shall store all cash remaining in the Facility when it is not open;

d. For usable marijuana - dedicated, separate, locked storage that is hidden from view when the facility is not open

e. All marijuana in whatever form stored at the facility shall be kept in a secure manner and shall not be visible from outside the facility, nor shall it be grown, processed, exchanged, transferred, displayed or dispensed outside the facility;

f. All security recordings and documentation shall be preserved for at least 48 hours by the permit holder and made available to any law enforcement upon request for inspection.

g. Evidence of form of security shall be provided to the Township annually at the time of permit renewal.

B. Marijuana growers shall be subject to the following standards:

1. Indoor grow facilities

a. Lighting. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day

b. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana growing.

1) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

2) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

3) Negative air pressure shall be maintained inside the building.

4) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

5) An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise

required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

2. Outdoor grow facilities

- a. Must be surrounded by an opaque fence at least 8' in height
- b. Shall not be artificially lit, except as required for parking
- c. The grower should take provisions to minimize detectable odors on neighboring properties.

C. Marijuana processors shall be subject to the following standards

1. Marijuana processing shall be located entirely within one or more completely enclosed buildings.

2. Lighting. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.

3. Odor. As used in this subsection, building means the building, or portion thereof, used for marijuana processing.

a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

b. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

c. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

d. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

D. Marijuana Provisioning Centers shall be subject to the following standards:

1. Hours of Operation - A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 8:00 a.m. and 8:00 p.m. if so required by the State of Michigan.

2. Indoor activities - All activities of a provisioning center, including all transfers of marijuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window

3. Other Activities - Marijuana, alcohol or tobacco products shall not be smoked, ingested, or otherwise be consumed in the building space occupied by the provisioning center.

4. Physical Appearance - The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

5. Buffer Zones - A provisioning center shall not be located within 1,000 feet of the real property comprising or used by an educational institution or school, college or university, church, house of worship or other religious facility, licensed child care center or preschool, public library, or public or private park with the minimum distances between uses measured horizontally between the nearest property lines.

6. Odor - As used in this subsection, building means the building, or portion thereof, used for marijuana provisioning center.

a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

b. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

c. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

d. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

E. Marijuana Safety Compliance Facilities shall be subject to the following standards:

1. All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.

2. Odor - As used in this subsection, building means the building, or portion thereof, used for marijuana safety compliance facilities.

a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

b. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.

c. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.

d. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in

the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.

F. Marijuana Secure Transport Facilities shall be subject to the following standards:

1. No vehicle may be used for the ongoing or continuous storage of marijuana, but may only be used incidental to, and in furtherance of, the transportation of marijuana.
2. Vehicles used for the transport of marijuana must be stored indoors when not in use.

G. Additional Conditions. The Au Gres Township Planning Commission may impose such reasonable terms and conditions on a Commercial Marijuana Facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this ordinance and applicable laws.

H. Special Land Use Permit Requirements – In addition to the items to be provided for a Special Use Permit according to Section 8.5, the applicant shall also provide a business operations plan that includes the following:

1. A description of the type of facility proposed and the anticipated or actual number of employees.
2. A security plan meeting the requirements of this ordinance and the State of Michigan.
3. A description by category of all products to be sold.
4. Material Safety Data Sheets for all nutrients, pesticides and other chemicals to be used in the facility.
5. A description and plan of all equipment and methods that will be employed to minimize any impact to adjacent uses, including but not limited to odor.
6. A plan for disposal of marijuana and related byproducts that will be used at the proposed facility.
 1. To ensure proper removal of fences, hoop houses, and other ancillary facilities when the facility is no longer in use, any application for approval of an outdoor grow facility shall include a description of the financial security to be posted at the time of receiving a special use permit. The security shall be in the form of: 1) cash deposit; 2) irrevocable bank letter of credit or 3) performance bond in a form approved by the Township Attorney, establishing the obligation of the applicant to remove the structure in a timely manner. The amount of such guarantee shall be no less than 110% of the estimated cost of fence removal. Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences. Such financial security shall be kept in full force and effect during the entire time that the structure exists. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then owner of the structure) for at least thirty (30) years. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the applicant to all available remedies to the Township, including possible

enforcement action and revocation of the special use approval. The applicant shall be responsible for the payment of any attorney fees and other costs incurred by the Township in the event that the fences are not voluntarily removed and the Township has to enforce removal.

Section 8.11 – Variances

Where a Special Use Permit is granted conditionally, based upon the necessity for the applicant to obtain a variance, or variances, from the Zoning Board of Appeals, the permit shall not be valid until such variances are obtained.

Section 8.12 – Grant or Denial of the Special Use Permit

The Township Board may approve, deny, or approve with conditions a request for Special Use Permit approval. The decision on a Special Use Permit under consideration shall be incorporated in a statement containing the conclusions which form the basis of the decision and any conditions and safeguards imposed. One copy shall be distributed to each of the following: Zoning Administrator, Township Clerk, and the Commission. Only upon approval by the Township Board may a Special Use Permit be issued by the Zoning Administrator.

Section 8.13 – Permit Expiration

A Special Use Permit issued pursuant to the requirements of the Ordinance shall be valid for a period of one (1) year from the date of issuance of said permit. If construction or use has not commenced and proceeded meaningfully toward completion by the end of this period, the Special Use Permit shall be null and void. A Special Use Permit may be renewed for a period of time not to exceed one (1) year.

Section 8.14 – Binding Effect

Any Special Use Permit approved by the Township Board pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be modified, altered, expanded, or otherwise changed, unless the Special Use Permit holder obtains a new or amended Special Land Use Permit in accordance with the procedures of this Chapter. Further, such conditions shall run with the land, and shall be binding on the landowner, his successors, heirs and assigns. If at any time during the existence of a permitted special land use the land, lot, or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a violation of the Special Use Permit and the permit may be revoked and previously permitted special use activities cease.

Section 8.15 – Inspections

The Zoning Administrator shall be responsible for the inspection of all conditions imposed by the Special Use Permit and for all improvements required by the approved final site plan. All

subgrade improvements, such as utilities, subbase and base installations for streets, drives, and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate official or individual and approved before covering. It is the responsibility of the applicant to request such necessary inspections at the appropriate times. The Zoning Administrator shall report periodically to the Township Board and Commission on the progress of each Special Use Permit. He shall notify the Township Board and Commission in writing of any failure on the part of the applicant to meet the requirement of the site plan and Special Use Permit, and report on steps being taken to ensure compliance. The fees established by the Township Board may include an amount to cover such inspections.

Section 8.16 – Financial Guarantees

In the interest of ensuring compliance with the provisions of this Ordinance, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a proposed Special Use Permit has been submitted, the Township Board may require the applicant to:

- A. Deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to: roadways, lighting, utilities, sidewalks, drainage, fences, berms, screens, walls, landscaping, reclamation, and widening strips.
 1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of any improvements to be made as determined by the applicant and verified by the Township Board.
 2. The performance guarantee shall be deposited with the Township Board at the time of the issuance of the permit authorizing the activity or project. No Special Use Permit may be issued before the receipt of all required performance guarantees by the Township Board.
 3. An approved Special Use Permit shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of issuance of the permit.
 4. In the event the performance guarantee deposited is a cash deposit or certified check and the improvement for which the guarantee is provided will be done over an extended period of time, the Township Board shall rebate to the applicant fifty (50%) percent of the deposited funds when sixty (60%) percent of the required improvements are completed as confirmed by the Township Board, and the remaining fifty (50%) percent of the deposited funds when one hundred (100%) percent of the required improvements are completed as confirmed by the Township Board. If a request is made by the applicant for a temporary certificate of occupancy without completion of the required improvements, the performance guarantee may be applied by the applicant to assure compliance with the standards of this Ordinance and the specifications of the approved site plan.

5. Upon the satisfactory completion of the improvements for which the performance guarantee was required, the Township Board shall return to the applicant the performance guarantee deposited and any interest earned thereon.

