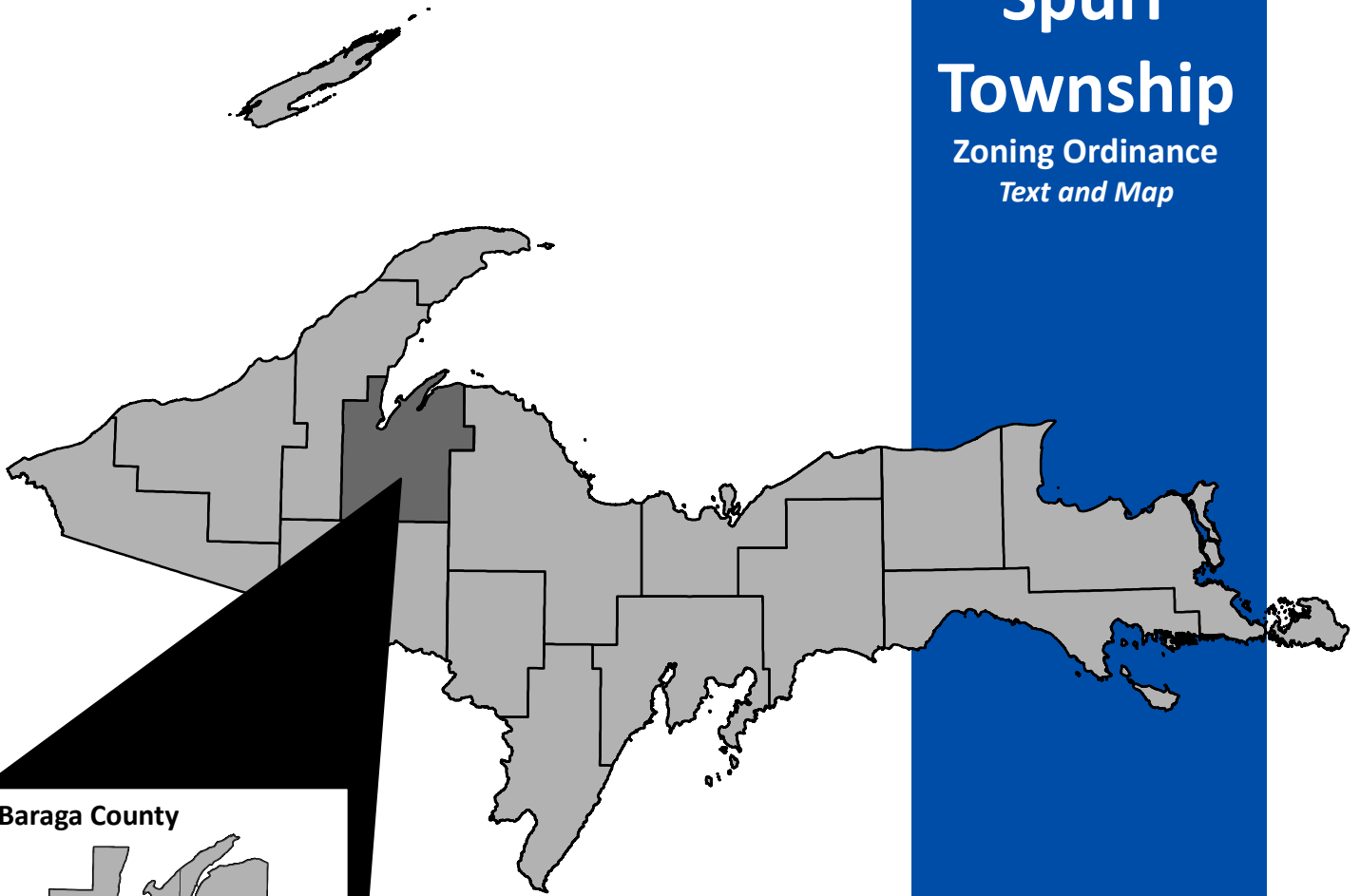


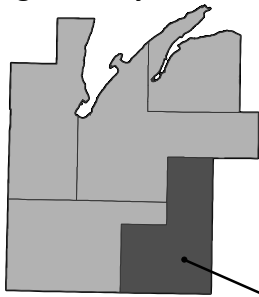
2016

# Spurr Township

Zoning Ordinance  
*Text and Map*



Baraga County



Spurr Township

*Adopted: 10/27/2016*

Prepared By:  
Spurr Township Planning Commission  
&  
Spurr Township Board



**Spurr Township Zoning Ordinance  
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**ARTICLE I**

**Spurr Township Zoning Ordinance**

**ARTICLE I  
PURPOSE OF ZONING**

An Ordinance to establish zoning districts and regulations governing the development and use of land within Spurr Township, in accordance with the provisions of the Michigan Zoning Enabling Act of 2006 (P.A. 110 of 2006/M.C.L. 125.3101 *et seq.*), as amended; to provide for regulations governing nonconforming uses and structures; to provide for a Zoning Board of Appeals and its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this Ordinance; and to provide for regulations regarding conflicts with other ordinances or regulations.

THE TOWNSHIP OF SPURR HEREBY ORDAINS:

Section 101 Purpose

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this Ordinance has been established for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare;
2. Protecting the character and stability of the Township's most valuable natural resources, its minerals and forests;
3. Promoting the orderly and beneficial development of residential and non-residential areas within Spurr Township;
4. Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide light, air, access and privacy to protect the public health;
5. Lessening and avoiding congestion or other traffic related problems on the public highways and roads;
6. Providing for the needs of mining, forest resource production, agriculture, housing, and commerce in future growth;
7. Protecting the public and adjacent use from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;
8. Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
9. Enhancing social and economic stability in the Township;
10. Conserving the taxable value of land, buildings and structures in the Township;
11. Enhancing the aesthetic desirability of the environment throughout the Township; and
12. Conserving the expenditure of funds for public improvements and services to conform with the most advantageous uses of land.



## **ARTICLE I – PURPOSE OF ZONING**

### Section 102 Short Title

This Ordinance shall be known and may be cited as the Zoning Ordinance of the Township of Spurr, County of Baraga, Michigan.

## ARTICLE II

### ARTICLE II DEFINITIONS

#### Section 201 Construction of Language

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

- (A) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases that have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.
- (B) The particular shall control the general.
- (C) In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- (D) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (E) The word "use" includes the words, structures and buildings associated with such use.
- (F) When not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.
- (G) The word "building" includes the word "structure," and the word "dwelling" includes the word "residence." A "building" or "dwelling" includes any part thereof.
- (H) The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.
- (I) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.
- (J) The word "lot" includes the words "plot" and "parcel."
- (K) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows:
  - (1) "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - (2) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - (3) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply single but not in combination.

## ARTICLE II – Construction of Language & Definitions

- (L) Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- (M) Whenever reference is made to several sections and the section numbers are connected by the word “to,” the reference includes both sections whose numbers are given and all intervening sections.

### Section 202 Definitions

For the purpose of this Ordinance words pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

- (1) Accessory Building: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.
- (2) Accessory Use: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
- (3) Agricultural 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, including in varying degrees the preparation products from on-site source materials, and the direct marketing of resulting products.
- (4) Alley: A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
- (5) Apartment: A dwelling unit in a “multiple family dwelling” as defined herein.
- (6) Area, Sign: The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background on which it is placed; excluding the necessary support or upright on which the sign is placed. Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel, or background, the area of such a sign shall be computed using the dimension of the circle, triangle, or parallelogram, which touches the outermost

## ARTICLE II – Construction of Language & Definitions

points of the sign. In the case of a two-sided identification sign where both sides are used, only one side shall be considered in calculating the total area.

- (7) Automotive Repair Garage: A premise where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or re-conditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles.
- (8) Basement: That portion of a building which is partially or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.
- (9) Batch Plants: A temporary facility that produces or processes concrete or asphalt only for use in a particular construction project and only for the duration of that project.
- (10) Bed and Breakfast: A single family residence structure, in which the innkeeper resides and offers sleeping rooms which are available for rent to transient tenants on a short-term basis. Breakfast (and/or other meals) may be served to its guests at no additional cost. Guest accommodations shall be subordinate to the principal use of the dwelling as a single family residence.
- (11) Berm: A man-made, formed, earth mound of definite height and width, often used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.
- (12) Block: The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, un-subdivided acreage, lake, river, stream, or other barrier to the continuity of development.
- (13) Breezeway: A covered structure connecting an accessory building with the principal dwelling unit. For purposes of determining yard and area requirements, such structures (dwelling, breezeway, accessory building) shall be considered as one integral unit.
- (14) Buffer: A strip of land, including any specified type and amount of planting or structures, which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.
- (15) Building: Any structure having a roof supported by columns or walls for the shelter, support, enclosure of persons, animals or property.