6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period as agreed to in the site plan, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvement through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. Should the Township use the performance guarantee or a portion thereof to complete the required improvements, any amounts remaining after said completion shall be applied first to Township administrative costs in completing the improvements, with any balance remaining being refunded to the applicant. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvement exceeds the amount of the performance guarantee deposited. The costs shall be billed to the permit holder and a lien placed against the subject property. If unpaid, the costs shall be collected in the same manner as delinquent taxes or as allowed by law.

Chapter 9 – Development Site Plan Review

Section 9.1 – Intent and Purpose

Land development affects the character of the community and its public health, safety, and general welfare. This Chapter provides the procedures and standards for site plan review of all uses that are required by this Ordinance for such review.

Section 9.2 – Scope

All land developments, excluding single-family residences, including structures to be erected, moved, externally altered, added to, or to have any change in use which would affect their approved off-street parking, landscaping, site drainage, or any other requirements, shall be reviewed under this Chapter. No zoning permit shall be issued, excluding those uses stated above, except in accordance with a site plan approved under this Chapter.

No person shall undertake any activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith, for which development site plan approval is required by this Ordinance without first obtaining such approval, nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plain permits.

Section 9.3 – Application and Fee

An application for site plan review shall be made by filing the application form, required information, and the required fee with the Township Zoning Administrator.

The application fee shall be set by resolution of the Township Board. Once accepted by the Zoning Administrator, no portion of the fee shall be returned to the applicant, unless authorized by an action of the Township Board.

Section 9.4 – Review Authority

The Planning Commission, and the Zoning Administrator for minor projects described below, shall review development site applications in accordance with the standards presented in this Chapter and Ordinance. The Planning Commission and the Zoning Administrator shall review site plan applications and accompanying report(s), and shall thereafter approve, approve with conditions, or deny the request for development site plan approval.

Section 9.5 – Major and Minor Development Projects Defined

A minor project, for the purposes of this Chapter, is defined as follows:

- a. The remodeling, alterations, or additions to commercial and industrial buildings of less than twenty-five (25%) percent of the square footage of the existing structure.

- b. Improvements to, erection of, or reconstruction of accessory buildings and structures, parking areas, and similar facilities.
- c. Site changes that do not exceed twenty-five (25%) percent of the existing developed site area.
- d. All special uses are considered major projects and at no time shall the Zoning Administrator conduct a review of a project that has been issued a special use permit or is in the process of obtaining a special use permit

Site plan review for minor projects shall be conducted by the Zoning Administrator as an administrative review.

Major projects are all projects not listed above, including, but not limited to, special uses, site condominium projects, multi-family apartment project developments, commercial and industrial buildings and additions, alterations or redevelopment of buildings and sites greater than listed above.

Site plan review for major projects shall be conducted by the Planning Commission.

Section 9.6 – Optional Conceptual Development Site Plan Review

The applicant is encouraged to submit a conceptual plan for review by the Planning Commission for major projects, and to the Zoning Administrator for minor projects, in order that errors, miscalculations or misconceptions are not incorporated into preliminary plans. This procedure is optional and is intended to be informational only and shall not necessarily bear directly upon later reviews. Submissions for this review may consist of all those items listed in Section 9.7 that shall present an adequate overview of the intended project.

Section 9.7 – Site Plan Review, Required Information

For major projects, Development Site Plan Review shall entail the examination of all the items in Section 9.7 B. For minor project reviews with the Zoning Administrator, the abbreviated review indicated in Section 9.7 A is allowed.

a. Required Submittals – Minor Projects

All project applicants shall submit to the Zoning Administrator, the development site plan application provided by the Township and seven (7) copies of the detailed site plan. The detailed site plan shall consist of the following items for review:

1. A site plan, drawn to scale showing north arrow, the property boundaries, the proposed location of structures and other improvements including, where appropriate, roads, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls.
2. A conceptual landscape plan, including required buffers, existing vegetation, water courses, and other significant site features, and proposed new plantings.

3. Accurate scale drawings of all signs indicating their size, material, color and illumination, if any, and the method of installation of any free-standing sign.
4. Conceptual grading and drainage plans with existing and proposed elevations.
5. Such other data as may be required by the Zoning Administrator to ensure that the purposes of this Chapter are satisfied. The Zoning Administrator shall provide the applicant in writing its reasons for asking for additional information. Copies of such written communication shall be transmitted to the Planning Commission.
6. The Zoning Administrator may waive a requirement or requirements listed above if not deemed necessary for a thorough review. The Zoning Administrator shall provide the applicant in writing its reasons for taking such action. Copies of such written communication shall be transmitted to the Planning Commission.

b. Required Submittals – Major Project

All project applicants shall submit to the Zoning Administrator, the development site plan application provided by the Township and seven (7) copies of the detailed site plan. The following are among the items to be included on the detailed plan for major projects. Development site plans should be accurately drawn at the scale of at least one (1) inch equals one hundred (100) feet showing the site and all land and structures within three hundred (300) feet of the site. The Planning Commission may require details to be provided in a scale as great as one (1) inch equals twenty (20) feet. If multiple sheets are used, each must be labeled, dated, and the preparer identified.

1. The location of proposed or existing property lines, dimensions, legal descriptions, tax parcel numbers, setback lines, and monument locations.
2. A vicinity map drawn at a scale of a minimum of one (1) inch equals two thousand (2,000) feet with a north arrow indicated.
3. Existing topographic elevations at two-foot intervals, proposed grades and directions of drainage flows.
4. The location and type of existing soils on the site and any certifications of borings.
5. Boundaries and elevations of existing and proposed water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within five hundred (500) feet of the project site and proposed erosion control measures.
6. Location of existing and proposed buildings and intended uses thereof.
7. Proposed location of accessory structures, buildings and other appurtenances, including, but not limited to, all flag poles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators, and similar equipment, and the method and details of screening, where applicable.

8. Location of existing public roads and streets, that abut or cross the site, plus rights-of-way and private easements of record.
9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes or tapers (if any) serving the development. Details of entryway and entryway sign locations should be separately depicted with elevation views.
10. Location, design, and dimensions of existing and proposed curbing, barrier-free access, carports, parking areas (including indication of all spaces, method of surfacing and striping), fire lanes and all lighting and signing thereof.
11. Location, size and characteristics of all loading and unloading areas.
12. Location and design of all trails, walkways, bicycle paths, and other areas for public use.
13. Location of water supply lines and/or wells, including fire hydrants and shut-off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems, if applicable.
14. Location and routing of all other utilities on the site, including, but not limited to, natural gas, electric, and data and telecommunication transmissions.
15. Proposed location, dimensions, and details of common open spaces and common facilities, such as community buildings, or swimming pools, if applicable.
16. Exterior lighting locations with areas of illumination illustrated, as well as the type of fixtures and shielding to be used.
17. Location and specifications for all fences, walls, and other screening features with cross sections.
18. General location and type of significant existing vegetation, including the location and size of all existing trees with a trunk of six (6") inches or more in diameter, four and one-half (4 ½') feet above the ground, if not located in a forest. Forests or large areas of vegetation to be preserved shall be demarcated and designated as such.
19. Locations and specifications for all proposed perimeter and internal landscaping and other buffering features.
20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
21. Location and specifications for any existing, proposed, or required above or below ground storage facilities for any chemicals, salts, flammable or hazardous materials, as well as any containment structures or clear zones required by government regulations and a Pollution Incident Prevention Plan as required by the Act 245 Program.
22. Identification of any significant or unique site features.

23. Indication of any significant views onto or from the site.
24. The zoning classifications of the site and adjacent properties.
25. North arrow, scale and date of original submittal and all revisions.
26. Such other data as may be required by the Planning Commission to ensure that the purposes of this Chapter are satisfied. The Commission shall state for the record its reasons for requiring such data.
27. The Planning Commission may waive a requirement or requirements listed above if not deemed necessary for a thorough review. The Commission shall state for the record its reasons for taking such action.