## ARTICLE II – Construction of Language & Definitions

- (16) Building Height: In all cases measuring from the established grade to: the average height between eaves and ridge for gable, hip, and gambrel roofs; the vertical distance to the highest point of the roof surface for flat roofs; and to the deck line of mansard roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building walls. (See illustration below).
- (17) Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is located.
- (18) Bulletin Board: A sign whose primary purpose is to announce events or other occurrences related to the premise.
- (19) Carport: A partially open structure, intended to shelter one or more vehicles. Such structure shall comply with all yard requirements applicable to private garages.
- (20) Cemetery: Property used for the interring of the dead.
- (21) Child care center: (Also known as a Day Care Center): A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care centers are licensed by the State of Michigan under Public Act 116 of 1973, as amended. Child care center or day care center does not include:
- (a.) A Sunday School, a vacation bible school, or a religious instruction class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during any twelve (12) month period, or
  - (b.) A facility operated by a religious organization where children are cared for not more than three (3) hours while parents or guardians attend religious worship services.

ARTICLE II – Construction of Language & Definitions

H = HEIGHT OF BUILDING



MANSARD ROOF



HIP ROOF



GAMBREL ROOF



GABLE ROOF

## ARTICLE II – Construction of Language & Definitions

- (22) Church, Synagogue, Mosque, Temple or Other Place of Worship: A building whose primary purpose is the regular assembly for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.
- (23) Clinic: A place where medical or dental care is furnished to persons on an out-patient basis by two or more licensed health care professionals.
- (24) Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.
- (25) Commercial Vehicle: A vehicle licensed as a commercial vehicle registered to do business in the State of Michigan.
- (26) Condominium: See Section 418.
- (27) Contiguous Property: Any portion of an individual's lot or property which can be identified as one parcel, including those properties in the same ownership which would otherwise be touching except for a public right-of-way or easement running between them. Property which is joined at a common point only, is not considered contiguous property.
- (28) Convalescent Home, Home for the Aged, or Nursing Home: A home for the care of children, or the aged, or infirm, or a place of rest for those suffering bodily disorders, and licensed or required to be licensed by the State of Michigan, but not including housing for the elderly where such persons live independently in individual apartment units.
- (29) County Board: The Baraga County Board of Commissioners.
- (30) Cul-de-Sac: See Section 414(A) Definitions.
- (31) Directional Sign: A sign which gives a name, location, and general nature of a specific establishment or attraction and is intended to give directions to that place.
- (32) District: A zoning district.
- (33) Driveway: See Section 414(A) Definitions.
- (34) Dwelling, Single-Family: A structure, including a manufactured home, designed or used for residential occupancy by one family.

## ARTICLE II – Construction of Language & Definitions

- (35) Dwelling, Two-Family: A structure containing two dwelling units each designed for residential occupancy by one family.
- (36) Dwelling, Multiple Family: A structure containing more than two dwelling units each designed for residential occupancy by one family, including both rental units and those units owned through a condominium organizational environment.
- (37) Dwelling Unit: One or more rooms with bathroom, bedroom, and kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.
- (38) Earth Sheltered Home: A building which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.
- (39) Easement: See Section 414(A) Definitions.
- (40) Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including office buildings, substations, or structures which are enclosures or shelters for service equipment or maintenance depots.
- (41) Excavation: Any breaking of ground, except common household gardening, general farming and ground care.
- (42) Family: An individual, or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children, or a group not to exceed three persons not related by blood or marriage, occupying a premises and living as a single cooking, sleeping, and bathroom housekeeping unit. Every additional group of three or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Ordinance. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.
- (43) Family (Child) Day Care Home (Licensed): A private home (dwelling) in which one (1) but fewer than seven (7) children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to



## ARTICLE II – Construction of Language & Definitions

an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year. Family day care homes are licensed by the State of Michigan under Public Act 116 of 1973, as amended.

- (44) **Farm:** A farm is an establishment engaged in growing crops, sod, plants, trees, shrubs, nursery stock; an establishment engaged in dairying, the maintaining or the raising of livestock and poultry, the keeping of horses, small animals, as well as other similar agricultural land uses.

A farm includes farm buildings such as barns, pole buildings for equipment storage and repair, greenhouses, apiaries and other similar structures.

A farm's land area includes all of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees.

- (45) **Feedlot:** An animal feeding operation is a concentrated animal feeding operation for the purposes of §122.23 (Under 40 CFR 122, Appendix B) and for the purpose of defining a “feedlot” under this zoning ordinance, if either of the following criteria are met.

- (a.) More than the numbers of animals specified in any of the following categories are confined:
- (1.) 1,000 slaughter and feeder cattle,
  - (2.) 700 mature dairy cattle (whether milked or dry cows),
  - (3.) 2,500 swine each weighing over 25 kilograms (approx. 55 lbs.),
  - (4.) 500 horses,
  - (5.) 10,000 sheep or lambs,
  - (6.) 55,000 turkeys,
  - (7.) 100,000 laying hens or broilers (if the facility has continuous overflow watering),
  - (8.) 30,000 laying hens or broilers (if the facility has a liquid manure system),
  - (9.) 5,000 ducks, or
  - (10.) 1,000 animal units<sup>1</sup> as a result of any combination; or

**Notwithstanding the above schedule, the following schedule shall apply in cases where one of the following conditions are met:**

- X **pollutants are discharged into navigable waters through a manmade<sup>2</sup> ditch, flushing**

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<sup>1</sup> All other animal types not in schedules 1. and 2. are to be calculated as one thousand pounds live weight equals one animal unit.

<sup>2</sup> The term manmade ditch or device means constructed by man and used for the purpose of transporting wastes.

## ARTICLE II – Construction of Language & Definitions

- X **system or other similar manmade<sup>2</sup> device; or**
- X **pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility; or**
- X **pollutants otherwise come into direct contact with the animals confined in the operation.**

(b.) More than the following number and types of animals are confined:

- (1.) 300 slaughter or feeder cattle,
- (2.) 200 mature dairy cattle (whether milked or dry cows),
- (3.) 750 swine each weighing over 25 kilograms (approx. 55 pounds),
- (4.) 150 horses,
- (5.) 3,000 sheep or lambs,
- (6.) 16,500 turkeys,
- (7.) 30,000 laying hens or broilers (if the facility has continuous overflow watering),
- (8.) 9,000 laying hens or broilers (if the facility has a liquid manure handling system),
- (9.) 1,500 ducks, or
- (10.) 300 animal units<sup>1</sup> as a result of any combination:

**Provided, however, that no animal feeding operation is a concentrated animal feeding operation (feedlot) as defined above under schedule (b.) if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.**

The term animal unit means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

- (46) **Fence**: An artificially constructed barrier of wood, metal, stone, or any manufactured materials erected for the separation of yard areas, the defining of a lot or parcel, or the keeping of animals.
- (47) **Filling**: The depositing or dumping of any matter into or onto the ground, except in cases involving common household gardening and general yard or landscape maintenance.
- (48) **Floodplain**: Means those areas of land adjacent to the rivers, and other water courses of the Township, subject to seasonal or periodic flooding.

More particular definitions of floodplain are the 100 year or 500 year floodplains as defined and mapped, delineating the respective flood elevations and geographic areas of flooding under the U.S. Federal Emergency Management Agency's national flood insurance program.

## ARTICLE II – Construction of Language & Definitions

- (49) Floor Area, Gross: The sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios (whether covered or uncovered), basements, and breezeways shall not be considered as a part of the gross floor area unless used for commercial purposes, such as nursery beds or sales of outdoor equipment.
- (50) Floor Area, Ratio: A measure of intensity of land use, calculated as a ratio, derived by dividing the total floor area of a building(s) by the lot area.
- (51) Floor Area, Usable: For purposes of computing parking requirements, it is that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used for the storage or processing of merchandise, for hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of “useable floor area.” Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of living areas of the building, measured from the interior faces of the exterior walls, including private garages.
- (52) Foster Family Home (private home): A private residence (dwelling) in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, or a family day care home, as follows:
- (a.) “Foster family home” is a private home (dwelling) in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code (MCL 710.21-710.70) are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.
- (b.) “Foster family group home” means a private home in which more than four (4) but fewer than seven (7) minor children , who are not related to an adult member of the household by blood, marriage, or who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code (MCL 710.21-710.70) are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.
- (53) Fur Farm: The place of confined keeping, raising, or breeding for the purpose of producing fur or pelts.
- (54) Garage, Residential: An accessory building, or portion of a principal building, designed or used solely for the storage of non-commercial motor vehicles, boats, and similar items or

## ARTICLE II – Construction of Language & Definitions

equipment, and having no public sales or shop services in connection thereof.