Section 9.8 – Site Plan Review Procedure

Minor Projects:

- a. Within a reasonable time and based upon the standards in Section 9.9, the Zoning Administrator, for minor projects, shall act either to approve or to deny the request for development site plan approval or to provide information to the applicant in order to amend site plans to conform to certain stipulated requirements to obtain approval. Upon re-submittal, the Zoning Administrator shall, within sixty (60) days, inform the applicant of the acceptance or rejection of site plans.
- b. If plans are denied at any time, the Zoning Administrator shall submit in writing to the applicant the reasons for the action.
- c. The Zoning Administrator shall submit quarterly reports to the Planning Commission listing all site plan reviews that were conducted during the period for minor projects, including whether a site plan was approved or denied, and the reasons for such decision(s).

Major Projects:

- a. When all necessary information as provided by this Chapter is submitted to the Zoning Administrator, the Zoning Administrator shall notify the Planning Commission Chairman.
- b. The Chairman shall place Site Plan Review for major projects on the next available meeting agenda for discussion by the Commission and shall notify the applicant of this action.
- c. Within a reasonable time and based upon the standards in Section 9.9, the Planning Commission, for major projects, shall act either to approve or to deny the request for development site plan approval or to provide information to the applicant in order to amend site plans to conform to certain stipulated requirements to obtain approval. Upon re-submittal, the Planning Commission shall, within sixty (60) days, inform the applicant of the acceptance or rejection of site plans.
- d. If plans are denied at any time, the Planning Commission shall submit in writing to the applicant the reasons for the action.

Section 9.9 – Development Site Plan Review Standards

The following standards shall be utilized in reviewing all development site plans. The standards are intended to provide guidance for the applicant in the production of plans as well as a method for the review of site plans by Township Officials.

a. Elements of Development Site Plan Review

1. Neighborhood and Community Elements:

- i. **Historical Preservation.** Owners of existing structures of historical significance are encouraged to preserve these structures and to renovate them in a manner which preserves that significance and places them appropriately among other like structures. Variances may be granted by the Zoning Board of Appeals when necessary to accomplish this purpose.
- ii. **Relation of Proposed Buildings to Environment.** Proposed structures shall be related harmoniously to the terrain, the size and shape of a lot, the character of adjoining properties, and the existing buildings in the vicinity that have a visual and functional relationship to the proposed buildings. Such a relationship may include the enclosure of a space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain or other buildings. In all cases, open spaces should be created that are usable. Other concerns which shall be addressed include microclimate effects created by structure placement, solar exposure and shadow effects, wind and canyon effects, including snow build-up and drifting, and effects upon wetlands, drainage, and habitat systems. Views and privacy, while dealing with the siting of buildings on individual parcels, shall be provided for on a larger scale by buffering and screening to preserve or create un-intrusive site lines wherever possible.
- iii. **Landscape Preservation.** Except in urbanized areas, the landscape shall be preserved in as natural a state as possible by minimizing tree and soil removal. Areas such as steep slopes, wetlands, and littoral areas, as well as resource areas such as forests, wooded lots and farmlands shall be preserved wherever possible. Any grading changes shall be in keeping with the lay of neighboring lands. Golf courses in particular shall be designed to retain as much of the native terrain and herbage as possible and shall provide wide screening buffers between fairways and the public roadways and other non-compatible uses.
- iv. **Business Districts.** Design standards may be developed by particular business districts, and if promulgated, will be used to design the elements of structures and site improvements proposed within these districts.
- v. **Trafficways and Gateways.** Site plans shall address the effects of new structures or uses upon traffic at or near their sites. A major use may require a traffic study to determine potential effects and possible

necessary mitigating actions. Proposed uses at entryways to the community shall provide appropriate design features to welcome travelers to the community.

vi. Security, Fire and Emergency Access. Setbacks, access paths with adequate lane widths and sufficient areas for fire and emergency vehicle turnarounds, and fire hydrant locations (where applicable) shall be provided per existing statutes and ordinances and in accordance with requirements of the appropriate reviewing authorities. All buildings or groups of buildings shall be arranged to permit emergency vehicle access by some practical means to all sides. Where applicable, security shall also be considered integral to the design. Sufficient illumination and ease of surveillance shall be addressed where appropriate.

2. Engineering Elements:

i. Drives, Parking and Circulation. Parking spaces sufficient only for the intended use shall be allowed. Calculations and justification for spaces provided shall be noted on the plans. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, attention shall be given to the location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and do not detract from the design of proposed buildings and structures and neighboring properties. Parking areas shall be screened from roadways and from other adjacent uses by landscaped areas or by walls. Sufficient distance between drives and property lines shall be provided.

ii. Surface Water Drainage. Attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas, and carried away in such a manner that it will not obstruct the flow of vehicular or pedestrian traffic, and will not puddle or freeze in paved areas. Run-off waters shall be detained or retained to promote storm water infiltration and to remove sediments and prevent erosion.

iii. Utility Service. New utility service distribution lines shall be underground wherever feasible. Any existing utility installations remaining above ground shall be placed out of sight as much as possible and situated harmoniously in relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated. All utility installations shall be carried out in accordance with the current standards, rules and regulations of those entities having jurisdiction. No project shall be approved without permits or authorization from all appropriate governing agencies.

b. General and Necessary Conditions

All other standards and requirements of this Ordinance and other applicable ordinances, regulations and statutes must be met by development plans presented for review under the provisions of this Chapter. It is specifically intended that a use allowed in the Township will not be or become a nuisance within its neighborhood or to the Township as a whole. The Planning Commission may confer or consult with a qualified expert, e.g., a planner, attorney, engineer, or landscape architect, at the applicant's expense, to aid it in evaluating a difficult or complex project.

Section 9.10 – Final Development Site Plan Approvals

a. Complete drawings, plus all certified final drawings and plans that are subject to development site plan review and contain all necessary modifications or additions required, shall be submitted before final development site plan approval is granted.

b. Conditions of Final Approval. Development Site Plans may be approved subject to the performance of certain conditions, including the provision of required improvements as the Commission shall deem to be reasonable and necessary, or advisable under the circumstances, so that the objectives of the Zoning Ordinance, the Master Plan, and any other Township policies and regulations shall be achieved. A development site plan may be approved conditionally upon necessary or required approvals by other local, county, state, or federal agencies.

1. Performance Guarantee for Required Conditions. Security may be required to ensure performance of required conditions. The applicant may be required to furnish security in the form of a bond, certified check, or an irrevocable bank letter of credit, acceptable to the Township, in the amount fixed by the Planning Commission. If security is required, the Zoning Administrator shall not issue a zoning permit until the required performance guarantee is received and verified by the Township Clerk.

2. Provisions of Required Improvements. Whenever a development site plan approval is granted or modified subject to the conditions that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the Zoning Administrator.

3. Non-performance of Required Conditions. In the event the applicant defaults in making the improvements for which the performance guarantee was required, the Township Board shall have the right to enforce a letter of credit or to use the monies being held as security to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to cover the costs incurred by the Township to complete the improvements, including attorney fees and court costs, if any, the applicant shall be required to pay the Township the amount by which the costs of completing the improvements exceeded the amount of the performance guarantee. These costs shall be collected in the same manner as delinquent taxes or as allowed by law.

4. Condition Declared Void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of conditions of a development review approval to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said development site plan approval shall cease to be valid and all rights or privileges granted thereby shall end.

5. Violation of Required Condition or Conditions. Whenever a development site plan is approved or modified by the Planning Commission subject to a condition or conditions, the use or enjoyment of the development site plan in violation of, or without observance of, any such condition shall constitute a violation of the Zoning Ordinance, and development site plan approval may be revoked.

Section 9.11 – Special Uses and Concurrent Approvals

The Planning Commission may choose to review Special Use Permit and site plan review submittals concurrently. In the event of concurrent review, the Planning Commission shall make sure that both the site plan and special use submittals satisfy all requirements of this Ordinance.

Section 9.12 – Amendments to Approved Development Plans

a. Amendments to an approved development site plan may be made by the Planning Commission upon written request by the landowner. Minor changes to an approved development site plan may be approved by the Zoning Administrator after construction has begun, provided no such change results in any of the following:

1. A significant change in use or character of the development.
2. An increase in overall coverage of structures.
3. An increase in the intensity of use.
4. A reduction in the required open space.
5. A change that may increase the storm water run-off to adjacent properties.
6. A reduction in required off-street parking and loading.
7. A reduction in required pavement widths or utility sizes.
8. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

b. If the Zoning Administrator finds that a proposed amendment to an approved development site plan does not qualify as a minor change, he shall notify the landowner that he must apply for a modification of the development site plan in accordance with the procedures of Section 9.7; or if the developer or landowner has already effected the changes in question, the Zoning Administrator shall immediately notify the permit holder in writing that development site plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered personally or by certified

mail. The permit holder shall then apply for a modification of the development site plan in accordance with the procedures in Section 9.7 hereof.