- (55) Gasoline Service Station: A structure used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, minor motor repair, or servicing, but not including bumping, painting, refinishing, or conveyor-type car wash operations.
- (56) Grade: A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure. The average of all faces shall be used to determine the height of a structure.
- (57) Group (child) Day Care Home: A private home (dwelling) in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. Group day care homes are licensed by the State of Michigan under Public Act 116 of 1973, as amended.
- (58) Hobby Farms: The keeping of livestock animals that is accessory to a dwelling on non-farm lots or parcels outside of an existing residential plat, subdivision, and condominium development, unless such development is originally designed to provide for said accessory hobby farms as provided herein. (See Section 415.)
- (59) Home occupation: Home occupation means a use or occupation conducted on the premises either within the main residential dwelling or an accessory building, if permitted, which accessory building is clearly incidental and secondary to residential occupancy.
- (60) Hotel/Motel: A structure designed, used, or offered for residential occupancy for a temporary period, including tourist homes, resorts, lodges, motels, extended stay motels and youth camps, but does not include hospitals and nursing homes.
- (61) Identification Sign: A sign which pertains to the use of a premise and contains any or all of the following information:
- (a.) The occupant of the use.
  - (b.) The address of the use.
  - (c.) The kind of business and/or the principal commodity sold or service offered on the premise.

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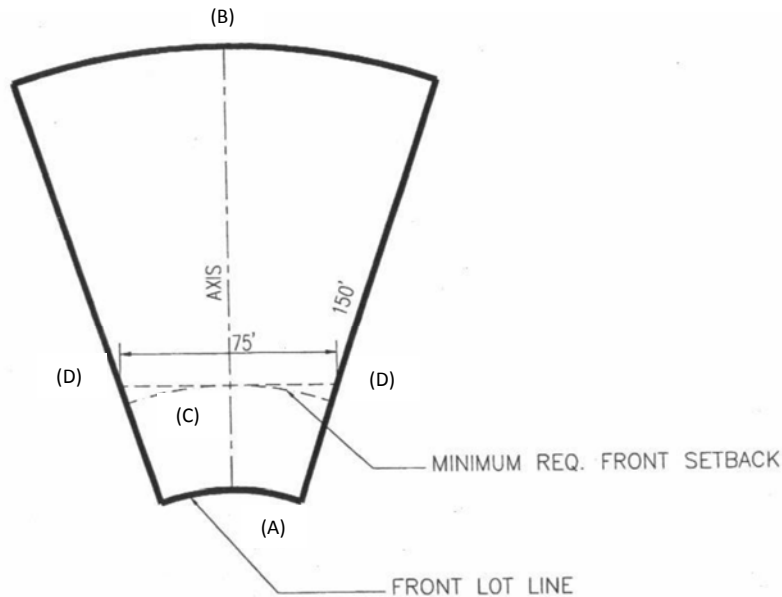
- (62) Junkyard: Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof.
- (63) Kenel: The permanent or temporary keeping of more than three (3) dogs that are more than six months of age.
- (64) Landscaping: The treatment of the ground surface with live, organic, or synthetic materials such as, but not limited to, grass, ground cover, crushed stone, trees, shrubs, vines and other growing or synthetic horticultural material. Structural features such as fountains, shadow pools, statues, garden walls, pathways, benches and the like shall also be considered elements of landscaping, but such structural features alone shall not meet the spirit and intent of landscaping requirements.
- (65) Live/work unit or live/work space: A structure or portion of a structure that combines a commercial or manufacturing activity allowed in the zone with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household.
- (66) Loading Space: An off-street space on the same lot with a building, or group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- (67) Lot: A parcel of land, excluding any portion in a street or road right-of-way, of at least sufficient size to meet minimum requirements for use, coverage and lot area, and to provide such setback area and other open space as required by this Ordinance. Such lot shall have access to a public or private street, and may consist of:
- (a.) A single lot of record;
  - (b.) A portion of a lot of record;
  - (c.) Any combination of complete and/or portions of lots of record; or
  - (d.) A parcel of land described by metes and bounds in a recorded deed or by number in a recorded plat, provided that in no case of division or combination shall the area of any lot or parcel created, including residuals, be less than that required by this Ordinance.
- (68) Lot Area: The area of land within the boundary of a lot excluding any part under water, and, in addition, it is the area of land bounded by any front lot lines, the right-of-way line of the street, road, or highway on which it fronts, and the side lot lines intersecting the front lot line at its ends extended to the rear property (lot) lines.

## ARTICLE II – Construction of Language & Definitions

- (69) Lot, Corner: A lot which has at least two contiguous sides abutting upon a street for their full length.
- (70) Lot, Depth of: The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
- (71) Lot, Interior: A lot other than a corner lot.
- (72) Lot Line(s): Any of the lines bounding a lot as defined herein.
- (a.) Front Lot Line: In the case of an interior lot, it is that line separating said lot from the street. In the case of a through lot, it is each line separating said lot from each street. In the case of a corner lot, both sides abutting the street are considered front yards and consequently both have front lot lines.
- (b.) Rear Lot Line: That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10') feet in length, lying farthest from the front lot line and wholly within the lot. Where the lot has a discontinuous lot line, all lot lines approximately parallel to the front lot line shall be rear lot lines.
- (c.) Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interest side lot line.
- (73) Lot of Record: A lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgement of a notary public, prior to the January 6, 1997, effective date of this Ordinance, and which lot actually existed as shown or described.
- (74) Lot, Through: A double frontage lot, not a corner lot, having a street for both front and rear lot lines.
- (75) Lot, Width:
- For a common rectangular lot, lot width is the straight line horizontal distance between the side lot lines measured at the two (2) points where the minimum required front setback line intersects with the side lot lines (measure side to side at the front setback).
  - If the side lot lines are not parallel, then;
    - Step 1. Start with the axis line of the lot, measuring from the midpoint of the front lot line (A), to the midpoint of the rear lot line (B).

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- Step 2. Measure the required front setback distance along the axis line, to point (C).
- Step 3. Draw a line at a right angle (90°) from the axis line at point (C).
- Step 4. Lot width is measured along the line in Step 3 where it intersects the side lot lines at points (D). (See illustration below)



- (76) Manufactured Home: A dwelling unit, which is designed for long-term residential occupancy and is wholly or largely fabricated at an off-site location.
- (77) Manufactured Home Condominium Projects: A parcel of land under joint ownership, which has been planned and improved for the placement of manufactured or mobile homes for non-transient use, upon individual, separate Condominium Unit envelopes.
- (78) Manufactured Home Lot or Site: A parcel of land for the placement of a single manufactured or mobile home and for exclusive use of its occupants within a licensed manufactured or mobile home community (previous term "park"), a condominium project or subdivision project or development, or simply a lot or parcel of land within the Township and used for this purpose.
- (79) Manufactured Home Stand: That part of an individual lot which has been reserved for the placement of the manufactured or mobile home, appurtenant structures or additions.
- (80) Manufactured Home Subdivision: A parcel of land under single ownership which has been

## ARTICLE II – Construction of Language & Definitions

planned and improved for the placement of manufactured or mobile homes for non-transient use on individual lots and for the purpose of selling the lots.

- (81) Manufactured Housing: A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit when connected to required utilities, and the plumbing, heating air conditioning and electrical systems contained within the structure.
- (82) Manufactured Housing Community: A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which are offered to the public for that purpose. A recreational vehicle park or campground is not a manufactured home community. The older term “mobile home park” is often used by individuals as an equivalent term.
- (83) Manufactured Housing Community License: A written license issued by the Manufactured Housing Commission allowing a person to operate and maintain a manufactured housing community under the provisions of Michigan Public Acts 96 of 1987, as amended.
- (84) Marquee: A roof-like structure of a permanent nature projecting from the wall of a building.
- (85) Master Plan: The statement of policy by the Spurr Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written materials representing in summary form, the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating more desirable living conditions for the pertinent jurisdiction. Such plan is adopted or amended under and in accordance with the Michigan planning enabling act, Act No. 33 of Public Acts of 2008 [MCL 125.3801-125.3885].
- (86) Membership Organizations: Membership Organizations include community service clubs, lodges, church halls, catering or rental halls, fraternal organizations, and the like.
- (87) Mineral: An organic or inorganic substance in the earth have a consistent and distinctive set of physical properties and composition that can be expressed by a chemical formula and includes, but is not limited to; iron ore, copper, sand, gravel, stone, gypsum, peat, silver, gold, diamonds, and other precious and semi-precious stones, and uranium.
- (88) Mining: The extraction and on-site processing of minerals including the actual removal and/or transportation of minerals and attendant products and by-products.
- (89) Modular Housing Unit: A dwelling unit constructed solely within a factory or other off-



## ARTICLE II – Construction of Language & Definitions

site facility, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction. (Also see Manufactured Home).