Section 9.13 – Time Limit for Approved Site Plans

a. A site plan approval granted pursuant to this Chapter shall be valid for one (1) year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall expire.

b. The Planning Commission may grant one (1) extension of the site plan approval for a one (1) year period upon submittal in writing by the applicant of a request for an extension. The Planning Commission shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within one (1) year.

Section 9.14 – Appeal of Site Plan Review Decisions

Any person aggrieved by the decision of the Planning Commission or Zoning Administrator in the approval or denial of a site plan review may appeal said decision to the Zoning Board of Appeals. The appellant shall file a letter with the Zoning Administrator within ten (10) days of the decision of the Planning Commission on the site plan. The appellant's letter shall specify the grounds for the appeal, and the appeal shall be limited to the issues raised in the letter.

In its review of the decision, the Zoning Board of Appeals shall consider the following:

- a. The appellant's letter and validity of grounds for appeal.
- b. The minutes taken during the Planning Commission's review of the site plan, or the notes and related transmittals created by the Zoning Administrator.
- c. Any other documentation presented to the Planning Commission or Zoning Administrator prior to its decision on the site plan.
- d. Any verbal or written information submitted to the Zoning Board of Appeals in response to a request for the information by the Zoning Board of Appeals.

In its determination of the appeal, the Zoning Board of Appeals may take any of the following actions:

- a. Affirm the decision of the Planning Commission or Zoning Administrator with or without modification.
- b. Refer the matter back to the Planning Commission or Zoning Administrator for further consideration, study, or additional documentation. The Zoning Board of Appeals shall inform the Planning Commission or Zoning Administrator of the issues that it believes are in need of further consideration, study, or documentation. Once the Planning

Commission or Zoning Administrator has examined the issues, it shall send the matter with a report back to the Zoning Board of Appeals for a decision.

- c. Reverse the decision of the Planning Commission or Zoning Administrator if the decision is not in accordance with the intent and purpose of this Ordinance.

Chapter 10 – Administration and Enforcement

Section 10.1 – Zoning Administrator

Unless otherwise designated under a specific provision of this Ordinance, the Zoning Administrator shall be responsible for the administration of this Ordinance. The Zoning Administrator shall be a qualified individual appointed by the Township Board. The terms, conditions, and rate of compensation shall be determined by the Board. The Zoning Administrator shall perform, but not necessarily be limited to, the following duties:

- a. **Receive Applications and Issue Permits:** All applications for zoning permits, including permits for signs, businesses, home occupations, dwellings, special land uses, temporary uses, and temporary dwellings, as well as applications for appeals, site plan and plot plan approvals; and requests for changes to a nonconforming use shall be submitted to the Zoning Administrator who may issue permits when all applicable provisions of this Ordinance have been met and, where necessary, approval has been granted by the Planning Commission, Township Board, or Zoning Board of Appeals.
- b. **Maintain File of Applications and Permits:** The Zoning Administrator shall maintain files of all permit applications and shall keep a record of all permits issued. The Zoning Administrator shall provide the Township Clerk with a copy of all zoning permits, which shall be filed in the office of the Township Clerk and shall be available for public inspection.
- c. **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance and shall make such inspections, at a minimum, at the time of staking out of building foundations or structure locations and upon completion of construction authorized by the permit. It shall be the responsibility of the permit holder to notify the Zoning Administrator when construction activities are ready for a zoning compliance inspection. No person shall harm the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek authority through the Township Supervisor to obtain a search warrant through the Township Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
- d. **Record of Complaints:** The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public inspection.
- e. **Violations:** Enforcement actions commence with inspections, which may begin in one of three ways:
 1. The Zoning Administrator witnesses a person violate requirements of the zoning ordinance, and/or observes a property that is in violation of the zoning ordinance.
 2. The Zoning Administrator has reasonable cause to believe that a person is responsible for a zoning ordinance violation.
 3. The Zoning Administrator may, with reasonable cause, investigate a complaint by someone who allegedly witnesses a violation of the zoning ordinance with a written

complaint provided to the Township Clerk that states the section of the zoning ordinance that is allegedly in violation.

- f. Report to the Township Board: The Zoning Administrator shall report to the Township Board periodically at intervals not less than monthly, summarizing for the period since the last previous report, all Zoning Permits issued and all complaints of violation and any action taken on each complaint.

Section 10.2 – Zoning Permit Required

Except as otherwise provided, no building or structure of any kind, including signs, shall be erected or any restricted use undertaken until a permit has been issued by the Zoning Administrator. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this Ordinance and appropriate fees are paid, a Zoning Permit may be issued. The Zoning Permit shall be non-transferable and shall remain valid for one (1) year from the date of issuance. A Zoning Permit must be obtained prior to the application for a building permit.

Section 10.3 – Application for Zoning Permit

All applications for Zoning Permits shall be made to the Zoning Administrator with the accompanying fee. Fees and an accompanying fee schedule is set by the Township Board which is adjusted from time to time. All permit application fees are required at the time of application. The application shall be comprised of the following:

- a. A site plan showing the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, property lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands, and any other items required by this Ordinance to illustrate the intended use and its site; or the site plan approved by the Planning Commission or Zoning Board of Appeals. The Zoning Administrator may require an applicant to provide a survey of the subject lot or parcel, identifying a proposed use or structure location, if in his or her judgment it is necessary to clarify any indefinite or disputed issue(s).
- b. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.
- c. The Zoning Administrator shall review the zoning permit application to determine that it is complete and, if so, forward the application to the appropriate decision-making body, unless the Zoning Administrator is the approving body.

Section 10.4 – Issuance of Zoning Permit

Within ten (10) days of the receipt of the application for Zoning Permit, the Zoning Administrator shall issue a Zoning Permit if it is found that the application is complete and that the proposed building, structure, and/or use is in conformance with the requirements of this Ordinance and all required fees are paid.

Section 10.5 – Failure to Obtain Permit

Failure to obtain a Zoning Permit prior to new construction or use shall be a violation of this Ordinance and is subject to the issuance of a civil infraction. Failure to obtain a Zoning Permit shall be subject to a doubling of the original Zoning Permit fee.

Section 10.6 – Denial of Zoning Permit

Within ten (10) days of the receipt of the application for Zoning Permit, the Zoning Administrator shall deny a Zoning Permit if it is found that the application is not complete or that the proposed building, structure, or use cannot be located in conformance with the requirements of this Ordinance, or the required fees are not paid. The Zoning Administrator shall inform the applicant in writing of the reasons for the denial of the permit. The Zoning Administrator shall keep a record of all permits denied and report these monthly to the Planning Commission and the Township Board.

Section 10.7 – Revocation of Zoning Permit

The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.

Section 10.8 – Appeals of the Decision of the Zoning Administrator

Any decision of the Zoning Administrator concerning the enforcement or interpretation of this Ordinance may be appealed to the Zoning Board of Appeals. The appeal, along with the appropriate fee, shall be filed with the Township Clerk within ten (10) days of the decision of the Zoning Administrator. The Zoning Board of Appeals shall review the available evidence and make a decision to uphold or reverse the decision of the Zoning Administrator.

Section 10.9 – Enforcement

a. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this Ordinance shall be reported to the Zoning Administrator.

b. The Zoning Administrator shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator shall issue within seven (7) days from the date of inspection, a "Notice of Zoning Ordinance Violation", which shall take the form of a letter that explains the violation, has contact information at the Township Hall in order to ask any questions, and with a request to correct the violation to ensure

compliance with the relevant provision(s) of this Ordinance within the required thirty (30) day timeframe.

c. After the order to correct has been issued, the violation shall be corrected within thirty (30) days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Township Board. Any violation not corrected shall be reported to the Township Board. The Township Board may then issue municipal civil infraction.

d. A violation of any of the provisions of this Ordinance or failure to comply with any of its requirements, including a violation of a condition or safeguard required as a condition for the granting of a variance, an appeal, or a special use permit, shall constitute a civil infraction. Whoever violates any of the provisions of this Ordinance, or fails to comply with any of its requirements, including violations of conditions and safeguards required as conditions for the granting of variances, appeals, or special use permits, shall be subject to the penalty provided in the Township's civil infraction ordinance and, in addition, shall pay all costs and expenses involved in the case.

e. The Zoning Administrator is the Township official authorized to issue Township civil infraction citations and Township civil infraction violation notices for violations of this Ordinance.

f. A person, corporation, or firm who fails to comply with a Notice of Zoning Ordinance Violation, could be responsible for any one or all of the following:

1. Being ticketed and found responsible for a civil infraction of this Ordinance, with payment of a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), plus maximum costs of five hundred dollars (\$500.00), (plus being cited for additional infractions if in fact the violation continues, being in addition to those fines and costs set forth above).

2. Being subject to criminal actions, and being found guilty of a criminal misdemeanor, and facing possible imprisonment for up to ninety (90) days in jail and having to pay all costs of criminal prosecution.

3. Being found responsible for and being subject to a Circuit Court restraining order, and for further violation of said restraining order, incarceration in the County jail until compliance of the zoning violation is obtained, plus payment of all costs of prosecution.

g. The sanction for any violation of this Ordinance, which is a Township civil infraction shall be a civil fine as provided in Chapter 14, plus costs, damages, expenses and other sanctions as authorized under Act 236 of the Public Acts of 1961, as amended (revised judicature act of 1961). The Township Board may institute injunction, whether preliminary, ex-parte, temporary, or otherwise, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance. All remedies as provided for in this Section of the Ordinance, or any other Section hereof, shall be viewed as set forth with this entire Ordinance, or failure to assert such remedy, shall not be deemed a

waiver of the ability of the Township to pursue whatever other relief may be provided for either within this Ordinance or generally available to it by relevant law.

Section 10.10 – Public Notice

All applications requiring a public hearing shall comply with the following provisions:

- a. When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator or the Clerk shall prepare the content of the notice and have it published in a newspaper of general circulation in the Township of Au Gres and mailed or delivered as provided in this Section.
- b. All mail, personal and newspaper notices for public hearing shall:
 1. Describe the nature of the request: Identify whether the request is for rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 2. Identify the location: Indicate the property or (properties) that is the subject of the request. The notice shall include a listing of all existing street addresses of the subject property. Street addresses need not be created and listed if no such addresses currently exist for the property. Other means of identification may be used such as a tax parcel identification number, identifying the nearest cross streets, or by including a map showing the location of the property or properties if the subject of the hearing is for less than eleven (11) adjacent properties or when the request is for an ordinance interpretation not involving a specific property.
 3. Indicate the date, time and place of the public hearing(s).
 4. Include a statement describing when and where written comments will be received concerning the request and where written text, maps or other materials pertinent to the hearing may be viewed or obtained.
- c. When the provisions of this Ordinance or state law require that a personal or mailed notice be given:
 1. Notice shall be provided:
 - a) To the owner of property for which approval is being considered, and the applicant, if different than the owner of the property.
 - b) Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within the boundaries of the Township of Au Gres. If the name of the occupant of the property is not known, the term "occupant" may be used in making notification.
 - c) To all neighborhood organizations, public utility companies, railroads, the manager of each airport and other persons or organizations which have

requested to receive notice pursuant to Section 10.11, Registration to Receive Notice by Mail, that are within the zone or district affected by the subject request.

2. Notice by mail affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator or the Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered and shall provide an affidavit thereof.

d. The above notices shall be given not less than 15 days before the date the application will be considered for approval.

Section 10.11 – Registration to Receive Notice by Mail

a. Any neighborhood organization, public utility company, railroad or any other person or organization may register with the Zoning Administrator or the Clerk to receive written notice of hearing of applications for approval pursuant to Section 10.10.c.1.(c). Fees may be assessed for the provision of this notice.

b. All registered entities or persons must re-register bi-annually to continue to receive notification pursuant to this Section.

Chapter 11 – Zoning Board of Appeals

Section 11.1 – Authorization

There is hereby established a Zoning Board of Appeals, which shall derive its authority from Public Act 110 of 2006, as amended. The Board of Appeals shall ensure that the spirit and intent of this Ordinance is upheld, that the public health, safety, and welfare is advanced, and that substantial justice is done.

Section 11.2 – Membership and Procedures

a. **Membership:** The Township Zoning Board of Appeals shall consist of three (3) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, one (1) member may be a member of the Township Board, the remaining member shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected officer of the Township may not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or employee of the Zoning Board of Appeals. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing.

b. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more consecutive meetings of the Board of Appeals, or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve on the Board of Appeals until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

c. **Terms of Office:** Terms of Zoning Board of Appeals members shall be for three (3) years, except for members of the Planning Commission or Township Board, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one (1) month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. All current members of the Zoning Board of Appeals shall serve their remaining portions of their terms at which point the above shall obtain.

d. **Per Diem or Expenses:** The total amount allowed such Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall

not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board.

e. **Rules of Procedure:** The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose a chairman, and in the chairman's absence, an acting chair.

f. **Meetings:** Meetings shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public.

g. **Records:** Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members of the final disposition of each case. Such minutes shall be filed in the office of the Township Clerk and become public records.

h. **Majority Vote:** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Zoning Administrator, to decide in favor of the applicant any matter upon which the Board is required to pass, or to grant any variance of the terms or conditions of this Ordinance.

i. **Decisions:** The Zoning Board of Appeals shall return a decision upon each case within a reasonable amount of time. All decisions of the Board of Appeals are final, and appeals must be filed with a court of competent jurisdiction. Any decision of the Zoning Board of Appeals shall become effective as of the date the action was taken.

j. **Conflict of Interest:** A member of the Zoning Board of Appeals shall disqualify oneself from a vote in which the member has a conflict of interest. Failure of a member to disqualify oneself from a vote in which the member has a conflict of interest shall constitute misconduct.

k. **Duties:** The Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in Sections 11.3, 11.4, and 11.5 this Chapter.

Section 11.3 – Administrative Review

The Zoning Board of Appeals is authorized to review all decisions made in the administration of this Ordinance. The Board may uphold, reverse, or modify any order, decision or determination made by the Zoning Administrator or the Planning Commission. The appeal or request for administrative review shall be submitted to the Township Clerk with the required fee.

The filing of an appeal or request for administrative review shall stay all proceedings in furtherance of the action being reviewed. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

Section 11.4 – Interpretation and Classification of Uses

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret reasonable questions that may occur in the administration of this Ordinance.

- a. The Board shall determine the precise location of the boundary lines between zoning districts when there is a question about the exact location.
- b. The Board shall interpret any provision of this Ordinance when the Zoning Administrator is unable to clearly determine its meaning, intent, or purpose.
- c. The Board may classify any activity which is not specifically mentioned in the district regulations as a Permitted Principal Use or a Conditional Use. The basis for such classification shall be that the activity is consistent and similar to the uses already listed in the district.
- d. The Board may determine the off-street parking and loading space requirements for any use or activity which cannot be determined under the provisions of this Ordinance.

The Zoning Administrator shall keep a record of all decisions made by the Zoning Board of Appeals and make such record available to the Township Board, Planning Commission, and the public.