- (90) Motor Home: A self-propelled, vehicle licensed to be operated on public roads, which vehicle is built upon a chassis (or equivalent), and is intended for recreation activities and only temporary occupancy.
- (91) Noise: Sound vibrations which either annoys, injures, or endangers the comfort, repose, health, or safety of a person(s), unless the making and continuing of the noise is necessary for the protection or preservation of property or the health, safety, life or limb of a person(s).
- (92) Nonconforming Lot: Means a lot (or parcel) which exists as a legal lot of record and which existed as a legal lot of record at the effective date of this Ordinance (or an amendment which bears on a lot of record) from which this chapter is derived, which lot does not conform to the lot requirements of the district in which it is located.
- (93) Nonconforming Structure: Means a lawful structure or portion thereof which existed at the effective date of this Ordinance (or an amendment which bears on a lawful structure) from which this chapter is derived, which structure could not be built under the terms of this Ordinance by means of restrictions on area, lot coverage, height, yards or other dimensional requirements of the district in which it is located.
- (94) Nonconforming Use: A use of a building or structure, or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.
- (95) Nursing Home: An institution other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.
- (96) Off-Premise Sign: A sign which advertises goods, services, events, and facilities available at a location other than the premises on which the sign has been placed.
- (97) On-Premise Sign: A sign which advertises only goods, services, attractions, events, and facilities available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premise signs.

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- (98) Open Air Business Uses: Open air business uses shall be interpreted to include the following uses:
- (a.) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, and home improvement equipment such as lawn mowers, fertilizer spreaders, lawn rollers, etc.
  - (b.) Retail sale of fruits and vegetables.
  - (c.) Rental or sale of bicycles, recreational vehicles, manufactured homes, trailers, motor vehicles, boats, or small hand equipment.
  - (d.) Outdoor display and sale of garages, swimming pools, sheds, and similar structures.
- (99) Open Space Ratio: The ratio between open space on the lot, whether required or not, and the total lot area.
- (100) Open Space, Required: The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this Ordinance.
- (101) Parking Lot: A use containing one or more parking spaces located at or above or below grade accessible for the storage or parking of permitted vehicles, including drives and entrance(s) and exit(s) giving ingress and egress thereto.
- (102) Parking Space: An accessible area including drives, aisles, entrance(s) and exit(s) giving ingress and egress thereto, utilized for the parking or temporary storage of vehicles as may be permitted.
- (103) Personal Services: A type of business providing services for personal atonement and exercise, such as health clubs, spas, chiropractic services, etc.
- (104) Pet: A non-livestock animal (dog, cat, tropical fish, hamster, etc.) kept for personal purposes. Livestock are subject to hobby farm requirements or Michigan Dept. of Agriculture & Rural Development agricultural regulations.
- (105) Planning Commission: The Planning Commission of the Township of Spurr.
- (106) Premises: A lot as otherwise used in this Ordinance.
- (107) Principal Structure: The main structure or building to which the premises are devoted.
- (108) Principal Use: The main use to which the premises is devoted.

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- (109) Private Drive: See Section 414.
- (110) Private Road: See Section 414.
- (111) Private Use Landing Field: Any location, either on land or water, which shall be used for landing or take-off of aircraft with safety, solely for the use of the owner of the property, and which is not equipped with commercial facilities for the shelter, supply or repair of aircraft.
- (112) Public Utility: Any person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, refuse removal, transportation, water, or communications (including radio, telephone, television, or cable or fiber optics communications).
- (113) Reclamation Plan: A plan for reconditioning or rehabilitating of a mining area or portions thereof for useful purposes, and the protection of natural resources, including, but not limited to, the control of erosion, visual blight and the prevention of land or rock slides and air and water pollution.
- (114) Recreational and Residential Storage Facility: A structure or group of structures for the dead storage of residential goods and wares, recreational vehicles and related equipment.
- (115) Recreational Structure: A camp, hunting camp, motor home or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of domicile or residency of the owner, his or her agents, lessees, heirs or assigns. A cabin or cottage, which is inadequate to meet the definition of a single-family dwelling, because of a lack of water, waste water, cooking, and/or heating facility(ies), may fall under this definition.
- (116) Recreational Vehicle: A vehicle used for pleasure and designed for recreational use and not as a place of domicile, built upon a frame or chassis with wheels attached and not exceeding 40 feet in length.
- (117) Restaurant, Carry-out: A carry-out restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state and whose design or method of operation includes both of the following characteristics:
- (a.) Foods, frozen desserts, or beverages are usually served in edible containers (e.g. ice cream cones) or paper, plastic, or other disposable containers.

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- (b.) The consumption of foods, frozen desserts, or beverages within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
  
- (118) Restaurant, Drive-In: A drive-in restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, or any portion of whose business includes one or both of the following characteristics:
  - (a.) Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle either by a carhop or by other means, which eliminate the need for the customer to exit the motor vehicle.
  - (b.) The consumption of foods, frozen desserts, or beverages within motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building is allowed, encouraged, or permitted.
  
- (119) Restaurant, Fast-Food: A fast-food restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building, for the carry-out with consumption off the premises or for obtaining on a drive-through basis with consumption off the premises, and whose design or principal method of operation includes both of the following characteristics:
  - (a.) Foods, frozen desserts, or beverages are usually served in edible containers (e.g. ice cream cones) or in paper, plastic, or other disposable containers.
  - (b.) The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
  
- (120) Restaurant, Standard: A standard restaurant in any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:
  - (a.) Customers, normally provided with an individual menu, are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
  - (b.) A cafeteria-type operation where foods, frozen desserts, or beverages generally are consumed within the restaurant building.
  
- (121) Road (or Street): See Section 414(A) Definitions.

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- (122) Road Frontage: See Section 414(A) Definitions.
- (123) Roadside Stand: Means a temporary open front stand so designed that service to the patron does not require entering the building, and used solely for the sale of farm products and for sale of the by-products of agricultural produce.
- (124) Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
- (125) Sanitary Landfill: A specific type of solid waste disposal area as more specifically defined and regulated under the Michigan Natural Resources and Environmental Protection Act, Act 451 of 1994 as amended [MCL 115]. A Type II sanitary landfill is designed to receive and contain regular household solid waste, while a Type III sanitary landfill is designed to receive and contain more inert solid waste.
- (126) Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configuration and is in the shape of a shallow dish, parabola, cone or horn. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas which have a dimension greater than one (1) meter (3.3 feet) in residential districts or greater than two (2) meters (6.6 feet) in non-residential districts.
- (127) Sawmill: The machinery and appurtenant structures used for the manufacture of wood products, which includes, but is not limited to, circular saws, band saws, planers, debarkers, chippers, and kilns.
- (128) Screen: A structure providing separation, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other living vegetation.
- (129) Setback: The minimum unoccupied distance between the lot line and the principal and accessory buildings, as required under this Ordinance.
- (130) Setback, Front: The minimum unoccupied distance, extending the full lot width, between any building or structure and the front lot line.
- (131) Setback, Rear: The minimum unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

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- (132) Setback, Side: The minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.
- (133) Sexually oriented use: Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter, actions depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas” (See Section 718).
- (134) Shopping Center: Is a group of businesses providing a variety of merchandise and/or services located on the same lot.
- (135) Sign: A name, identification, image, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, structure, facility, service, event, attraction, person, institution, organization, or business and which is visible from any street, right-of-way, sidewalk, alley, park, or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs.
- (136) Sign, Freestanding: A sign having its own support mechanism placed in or upon the ground.
- (137) Site Plan: A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.
- (138) State Licensed Residential Facility: A structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, which provides resident services for six (6) or less persons under 24-hour supervision or care for persons in need of that supervision or care.
- (139) Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when more than fifty (50%) percent by cubic content, is below the height level of the adjoining ground.
- (140) Street: See “Road” in Section 414.
- (141) Structure: Any constructed, erected, or placed material or combination of materials in or

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upon the ground, including, but not limited to buildings, porches, decks, manufactured homes, sheds, free standing signs, storage bins, and satellite dishes, but not including sidewalks, driveways, patios, parking lots, utility poles and fences. Building areas separated by fire walls or bearing walls shall not be considered separate structures under this Ordinance.

- (142) Structural Alterations: Means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, or any substantial change in the roof, or any additional floor space added to the building.
- (143) Tents and Membrane Storage Structure: A structure consisting of a frame or supporting pieces that is covered with plastic, fabric, canvas, aluminum or similar non-permanent material, which is used to provide storage for vehicles, boats, recreational vehicles, other personal property, or for temporary occupancy as in camping. The term shall also apply to structures commonly known as hoop houses, canopy covered carports and tent garages, but shall not apply to boat lifts and canopies that are placed in public waters and shall not apply to temporary tents or canopies used for special events such as weddings or graduations, or for children's temporary recreational activities.