Section 11.5 – Variances

The Zoning Board of Appeals is authorized to grant, upon application, variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance which is dimensional in nature may be brought before the Zoning Board of Appeals to be considered for a variance. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- a. The Board of Appeals shall not grant a variance unless all of the following are found:
 1. The variance will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 2. The variance will not permit the establishment of a use within a district where it is prohibited.
 3. The variance will not adversely affect property values in the immediate vicinity or in the Township as a whole.
 4. The variance relates only to the property for which the application has been submitted.
 5. The variance request does not arise from a condition regularly occurring in the Township that could be addressed through an amendment to this Ordinance.
- b. The Board of Appeals shall not grant a variance unless at least one (1) of the following is demonstrated:

1. Where there are exceptional or extraordinary circumstances to the intended use or physical conditions such as narrowness, shallowness, shape, or topography of the property involved that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they have been caused by the applicant or previous owner after the effective date of this Ordinance.
 2. Where there are practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Generally economic difficulty on its face is not a qualifying difficulty. Difficulties should be evaluated in terms of the use of the parcel or property.
 3. Where the lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto, and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
 4. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same district.
- c. Any variance that is denied wholly or in part shall not be resubmitted for review for a period of one (1) year from the date that the Board last took action on the request unless substantive new evidence is to be presented or new circumstances arise.
 - d. No use variances may be granted by the Zoning Board of Appeals.

Section 11.6 – Hearing Notices

All Zoning Board of Appeals hearings shall meet the public notice requirements of Section 10.10 of this Ordinance.

Section 11.7 – Procedure

The following procedure shall be followed for an appeal of an administrative decision, an ordinance interpretation, or variance request:

- a. An appeal from any ruling of the Zoning Administrator or other administrative officer or body administering any portion of this Ordinance may be taken by a person aggrieved or by an officer, department, board, or bureau of this state, or the Township.
- b. An application for a variance authorized by this Ordinance may be requested by any person or governmental department having any legal interest in the property concerned.
- c. The Zoning Board of Appeals shall not consider any application or appeal without the payment by the applicant to the Township Treasurer of a fee, if any, as determined by resolution of the Township Board. Such application or appeal shall be filed with the Zoning Administrator who shall transmit the same, together with all plans, specifications and other papers pertaining to the application or appeal, to the Zoning Board of Appeals.
- d. When an application or appeal has been filed in proper form and with the required data,

the Secretary of the Zoning Board of Appeals shall place the application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. Any interested party may appear at such hearings in person or by agent or by attorney.

e. At any public hearing, the Zoning Board of Appeals may adjourn in order to permit the obtaining of additional information, or to send out additional notices to other property owners that it decides may be interested in the application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of the hearing unless the Board so decides.

Section 11.8 – Decision of the Zoning Board of Appeals

The Zoning Board of Appeals shall decide all applications and appeals within 30 days after the final hearing. A copy of the Zoning Board of Appeals decision shall be transmitted to the applicant, and to the Zoning Administrator. Such decision shall be binding and the terms and conditions of the same shall be incorporated in the permit to the applicant whenever a permit is authorized by the Zoning Board of Appeals.

Chapter 12 – Wind Energy Systems

Section 12.1 – Purpose & Intent

The purpose of this Ordinance is to establish guidelines for siting Wind Energy Turbines (WETs) and Wind Energy Systems.

The goals are as follows:

- A. To promote the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.
- B. To allow for the wind energy or on site use and/or utility grid wind energy systems.
- C. To strike an appropriate balance between the need for clean renewable energy resources and the necessity to preserve and protect the health, safety, welfare and quality of life of the public by minimizing the potential adverse impacts of a WET.
- D. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WET shall be governed.

Wind energy systems shall be an allowed and/or special use in all zones as herein provided:

1. On Site Wind Energy Systems:

Small tower-mounted wind energy turbines (STMWET) and small structure-mounted turbines (SSMWET) as defined herein, shall be allowed in all zoning districts in Au Gres Township, as an accessory use therein, as long as proper application has been made and a zoning permit issued in pursuance thereof.

2. Utility Grid Wind Energy Systems:

Large wind energy turbine systems (LWET) as defined herein, shall only be allowed in the wind overlay district as legally described below, as a special use therein, and only after proper application has been made to the Township Zoning Administrator, and a review of the special use request and site plan by the Planning Commission. This overlay district shall hereafter be known as the "Wind Energy Overlay District", as shown on the accompanying "Wind Overlay" map.

Section 12.2 - General Provisions

Section 12.2.1 - On-Site Wind Energy Systems and Anemometer Tower:

- A. Designed to primarily serve the needs of the home, farm, or small business. Said systems are generally intended to provide for smaller wind systems that are to be allowed by way of Township permit, to be issued by the Township Zoning Administrator.
- B. Shall have a tower height of 120 feet or less.
- C. Property Setback: The distance between an On-site Use wind energy system and the

owner's property lines shall be equal to the height of the wind energy system tower including the tip of the blade in its vertical position. The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the wind energy system structure may extend closer than 15 (fifteen) feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback.

D. Sound Pressure Level: On-site Use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe windstorms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

E. Construction Codes, Towers, & Interconnection Standards: On-site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. An interconnected On-site Use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

Section 12.2.2 - Definitions:

Ambient: means the sound pressure level exceeded 90% of the time or less.

Ambient Sound Level: is the amount of background noise at a given location prior to the installation of WET(s) or a Wind Energy System which may include, but not limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute (ANSI).

Anemometer: is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a location.

Anemometer Tower: means a freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.

ANSI: means the American National Standards Institute.

dB(A): means the sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI, which is a method for weighting the frequency spectrum to mimic the human ear.

Decibel: means the unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National standards Institute.

Decommissioning: is the process of terminating operation and completely removing a Wind Energy System and WET(s) and all related buildings, structures, foundations, access roads, and equipment.

IEC: means the International Electrotechnical Commission.

ISO: means the International Organization for Standardization.

Large Wind Energy Turbine (LWET): is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The LWET has a nameplate capacity that identifies the maximum kilowatts (or Megawatts). LWETs are included in Utility Grid Wind Energy Systems.

Lease Unit Boundary: means boundary around property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road right-of-ways.

Nacelle: refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

Net- Metering: is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

Occupied Building: is a residence, school, hospital, church, public library, business, or other building used for public gatherings.

On Site Wind Energy System: means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

Operator: is the entity responsible for the day-to-day operation and maintenance of the Wind Energy Turbine (WET) or Wind Energy System.

Owner: is the individual or entity, including their respective successors and assigns, that have an equity interest or own the Wing Energy Turbine (WET) or Wind Energy System in accordance with this ordinance.

Participating Parcel: A property within Au Gres Township that participates in a lease or easement agreement, or other contractual agreement, with an entity submitting a Special Use Permit application for the purposes of developing of a Utility Scale Wind Energy System.

Rotor: means an element of wind energy that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

Rotor Diameter: is the cross-sectional dimension of the circle swept by the rotating blades of a WET.

Shadow Flicker: means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

Small Tower-Mounted Wind Energy Turbine (STMWET): is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The Total Height does not exceed one hundred twenty (120) feet. Also known as an On Site Wind Energy System.

Sound Pressure: means an 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: means the sound pressure mapped to a logarithmic scale and reported in decibels (dB(A)).

Small Structure-Mounted Wind Energy Turbine (SSMWET): converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The Total Height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. Also known as an On Site Wind Energy System.

Total Height: is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the Wind Energy Turbine (WET).

Tower: is a freestanding monopole that supports a Wind Energy Turbine (WET).

Utility Grid Wind Energy System: means a land use for generating power by use of wind at multiple tower locations and includes accessory uses such as but not limited to a SCADA Tower, electric substation, and on operations and maintenance building. A Utility Grid Wind Energy System is designed and built to provide electricity to the electric utility grid.

Wind Energy Overlay District: Areas specified within Au Gres Township best situated for the development of Utility Scale Wind Energy Systems.

Wind Energy System: means a land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. See also On Site Wind Energy System and Utility Grid Wind Energy System.

Wind Energy Turbine (WET): is any wind energy conversion system that converts wind energy into electricity through the use of a Wind Generator and includes the nacelle, rotor, tower, and pad transformer, if any.