This definition also includes a shelter of canvas or the like supported by poles and in many cases fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

- (144) Thoroughfare (Major, Secondary, Collector): An arterial road or street which is intended to serve as a large volume traffic-way for both an immediate township (municipal) area and a region beyond, and is designated as a thoroughfare in the Spurr Township Thoroughfare Plan within the adopted Master Plan for the Township of Spurr, Michigan. A thoroughfare may also be separately known as a state highway, a highway, a county primary road, or similar terms.
- (145) Township Board: The elected governing body of the Township of Spurr.
- (146) Transfer Station: A tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that are used or intended for use in the re-handling or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of the solid waste.
- (147) Use, Change of: A modification or deviation from the original purpose, occupancy, utilization or classification of a building, structure or parcel or tract of land. The term is inclusive of (a) a discernible increase in the intensity of use, which by Ordinance imposes more restrictive parking requirements or other more restrictive characteristics of use or (b) an alteration by change of use in a building heretofore existing to a new use group, as

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defined in the Michigan Building Code, which imposes other special provisions of law governing building construction equipment or means of ingress/egress.

- (148) Use, Increase in the Intensity of: A discernible increase in the level or volume of activity generated by a change in use or an increase in floor area or an increase in land area configurations.
- (149) Uses permitted upon conditional approval: This definition is based upon the division of the Township into districts, in each of which are permitted specified uses, which are mutually compatible. In addition to such permitted compatible uses, however, there are certain other uses, which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impact on neighboring uses or public facilities, there is a need to carefully regulate and/or condition them with respect to their location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.
- (150) Utility Structure: Means facilities related to and necessary for the operation of: oil, gas, water pipelines, sewer pipelines, electrical transmission lines, telephone and telegraph lines, oil and gas wells and underground storage fields. Included are such facilities as pumping stations, compressor stations, transformer stations, and switching stations.
- (151) Variance: A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue practical difficulty owing to circumstances unique to the individual property on which the variance is proposed. (Also see Article X.)
- (152) Wind turbines (Windmills):
- (a.) Anemometer Tower. An anemometer tower means a freestanding tower (or other structural means of mounting) 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 which is a temporary accessory land use to either a proposed on-site use wind energy system (windmill) or a utility grid wind energy system (wind farm).
  - (b.) On-site use wind energy system. A wind energy conversion system (windmill) which converts wind energy into electricity (or other form of usable energy) through the use of a wind turbine generator and includes turbine, blades, and tower as well as related electrical equipment. The energy produced is intended to be primarily used on-site.
  - (c.) Utility grid wind energy system (wind farms). A wind energy conversion system (windmill(s)) which converts wind energy into electricity (or other



## ARTICLE II – Construction of Language & Definitions

form of usable energy) through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. One or more windmills may be involved and the energy produced is intended to be primarily used off-site. Off-site wiring to connect the wind energy conversion system to the grid is not included in this definition.

- (153) Wood Yard: A parcel of land where pulp wood and other logs are gather from various locations and stored for commercial sale.
- (154) Yards:
- (a.) Yard, Front: An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of any building or structure.
  - (b.) Yard, Rear: An open space extending the full width of the lot and nearest line of any building or structure.
  - (c.) Yard, Side: An open space between the side line of the lot and the nearest line of any building or structure and extending from the front yard to the rear yard.
  - (d.) Yard, Required: That portion of a front, side, or rear yard lying between the front, side or rear lot line and the corresponding front, side or rear minimum setback line.
- (155) Zoning Administrator: The Township Board’s authorized representative charged with the responsibility of administering this Ordinance.
- (156) Zoning Board of Appeals: The Zoning Board of Appeals of the Township of Spurr. (See Article X for a more complete description of the body, roles and responsibilities.)
- (157) Zoning Compliance Permit: A document signed by the Zoning Administrator, as required in the zoning ordinance, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of the township zoning ordinance or authorized variance therefrom.

**ARTICLE III**

**ARTICLE III  
ZONING DISTRICTS AND MAPS**

Section 301 Establishment of Districts

For the purpose of this Ordinance, Spurr Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

Residential Districts

RR: Rural Residential  
WF: Waterfront

Other Districts

RP: Resource Production  
TD: Town Development  
I: Industrial

Section 302 Zoning District Maps

The boundaries of the respective districts enumerated in Sec. 301 are defined and established as depicted on the maps entitled "Spurr Township Official Zoning Map," which is an integral part of this Ordinance. These maps, along with all notations and explanatory matter thereon, shall become as much a part of this Ordinance as if fully described herein. The following list by Township and Range are Spurr Township Official Zoning Maps.

(A)	T49N-R31W	(D)	T47N-R32W
(B)	T48N-R31W	(E)	T48N-R32W, South Half
(C)	T47N-R31W		

The Spurr Township Official Zoning Map shall be identified by the signature of the Township Board Supervisor, attested by the Township Clerk. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries, such changes shall be incorporated on the Spurr Township Official Zoning Map and approved by the Township Board together with an entry on the Spurr Township Official Zoning Map showing the date and official action taken.

One copy of the Spurr Township Official Zoning Maps is to be maintained and kept up-to-date by the Township Clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in Spurr Township.

## **ARTICLE III – Zoning Districts & Maps**

### Section 303 Replacement of Official Zoning Maps

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The Official Zoning Map shall bear the same signatures and certification as required in Sec. 302. Unless the Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

### Section 304 Application of District Regulations

The regulations herein established within each Zoning District shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals, in accordance with Article X herein, to vary or modify regulations and provisions of this Ordinance so that the intent and purposes of this Ordinance shall be observed, public safety secured and substantial justice done.

### Section 305 Scope of Provisions

(A) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located.

(B) Uses are permitted by right only if specifically listed as uses permitted by right in the various Zoning Districts. Where not specifically permitted, either by right or conditionally, uses are thereby prohibited unless determined in the first instance by the Zoning Administrator to be similar to an expressly permitted use. If there is still a question as to whether a use is similar or not, the question shall next be put to the Planning Commission for a vote, which body originally proposed the lists of permitted and conditional uses. If there is still a question after that, the Zoning Board of Appeals (ZBA) shall make the final determination if a use is similar to a use specifically permitted by right or by conditions.

(C) Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal uses.

(D) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating

## **ARTICLE III – Zoning Districts & Maps**

### **Section 305 Scope of Provisions: Continued**

individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

### Section 306 Conflicting Regulations

Wherever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than those imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance imposes more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern. No vested right shall arise to the property owner for any parcel or use created in violation of any preceding township or county adopted zoning ordinance.

### Section 307 Exemptions

The location of pipes, wires, poles, and electrical generating and electrical transmission equipment of public utilities or railroad tracks regulated by the State of Michigan or by the United States are exempt from regulation under this Ordinance.

## ARTICLE III – Zoning Districts & Maps

### Section 308 District RR: Rural Residential

- (A) Intent: The RR, Rural Residential District, is established to provide for a transition zone between more densely settled residential areas and the more sparsely developed rural, agricultural, or forested areas of the Township. Such areas are accessible and provide for a mix of moderately intensive compatible uses from surrounding zones.
- (B) Permitted Principal Uses:
1. Single-family dwellings.
  2. Two-family dwellings.
  3. Open Space Preservation Development option (residential clustering) as provided in Section 417.
  4. Hobby farms subject to the requirements of Section 415.
  5. Agriculture (farms) on ten (10) acres or more.
  6. State licensed residential care facilities for six (6) or fewer persons. (See definition.)
  7. Foster family homes (1-4 children) and Foster group homes (5-6 children). (See definitions.)
  8. Family day care homes (1-6 children). (See definition.)
  9. Manufacture housing communities on 15 or more acres.
  10. Essential services.
  11. Garage sales, yard sales, or similar types of sales, provided such sale shall take place for a period not to exceed nine (9) days per sale and no residence shall be permitted more than three (3) such sales per year.
  12. Home occupations subject to the conditions of Section 403 (C).
  13. On-site use wind energy system and small windmills in accordance with Section 416.
  14. Uses similar to the above uses as determined in accordance with Section 305, (B).
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Private garage.
  2. Shed for yard tools.
  3. Playhouse or tree house.
  4. Pens for pets.
  5. Swimming pool.
  6. Bath house.
  7. Sauna.
  8. Woodshed.
  9. Boathouse.
  10. Residential Limited Animal Keeping subject to the regulations of Section 423.
- (D) Conditional Uses Authorized by Permit: The following uses of land and structures may be permitted in this District by application for and by the issuance of a Conditional Use Permit as provided for in Article VII.

## **ARTICLE III – Zoning Districts & Maps**

### **Section 308 District RR: Rural Residential: Continued**

1. Places of Assembly, subject to the conditions of Section 710.
2. Schools.
3. Group (child) day care home (7-12 children) (See definition), subject to the conditions of Section 706.
4. Child care center (See definition), subject to the conditions of Section 707.
5. Cemeteries.
6. Private and public recreational facilities, including parks, playgrounds, camps, campgrounds, golf courses (See Sec. 713), and similar recreational facilities.
7. Kennels, subject to the conditions of Section 711.
8. Veterinarian offices and animal clinics, subject to the conditions of Section 711.
9. Auction sale barns.
10. Facilities for bulk feed, seed, or fertilizer sales, storage or mixing.
11. Agricultural equipment sales, service or repair.
12. Conditional Home Businesses, subject to the conditions of Section 403 (C).
13. Transfer Stations.
14. Storage yards, transformer stations, substations, and similar facilities associated with public utilities.
15. Communication towers, subject to the conditions of Section 717.
16. On-Site Use Wind Systems, subject to the requirements of Section 416.
17. A utility grid wind energy system (Wind Farm) subject to the conditions of Section 719.
18. Outdoor heating units on lots with a minimum of two and one-half (2.5) acres of land (a plot plan shall show the distance of neighboring dwellings not located on the subject property and direction of prevailing winds), subject to the conditions of Section 712.
19. Uses similar to the above uses as determined in accordance with Section 305 (B).