Wind Site Assessment: means an assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

Section 12.2.3 – Additional Utility Grid Wind Energy System Restrictions:

- A. Utilities: Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors, to the extent practicable, should address the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published recommendations to prevent avian mortality.
- B. Visual Impact: Utility Grid wind energy system projects shall use tubular towers and all Utility Grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's Plan.
- C. Avian and Wildlife Impact: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the Avian and Wildlife Impact analysis.
- D. Shadow Flicker: Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the Shadow Flicker Impact Analysis.
- E. Decommissioning: A planning commission approved decommissioning plan indicating 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.
- F. Complaint Resolution: A planning commission approved process to resolve complaints from nearby residents concerning the construction or operation of the project.
- G. Electromagnetic Interference: No Utility Grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae or radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No Utility Grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

Section 12.2.4 – Siting and Design Requirements Regarding On Site Wind Energy Systems (Small Structure-Mounted Wind Energy Turbine (SSMWET) and Small Tower-Mounted Wind Energy Turbine (STMWET)):

- A. "Upwind" turbines shall be required.

B. Visual Appearance

1. A SSMWET or STMWET, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.

2. A SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

3. SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.

C. Ground Clearance: The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least 20 feet above the ground (at the highest point of the natural grade within thirty [30] feet of the base of the tower), and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET or STMWET.

D. Noise: Noise emanating from the operation of a SSMWET(s) or STMWET(s) shall not exceed, at any time, 55 dB(A), measured as a ten-minute Leq, at any property line of a non-residential or non-agricultural use parcel.

E. Guy Wires: Guy wires shall not be permitted as part of the SSMWET or STMWET.

F. In addition to the Siting and Design Requirements listed previously, the SSMWET shall also be subject to the following:

1. Height: The height of a SSMWET shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

2. Setback: The setback of the SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines is mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen

(15) feet, or zoning district setback requirements, whichever is greater. The setback shall be measured from the furthest outward extension of all moving parts.

3. Location: The SSMWET shall not be affixed to the wall on the side of a structure facing a road.

4. Quantity: No more than three (3) SSMWETs shall be installed on any parcel of property.

5. Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

G. In addition to the Siting and Design Requirements listed previously, the STMWET shall also be subject to the following:

1. Height: The Total Height of a STMWET shall not exceed one hundred twenty (120) feet.
2. Location: The STMWET shall only be located in a rear yard of a property that has an occupied building.
3. Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the Tower.
4. Other Setbacks: The setback shall be equal to the Total Height of the STMWET, as measured from the base of the Tower, from the property line, public right-of way, public easement, or overhead public utility lines.
5. Quantity: No more than one (1) STMWET shall be installed on any parcel of property.
6. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

Section 12.2.5 – On Site Wind Energy Systems Permit Application Requirements:

1. Name of property owner(s), address, and parcel number.
2. A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) or STMWET, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.
3. The proposed type and height of the SSMWET or STMWET to be constructed; including the manufacturer and model product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
4. Documented compliance with the noise requirements set forth in this Ordinance.
5. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
6. Proof of applicant's liability insurance.
7. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off grid systems shall be exempt from this requirement.

8. Other relevant information as may be reasonably requested.
9. Signature of the Applicant.
10. In addition to the Permit Application Requirements previously listed, the SSMWET Application shall also include the following:
 - a) Total proposed number of SSMWET's.
11. In addition to the Permit Application Requirements previously listed, the STMWET Application shall also include the following:
 - a) A description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.

Section 12.2.6.A – On Site Wind Energy Systems Safety Requirements:

1. If the SSMWET or STMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
2. The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
3. A clearly visible warning sign regarding voltage shall be placed at the base of the **SSMWET or STMWET**.
4. The structural integrity of the SSMWET or STMWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" and/or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

Section 12.2.6.B - On Site Wind Energy Systems Signal Interference:

1. The SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, satellite, or emergency communication systems.

Section 12.2.7 - On Site Wind Energy Systems Decommissioning:

1. The SSMWET or STMWET Owner(s) or Operator(s) shall, complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner(s) or assigns of the SSMWET or STMWET, and for a good cause, the Planning Commission may grant a reasonable extension of time. The SSMWET or STMWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of

twelve (12) months. All decommissioning expenses are the responsibility of the Owner(s) or Operator(s).

2. If the SSMWET or STMWET Owner(s) or Operator(s) fails to complete decommissioning within the period prescribed above, the Au Gres Township Board may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the SSMWET or STMWET is not owned by the property owner(s), a bond must be provided to Au Gres Township for the cost of decommissioning each SSMWET or STMWET.

3. In addition to the Decommissioning Requirements listed previously, the STMWET shall also be subject to the following:

a) Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade.

b) The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

Section 12.2.8 – Siting and Design Requirements Regarding Utility Grid Wind Energy Systems Large Wind Energy Turbines (LWET):

1. "Upwind" turbines shall be required.

2. The design of the LWET shall conform to all applicable industry standards.

3. Visual Appearance:

a) Each LWET, including accessory buildings and other related structures shall be mounted on a tubular tower and a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET or LWET.

b) Each LWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. When illumination is required by the FAA, the LWET is required to use Aircraft Detection Lighting Systems (ADLS).

c) Each LWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer or operator(s).

4. Shadow Flicker: The LWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the LWET. 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 sun-rise to sun set over the course of a year. The analysis shall identify situations where shadow flicker

may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow Flicker on a building shall not exceed thirty (30) hours per year.

5. Guy Wires: Guy wires shall not be permitted as part of the LWET.
6. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the LWET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.
7. In addition to the Siting and Design Requirements listed previously, the LWET shall also be subject to the following:
 - a) Ground Clearance: The lowest extension of any blade or other exposed moving component of an LWET shall be at least fifty (50) feet above the ground (at the highest point of the grade level within one hundred (150] feet of the base of the tower).
 - b) Noise:
 - i. Noise emanating from the operation of a LWET or shall not exceed, at any time, 55 dB(A), measured as a ten-minute Leq., at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a LWET(s) shall not exceed, at any time, the lowest ambient noise level plus 5 dB(A) that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or nonagricultural use parcel.

As part of the application and prior to installation, the applicant shall provide modeling and analysis that will confirm that the Utility Grid Wind Energy System will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Utility Grid Wind Energy System, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Township within six months of the commercial operation of the project.
 - c) Quantity: The number of LWETs shall be determined based on setbacks and separation.
 - d) Setback & Separation:
 - i. Occupied Building Setback: Each LWET shall be set back from the nearest Occupied Building that is located on the same parcel as the LWET a minimum of two (2) times its Total Height, or one thousand four hundred (1,400) feet, as measured from the base of the Tower, whichever is greater.

ii. Property Line Setbacks: With the exception of the locations of public roads and railroads (see below), drain rights-of-way and parcels with Occupied Buildings (see above), the property line setbacks shall be a minimum of one and one-half (1.5) times the Total Height, as measured from the base of the Tower.

iii. Wind Energy Overlay District Setbacks: Along the border of the Wind Energy Overlay District, there shall be a setback distance equal to two (2) times the Total Height as measured from the base of the Tower.

iv. Public Road Setbacks: Each LWET shall be set back from the nearest public road a minimum distance no less than four hundred (400) feet or one and one-half (1.5) times its Total Height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such public road.

v. Communication and Electrical Lines. Each LWET shall be set back from the nearest above-ground public electric power line or telephone line, a distance no less than four hundred (400) feet or one and one-half (1.5) times its Total Height, whichever is greater, determined from the existing power line or telephone line.

vi. Tower Separation: Turbine/tower separation shall be based on industry standards and manufacturer recommendation.

Section 12.2.9 – Safety Requirements:

1. The LWET shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and, if applicable, the connection shall be inspected by the appropriate public utility.

2. The LWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

3. Security measures need to be in place to prevent unauthorized trespass and access. Each LWET shall not be climbable up to fifteen (15) feet above ground surfaces. All access doors to LWETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized person(s).

4. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.

5. Each LWET shall have one sign, not to exceed two (2) square feet in area posted at the base of the tower or on the security fence, if applicable. The sign shall contain at least the following:

- a) Warning high voltage
- b) Manufacturer's and owner/operators name
- c) Emergency contact numbers (list more than one number)

6. The structural integrity of the LWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

Section 12.2.10 – Signal Interference:

1. The LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

Section 12.2.11 – Decommissioning:

1. The LWET Owner(s) or Operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner(s) or the assigned of the MWET or LWET, and for a good cause, the Planning Commission may grant a reasonable extension of time. Each LWET will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

2. Decommissioning shall include the removal of each LWET, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds.

3. All access roads to the LWET shall be removed, cleared, and graded by the LWET Owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road. Au Gres Township will not be assumed to take ownership of any access road unless through official action of the Au Gres Township Board.

4. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the LWET or its assigns. If the site is not to be used for agricultural or forestry practices following removal, the site shall be seeded to prevent soil erosion.

5. In addition to the Decommissioning Requirements previously listed, the Utility Scale Wind Energy System, shall also be subject to the following:

a) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). When determining this amount, Au Gres Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Au Gres Township Zoning Administrator after the first year of operation and every fifth year thereafter.

b) The Utility Scale Wind Energy System Owner(s) or Operator(s) shall post and

maintain Decommissioning Funds in an amount equal to actual Decommissioning Costs. The Decommissioning Funds shall be posed and maintained with a bonding company or Federal or state chartered lending institution chosen by the Owner(s) or Operator(s) and participating landowner(s) posting the financial security. The bonding company or lending institution is authorized to conduct such business and is approved by Au Gres Township.

- c) A condition of the bond shall be notification by the bond company to the Au Gres Township Zoning Administrator when the bond is about to expire or be terminated.
- d) Failure to keep the bond in effect while an Utility Scale Wind Energy System is in place will be a violation of the special land use permit. If a lapse in the bond occurs, Au Gres Township may take action up to and including requiring ceasing operation of the Utility Scale Wind Energy System until the bond is reposted.
- e) The escrow agent shall release the Decommissioning Funds when the Owner(s) has demonstrated and Au Gres Township concurs that decommissioning has been satisfactorily completed, or upon written approval of Au Gres Township in order to implement the decommissioning plan.
- f) If neither the Owner(s) or Operator(s), nor the landowner(s) complete decommissioning within the periods addressed previously (Decommissioning Requirements a), then Au Gres Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to Au Gres Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that Au Gres Township may take such action as necessary to implement the decommissioning plan.

Section 12.2.12 – Site Plan Requirements:

1. Site Plan Drawing: All applications for a Utility Scale Wind Energy System special land use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:
 - a) Existing property features to include the following: property lines, physical dimensions of the property, land use, zoning district, contours, setback lines, right-of-ways, public and utility easements, public roads, access roads (including width), sidewalks, non-motorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within three hundred (300) feet of the property.
 - b) Location and height of all proposed LWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with the proposed LWET.
 - c) Additional details and information as required by the Special Use requirements of the Zoning Ordinance or as requested by the Planning Commission.

2. Site Plan Documentation: The following documentation shall be included with the site plan:

- a) The contact information for the Owner(s) and Operator(s) of the LWET as well as contact information for all property owners on which the LWET is located.
- b) A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed LWET. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
- c) Identification and location of the properties on which the proposed LWET will be located.
- d) The proposed number, representative types and height of each LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
- e) Documents shall be submitted by the developer/manufacturer confirming specifications for LWET tower separation.
- f) Documented compliance with the noise, and shadow flicker requirements set forth in this Ordinance.
- g) Engineering data concerning construction of the LWET and its base or foundation, which may include, but not be limited to, soil boring data.
- h) A certified registered engineer shall certify that the LWET meets or exceeds the manufacturer's construction and installation standards.
- i) Anticipated construction schedule.
- j) A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the LWET to conduct maintenance, if applicable.
- k) Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- l) Proof of applicant's liability insurance.
- m) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off grid-systems shall be exempt from this requirement.
- n) Other relevant information as may be requested by Au Gres Township to ensure compliance with the requirements of this Ordinance.
- o) Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Special Use Permit.

- p) A written description of the anticipated life of each LWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and scheduled that will be employed if the MWET(s) or LWET(s) become inoperative or non-functional.
- q) The applicant shall submit a decommissioning plan that will be carried out at the end of the LWET's useful life and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.
- r) Au Gres Township reserves the right to review all maintenance plans and bonds under this Ordinance to ensure that all conditions of the permit are being followed.
- s) Signature of Applicant.
- t) In addition to the Site Plan Requirements listed previously, the LWET shall be subject to the following:
- i. A site grading, erosion control and storm water drainage plan will be submitted to the zoning administrator prior to issuing a special use permit for an LWET. At Au Gres Township's discretion, these plans may be reviewed by Au Gres Township's engineering firm. The cost of this review will be the responsibility of the applicant.
 - ii. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET.
 - iii. A statement indicating what hazardous materials will be used and stored on the site.
 - iv. A study assessing any potential impacts on the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds and/or other wildlife, wetlands and fragile ecosystems). The study shall conform to state and federal wildlife agency recommendations based on local conditions.

Chapter 13 – Amendments and Rezoning

Section 13.1 – Authorization

Amendments to this Ordinance may be made as is deemed necessary and shall be in accordance with Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended.

Section 13.2 – Rezoning

For the purposes of this Chapter and other applicable Sections of this Ordinance, the term “rezoning” shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this Chapter for Amendments.

Section 13.3 – Initiation of Amendments

Proposals for amendments may be initiated by the Township Board, Planning Commission, or any person or persons having an interest.

Section 13.4 – Procedure

a. Each petition by one (1) or more owners or their agents, to amend the text or map (rezoning) of this Ordinance shall be submitted upon an application of standard form to the Zoning Administrator. A fee as established by the Township Board shall be paid at the time of application. The Zoning Administrator shall transmit the application and other information to the Planning Commission for its consideration and recommendations.

b. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as set forth in the Township Master Plan, as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this Section, the Planning Commission shall forward a recommendation on the proposed amendment along with a copy of the public hearing minutes to the Township Board and the County Planning Commission.

c. Before making a recommendation on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing, with notice being given by the Township as specified in Section 10.10 of this Ordinance.

d. Upon receipt of the County Planning Commission's recommendation or expiration of thirty (30) days, the Township Board shall review both the County's and the Planning Commission's recommendations. The Township Board shall adopt or reject the proposed amendment unless one (1) or more of the following occurs:

1. The Township Board shall grant a hearing on the proposed amendment to any party who has filed a written request for such a hearing with the Township Clerk. Said request shall be filed in a timely manner. The Planning Commission, or its designated representative, may be requested to attend the hearing. Notice of the hearing shall be made in accordance with Section 10.10 of this Ordinance.
2. If the Township Board deems advisable any changes or additions to the amendment recommended by the Planning Commission, it may refer the changes or additions back to the Planning Commission for a report thereon within thirty (30) days. After receiving the report, the Township Board may grant a hearing on the proposed amendment to any interested property owner who requests a hearing. The request for hearing shall be addressed to the Township Clerk and delivered by certified mail. The Township Board shall request the Planning Commission, or its designated representative, to attend the hearing.
 - e. Following a hearing or review of the Planning Commission's report, if requested, and otherwise, the Township Board by majority vote of its membership may adopt or reject the proposed amendment with or without changes.
 - f. The amendment shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days of adoption. The notice shall contain:
 1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 2. The effective date of the amendment; and
 3. The time and place where a copy of the amendment may be purchased or inspected.
 - g. The amendment will take effect on the eighth (8th) day following publication.
 - h. An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the notice of the adopted amendment published without a hearing or referring the amendment to any other board or agency provided for in this Ordinance.

Section 13.5 – Conditional Rezoning

- a. An owner of land may voluntarily offer in writing, and the township may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
- b. In approving the conditions under subsection (A), the township may establish a time period during which the conditions apply to the land. Except for an extension under subsection (D), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
- c. The township shall not add to or alter the conditions approved under subsection (A) during the time period specified under subsection (B).

d. The time period specified under subsection (B) may be extended upon the application of the landowner and approval of the township.

e. The township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (A) shall not otherwise affect landowner's rights under this act, the ordinances of the township, or any other laws of this state.

f. An application for conditional rezoning shall follow the procedures of this Chapter. If a rezoning is approved, the landowner shall then follow all the applicable procedures and regulations of this ordinance in pursuance of intended use or uses.

g. Upon approval of a proposed project, the land owner shall provide to the township an Agreement of Conditions, in a recordable contractual form, stating the terms, conditions and obligations of the rezoning.