## ARTICLE III – Zoning Districts & Maps

### Section 309 District WF: Waterfront

- (A) Intent: The WF, Waterfront District, is established to preserve for residential and recreational uses those areas with frontage on inland lakes and rivers which, because of existing development, natural characteristics and accessibility, are suitable for development.
- (B) Permitted Principal Uses:
1. Single-family dwellings.
  2. Open Space Preservation Development option (residential clustering) as provided in Section 417.
  3. Recreational structures.
  4. State licensed residential care facilities for six (6) or fewer persons. (See definition.)
  5. Foster family homes (1-4 children) and Foster group homes (5-6 children). (See definitions.)
  6. Family day care homes (1-6 children). (See definition.)
  7. Essential services.
  8. Garage sales, yard sales, or similar types of sales, provided such sale shall take place for a period not to exceed nine (9) days per sale and no residence shall be permitted more than three (3) such sales per year.
  9. Home occupations subject to the conditions of Section 403 (C).
  10. Uses similar to the above uses as determined in accordance with Section 305 (B).
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Private garage.
  2. Shed for yard tools.
  3. Playhouse or tree house.
  4. Pens for pets.
  5. Swimming pool.
  6. Bath house.
  7. Sauna.
  8. Woodshed.
  9. Boathouse.
  10. Residential Limited Animal Keeping subject to the regulations of Section 423.
- (D) Conditional Uses Authorized by Permit: The following uses of land and structures may be permitted in this District by application for and by the issuance of a Conditional Use Permit as provided for in Article VII.
1. Two-family dwellings.
  2. Multiple-family dwellings.
  3. Marinas and boat liveryes.

## **ARTICLE III – Zoning Districts & Maps**

### **Section 309 District WF: Waterfront: Continued**

4. Bathing beaches.
5. Fishing piers.
6. Resorts, lodges, and associated facilities, subject to the conditions of Section 714.
7. Places of Assembly, subject to the conditions of Section 710.
8. Schools
9. Private and public recreational facilities, including parks, playgrounds, camps, campgrounds (See Sec. 715), golf courses (See Sec. 713), and similar recreational facilities.
10. Outdoor heating units on lots with a minimum of two and one-half (2.5) acres of land (a plot plan shall show the distance of neighboring dwellings and uses of land not located on the subject property and direction of prevailing winds), subject to the conditions of Section 712.
11. Uses similar to the above uses as determined in accordance with Section 305 (B).



## ARTICLE III – Zoning Districts & Maps

### Section 310 District RP: Resource Production

- (A) Intent: The RP, Resource Production District, is established to maintain low density rural areas which because of their rural character and location, potential mineral content, accessibility, natural characteristics, and the potentially high cost of providing public services for intensive uses are more suitable for a wide range of forestry, agriculture, natural resource, and recreational uses.

The minimum lot size is significantly larger. The purpose of establishing this RP District is to allow greater opportunity for low density single-family residential development in certain areas. Some of the requirements necessary for development within the RP District are; (1) having electrical service, and (2) being located on a county road serviced year-round. Government services may not be provided on a year-round basis or may not be provided at all.

- (B) Permitted Principal Uses:

1. The growing and harvesting of timber.
2. Campgrounds and day camps.
3. Parks, winter sports facilities, and trails.
4. Recreation structures.
5. Single-family dwellings.
6. Open Space Preservation Development option (residential clustering) as provided in Section 417.
7. State licensed residential care facilities for six (6) or fewer persons. (See definition.)
8. Foster family homes (1-4 children) and Foster group homes (5-6 children). (See definitions.)
9. Family day care homes (1-6 children). (See definition.)
10. Hobby farms subject to the requirements of Section 415.
11. Agriculture (farms) on ten (10) acres or more.
12. Essential services.
13. Garage sales, yard sales, or similar types of sales, provided such sale shall take place for a period not to exceed nine (9) days per sale and no residence shall be permitted more than three (3) such sales per year.
14. Home occupations subject to the conditions of Section 403 (C).
15. On-site use wind energy system and small windmills in accordance with Section 416.
16. Uses similar to the above uses as determined in accordance with Section 305 (B).

- (C) Permitted Accessory Uses: The following are permitted accessory uses:

1. Private garage.
2. Shed for yard tools.
3. Playhouse or tree house.

## ARTICLE III – Zoning Districts & Maps

### Section 310 District RP: Resource Production: Continued

4. Pens for pets.
5. Swimming pool.
6. Bath house.
7. Sauna.
8. Woodshed.
9. Boathouse.
10. Accessory uses and structures normally associated with the operation of a mineral extraction process.
11. Residential Limited Animal Keeping subject to the regulations of Section 423.

(D) Conditional Uses Authorized by Permit: The following uses of land and structures may be permitted in this District by application for and by the issuance of a Conditional Use Permit as provided for in Article VII.

1. Gun clubs, rifle, trap, and pistol ranges, subject to the conditions of Section 715.
2. Communication towers, subject to the conditions of Section 717.
3. Commercial recreational facilities including golf courses (See Sec. 713), go-cart tracks (See Sec. 715), race tracks, motorcycle hill-climbing sites, and similar facilities.
4. Private airport or Private use landing field, subject to the conditions of Section 708.
5. Public or private sanitary landfill.
6. Resorts and lodges, subject to the conditions of Section 714.
7. Auction sale barns handling agricultural product not primarily produced on site and other items related to agriculture not primarily produced on site.
8. Storage yards, transformer stations, substations, and similar facilities associated with public utilities.
9. Sawmills.
10. Wood yards.
11. Transfer stations.
12. Recreational and residential storage facilities.
13. Conditional Home Businesses, subject to the conditions of Section 403 (C).
14. A utility grid wind energy system (Wind Farm), subject to the conditions of Section 719.
15. Kennels, subject to the conditions of Section 711.
16. Outdoor heating units on lots with a minimum of two and one-half (2.5) acres of land (a plot plan shall show the distance of neighboring dwellings not located on the subject property and direction of prevailing winds), subject to the conditions of Section 712.
17. Facilities for bulk feed, seed, or fertilizer sales, storage or mixing.
18. Bulk food processing facilities and operations.
19. Mineral extraction, subject to the conditions of Section 720.
20. Uses similar to the above uses as determined in accordance with Section 305 (B).

## ARTICLE III – Zoning Districts & Maps

### Section 311 District TD: Town Development

- (A) Intent: The TD, Town Development District, is established to preserve a district for residential, retail, and service establishments, and certain governmental uses that are compatible with a small town setting serving residents and tourists. This district is designed for small unincorporated town areas where a mix of residential and retail uses are in accord with established patterns of use and the needs of nearby residents.
- (B) Permitted Principal Uses:
1. Single-family dwellings.
  2. Two-family dwellings.
  3. Dwellings above or otherwise within another permitted or conditional use.
  4. State licensed residential care facilities for six (6) or fewer persons. (See definition.)
  5. Foster family homes (1-4 children) and Foster group homes (5-6 children). (See definitions.)
  6. Family day care homes (1-6 children). (See definition.)
  7. Essential services.
  8. Cemeteries.
  9. Township hall.
  10. Community centers and other places of assembly such as lodges, private clubs, and membership organizations.
  11. Fire halls.
  12. Elevated water storage tanks.
  13. Post offices (but not including rural route distribution centers).
  14. Personal service establishments.
  15. Offices, including doctors, dentists, other medical professionals, and veterinary office with no outside keeping of animals or kennel runs.
  16. General retail sales establishments. Any goods produced on the premises must be sold on the premises.
  17. Home occupations, subject to the conditions of Section 403 (C).
  18. Farmer's markets, fruit and vegetable markets, including produce stands.
  19. Restaurants, bars and brew/pubs.
  20. Uses similar to the above uses as determined in accordance with Section 305 (B).
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Accessory structures normally associated with residential dwellings, such as:
    - (a.) Private garage.
    - (b.) Shed for yard tools.
    - (c.) Playhouse or tree house.
    - (d.) Pens for pets.
    - (e.) Boathouse.
    - (f.) Swimming pool.
    - (g.) Bath house.

## ARTICLE III – Zoning Districts & Maps

### Section 311 District TD: Town Development: Continued

- (h.) Sauna.
  - (i.) Woodshed.
  - (j.) Residential Limited Animal Keeping subject to the regulations of Section 423.
2. Any structural or mechanical building or use customarily incidental to the permitted principal use.
  3. Signs, as required and subject to the regulations established in Article V.
- (D) Conditional Uses Authorized by Permit: The following uses of land and structures may be permitted in this District by application for and by the issuance of a Conditional Use Permit as provided for in Article VII.
1. Conditional Home Businesses, subject to conditions of Section 403 (C).
  2. Live/Work uses.
  3. Places of Assembly, subject to conditions of Section 710.
  4. Schools.
  5. Private and public parks and similar recreational facilities (See Section 715).
  6. Multiple-family dwellings.
  7. Nursing homes, subject to conditions of Section 709.
  8. Group (child) day care home (7-12 children)(See definition), subject to conditions of Section 706.
  9. Child care center, subject to conditions of Section 707.
  10. Road Commission, public works buildings and maintenance/storage facilities.
  11. Storage yards, transformer stations, substations, and similar facilities associated with public utilities.
  12. Wastewater treatment facilities.
  13. Transfer stations.
  14. Contractor's yards.
  15. Motor vehicle sales and service.
  16. Manufactured housing, motor home, and recreational vehicle (e.g. campers, boats, ATVs, snowmobiles, etc.) sales and service.
  17. Construction and farm equipment sales and service.
  18. Hotels, motels and resorts, subject to conditions of Section 714.
  19. Gas stations.
  20. Automotive repair garage.
  21. Laundromats.
  22. Mini-warehouses, subject to the conditions of Section 716.
  23. Communication towers, subject to the conditions of Section 717.
  24. Uses similar to the above uses as determined in accordance with Section 305 (B).

## ARTICLE III

### Section 312 District I: Industrial

- (A) Intent: The I, Industrial District, is designed and intended for manufacturing, assembling, fabricating, and processing businesses, storage, mineral extraction, and other commercial activities, which may require larger sites and isolation from many kinds of other land uses and to make provisions for commercial uses necessary to serve the immediate needs of an industrial area.
- (B) Permitted Principal Uses:
1. Manufacturing.
  2. Processing, assembling and fabrication operations.
  3. Contractor yards and shops.
  4. Breweries, Wineries, and Distilleries.
  5. Warehousing.
  6. Automobile and other vehicle repair garage.
  7. Lumber yards.
  8. Sawmills.
  9. Concrete and asphalt plants.
  10. Junkyards and salvage yards.
  11. Recycling centers and transfer stations.
  12. Research laboratories.
  13. Caretaker dwellings above or otherwise within another permitted or conditional use.
  14. Essential services.
  15. Elevated water storage tanks.
  16. U.S. Postal rural route distribution centers, or other parcel or package distribution centers (UPS, FedEx, etc.).
  17. On-site use wind energy system and small windmills in accordance with Section 417.
  18. Mini-warehouses, subject to the requirements of Section 716.
  19. Uses similar to the above uses as determined in accordance with Section 305 (B).
- (C) Permitted Accessory Uses: The following are permitted accessory uses:
1. Any structural or mechanical building or use customarily incidental to the permitted principal use.
  2. Signs, as required and subject to the regulations established in Article V.
- (D) Conditional Uses Authorized by Permit: The following uses of land and structures may be permitted in this District by application for and by the issuance of a Conditional Use Permit as provided for in Article VII.
1. Other industrial or heavy commercial uses not specifically provided for in Section 316 (B).
  2. Storage yards, transformer stations, substations, and similar facilities associated with public utilities.

## **ARTICLE III – Zoning Districts & Maps**

### **Section 312 District I: Industrial: Continued**

3. Communication towers, subject to the conditions of Section 717.
4. A utility grid wind energy system (Wind Farm), subject to the conditions of Section 719.
5. Wastewater treatment facilities.
6. Landfills.
7. Sexually Oriented Business, subject to the conditions of Section 718.
8. Outdoor heating units on lots with a minimum of two and one-half (2.5) acres of land (a plot plan shall show the distance of neighboring dwellings not located on the subject property and direction of prevailing winds), subject to the conditions of Section 712.
9. Mineral extraction, subject to the conditions of Section 720.
10. Uses similar to the above uses as determined in accordance with Section 305 (B).

**ARTICLE III – Zoning Districts & Maps**  
**Section 312 District I: Industrial: Continued**

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**ARTICLE IV**

**ARTICLE IV  
GENERAL REGULATIONS**

Section 401 Height, Bulk and Placement Regulations

Except as otherwise specifically provided in this Ordinance, no lot or parcel shall be created and no structure shall be erected or maintained except in compliance with the Schedule of Regulations specified below. Any sale of land in violation of this section shall be voidable at the option of the purchaser and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged for the land. The purchaser may take additional action to recover any damages sustained. These remedies shall not preclude enforcement by the Zoning Administrator.

**Schedule of Regulations**  
(Table)

District	Lot Size (Sq. Ft.)	Minimum Lot Width (Feet) <sup>A</sup>	Setback <sup>J, K</sup>			Maximum Height (Feet)
			Front	Side	Rear	
RR	2.5 acres	300	30	30	30	30
WF	1 acre	150	30	10 <sup>B</sup>	30	30 <sup>D</sup>
RP	10 acres <sup>G</sup>	300	30	30	30 <sup>I</sup>	30
TD	1 acre <sup>H</sup>	150	30	10 <sup>B</sup>	35 <sup>C</sup>	30 <sup>D</sup>
I	1 acre	150	40	<sup>E, F</sup>	20	<sup>E, F</sup>

**Notes for the Schedule of Regulations (Table):**

- <sup>A</sup> Lot width shall be measured as described in the definition of lot width (See Art. II). Regardless of actual lot size, the maximum depth to width ratio shall be 4 to 1. Also see Section 1517 for properties fronting on U.S. 41/M-28.
- <sup>B</sup> An accessory building or structure may be located six (6') feet from a side lot line.
- <sup>C</sup> An accessory building or structure in the TD-Town Development District may be located twenty (20') feet from a rear lot line.
- <sup>D</sup> An accessory building or structure shall not exceed fourteen (14') feet in height, as defined in Article II, Section 2.02, Definitions, Item (16), Building Height.
- <sup>E</sup> All structures shall be provided with access to their rear yard, with a minimum of thirty (30') feet clear and unobstructed access way or easement. Setbacks from the existing residential parcels shall be: fifty (50') feet for all buildings; twenty-five (25') feet for driveways, entrances or exits; and ten (10') feet for parking areas.
- <sup>F</sup> Height at any point on a structure shall not exceed the horizontal distance to any lot line.
- <sup>G</sup> The determination of lot size when adjoining a road shall be made as if the road was a part of the lot in question. For example, a 20 acre parcel fronting on a road will lose approximately one-half acre in the road right-of-way. This will then make the parcel size 19.5 acres, however, it will still conform to the 20 acre minimum lot size requirement.
- <sup>H</sup> The minimum landscaped open space ratio shall be twenty-five (25%) percent in the Town Development District.



## ARTICLE IV – General Regulations

### Section 401 Height, Bulk and Placement Regulations: Continued

- I* Customary accessory buildings or structures shall be at least located thirty (30') feet from the rear lot line and any waterfront in these noted districts. Rear setback for parcels not abutting watercourses shall be thirty (30') feet for all structures.
- J* Waterfront Development.
- (1) Setbacks from Water – All structures on lots abutting any body of water, as defined in Act No. 346 of the Public Acts of 1972, including but not limited to, inland lakes, rivers, streams, and impoundments, shall maintain a minimum setback of seventy-five (75') feet as measured from the high water mark or lot lines. All uses shall be subject to this setback except private bathing facilities, saunas, storage sheds, and associated facilities which shall maintain a minimum setback of thirty (30') feet as measured from the high water mark or lot line.
- (2) Shore and Bank Area Alterations – The part of that setback which lies within 30 feet of the water edge shall be maintained in its natural condition. Trees and shrubs in a space fifty (50') feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least fifteen (15') feet for each 75 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas.
- (3) Limitation of “Funnel Development” – Any development in any zoning district which shares a common lakefront or stream area may not permit; more than one (1) single-family occupation (whether in the form of a single family dwelling, condominium unit, or apartment unit) or more than one (1) recreational structure to the use of each one-hundred (100') feet of lake or stream frontage in such common lakefront or stream area as measured along the water’s edge of normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational use of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to an official public access site.
- K* Where the right-of-way is established under the McKnitt Act (P.A. 130 of 1931, as amended) and varies from the standard 66 feet of width, the setback shall be not less than 63 feet from the centerline of the roadway.

## ARTICLE IV – General Regulations

### Section 402 Minimum Building Floor Area

Every single-/two-family dwelling, excluding recreational structures, shall have a floor area of not less than 720 square feet, exclusive of unfinished basements, garages, porches and breezeways. Every dwelling unit in a multiple family dwelling shall have a minimum floor area of at least 350 square feet. The maximum ground cover ratio for all structures in a multiple family development shall be forty (40%) percent.

### Section 403 Accessory Buildings and Uses

Where a lot is devoted to a permitted principal use, customary accessory uses and buildings are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

- (A) An accessory building, including a carport, attached to the principal building shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor space.
- (B) An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten (10') feet to any other structure on the lot.
- (C) Home Occupations and Conditional Home Businesses.  
There shall be two classes of home business activities allowed under this Ordinance. First, a Home Occupation shall be permitted in all districts that permit a single-family dwelling. A Home Occupation is authorized by application for and issuance of a zoning compliance permit by the Zoning Administrator. Second, a Conditional Home Business shall be allowed in the RR, RP and TD zoning districts. Conditional Home Businesses shall be authorized upon application for and issuance of a Conditional Use Permit pursuant to Article VII and upon issuance of a zoning compliance permit by the Zoning Administrator. Either a Home Occupation or a Conditional Home Business approval may be revoked following procedures outlined in Section 705, Conditions and Safeguards, item (E).

A Home Occupation shall comply with the following conditions:

1. Home occupations shall employ only those members of the family residing on the premises and not more than one non-occupant employee;
2. There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign;
3. Specifically excluded is the storage, display and sale of merchandise not produced by the home occupations;
4. If the home occupation is conducted in an accessory building, it shall not exceed fourteen (14') feet in height, and shall occupy not more than three-hundred (300) square feet of said accessory building;

## ARTICLE IV – General Regulations

### Section 403 Accessory Buildings and Uses: Continued

5. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of Section 409; the home occupation may utilize only stock vehicles, such as passenger cars, and light utility vehicles, such as pick-ups and vans. These vehicles may be parked outside;
6. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than twenty-five (25%) percent of the usable floor area of the dwelling shall be used in the conduct of the home occupation;
7. No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
8. A sign advertising the home occupation shall not exceed six (6) square feet and shall not be illuminated or have working parts; and

A Conditional Home Business shall meet the above requirements for a Home Occupation, except that the Conditional Home Business may:

1. Employ not more than two (2) non-occupant employees;
2. May utilize larger vehicles and heavy equipment provided they are stored in an enclosed building;
3. To assure that the conditional home business remains subordinate to the principal residential use of the property, structures used to store commercial vehicles shall not exceed twice the floor area of the principal structure;
4. The Planning Commission may place additional conditions upon Conditional Home Businesses to assure compliance with Section 704, General Standards and the intent of the zoning district.

### Section 404 One Principal Structure or Use Per Lot

No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this Ordinance. For example, in the TD District there can be both a residential dwelling and a separate building used for commercial purposes on the same lot.

## **ARTICLE IV – General Regulations**

### Section 405 Variance of Requirements for Lots of Record

Minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgement of a notary public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described. When a nonconforming lot is held in common ownership with abutting parcel(s) of land, the two or more parcels shall be considered combined as necessary to reduce or eliminate the non-conformity.

### Section 406 Allocation and Reduction of Lot Area

No portion of a lot shall be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

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 or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

### Section 407 Use of Yard or Open Space

In a residential district it is prohibited to use the open space surrounding a dwelling for the open air parking, disposition, storage, wrecking, dismantling, accumulation or abandonment, either temporary or otherwise, of disused, discarded, worn out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk, or any other personal property. A maximum of two unlicensed and temporarily disabled vehicles may be stored on the premises provided they are screened from adjacent residences and the road.

## ARTICLE IV – General Regulations

### Section 408 Off-Street Parking Requirements

There shall be provided off-street parking for motor vehicles, and the minimum number of parking spaces to be provided is shown in the following list:

<u>Uses</u>	<u>Spaces Required</u>
Single and two-family dwellings, recreational structures	2 per dwelling unit
Rooming houses, fraternities, sororities, dormitories, convalescent homes, and	4 times maximum lawful number of occupants
Hotels and motels	1.2 per room in addition to spaces required for restaurant facilities
Apartments and townhouses	2 per dwelling unit
Places of Assembly, theaters, facilities for spectator sports, auditoriums, concert halls	0.35 times the seating capacity,
Golf courses	7 per hole
Barber shops and beauty parlors	2 plus 1.5 per chair
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
Child-care facility	2 per dwelling unit plus 0.3 per Child
Fast food take-out establishments drive-in restaurants	0.1 times floor area and square feet
Restaurants and bars (except drive-ins)	1.2 per 100 sq. ft. of floor space
Furniture and appliance stores	0.3 per 100 sq. ft. of floor space
Household equipment, carpet and hardware stores, repair shops, including shoe repair, contractor's showrooms and others, museums and galleries	1.2 per 100 sq. ft. of floor space
Funeral parlors	1 per 50 sq. ft. of floor space

Off-Street Parking Requirements Continued:

## ARTICLE IV – General Regulations

### Section 408 Off-Street Parking Requirements: Continued

<u>Uses</u>	<u>Spaces Required</u>
Gas stations	1 per pump plus 2 per lift (in addition to parking places adjacent to pumps)
Automotive service center	1 per employee plus 2 per service bay
Laundromats	0.5 per washing machine
Doctor's and dentist's offices	1 per 100 sq. ft. of waiting room Area and 1 per doctor or dentist
Banks and other financial institutions	1 per 150 sq. ft. of floor space
Warehouses	1 per 500 sq. ft. of floor space
Retail stores and service establishments	1 per 150 sq. ft. of floor space and outdoor sales spaces
Offices	1 per 300 sq. ft. of floor space
Other business and industrial uses	0.75 time maximum number of employees on premises at any one-time

Where calculation in accordance with the foregoing lists results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

Required off-street parking shall be provided on the lot to which it pertains. Access drives may be placed in the required front, side or rear yards so as to provide access to accessory or attached structures. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited. For recreational and residential storage facilities and warehousing, loading areas shall be provided adjacent to the openings of the buildings. In no case shall these loading areas including access lanes be less than 26 feet wide when loading occurs on one side of the lane, nor less than 30 feet wide when loading would occur from both sides.

## ARTICLE IV – General Regulations

### Section 408 Off-Street Parking Requirements: Continued

The following minimum design standards shall be observed in laying out off street spaces and providing access lanes to each space. Layouts requiring vehicles to back out onto roads or streets are prohibited.

<u>Parking Angle</u>	<u>Stall Width</u>	<u>Aisle Width</u>	<u>Parking Stall Length</u>	<u>Curb to Curb</u>
0° to 15°	9 ft.	12 ft.	23 ft.	30 ft.
16° to 37°	9 ft.	11 ft.	18 ft.	47 ft.
38° to 57°	9 ft.	13 ft.	18 ft.	54 ft.
58° to 74°	9 ft.	18 ft.	18 ft.	61 ft.
75° to 90°	9 ft.	24 ft.	18 ft.	63 ft.

### Section 409 Required Planting Screens

- (A) In Districts Town Development (TD) and Industrial (I), wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of any single-family residential Rural Residential (RR) or Waterfront (WF) District, or adjoins a residential dwelling within the TD or I District, a planting screen of sufficient length to interfere with the view thereof from the adjoining property shall be required, except where the view is blocked by a change in grade or other natural or man-made features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a six (6') foot high fence whether it be an opaque wooden fence, a chain link fence with interwoven slats, or a masonry wall may be substituted.
- (B) Planting Screen Specifications. All planting screens required by this Ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of five (5') feet. One of the plant materials in the following list shall be used and plants shall be located no farther apart than the distance indicated in each case.

<u>Plant</u>	<u>Distance Apart</u>
Lilac	3 feet
Privet	1.5 feet
Arbor Vitae	4 feet
Pfitzer	4 feet
Scotch Pine	5 feet
Jack Pine	5 feet
Spuce	5 feet

Substitution of other plant materials shall be permitted only upon certification to the Zoning Administrator that the proposed plantings can be expected to thrive and provide equivalent screening and will create no nuisance or hazard.

## ARTICLE IV – General Regulations

### Section 409 Required Planting Screens: Continued

- (C) **Parking Lot Planting.** Where the provision of off-street parking for 50 or more vehicles is required, there shall be provided landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of 18 sq. ft. for each parking space required, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this Section. Landscaped open space required by this Section shall be kept continuously planted with living vegetation. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area. Required trees shall be at least 12 feet high when planted or when this Ordinance become applicable thereto, shall be maintained in a healthy condition, and shall not be pruned, except to remove dead wood, in such a manner as to prevent growth to a height of at least 15 feet or to reduce existing height below 15 feet. The following varieties of trees are prohibited in meeting the requirements of this Ordinance: poplars, willows, American Elm, seed-bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them between the heights of three and eight feet, except where located so as to create a potential hazard to drivers or pedestrians.
- (D) **Time of Completion of Plantings.** All plantings required by the Ordinance shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay. Any Zoning Compliance Permit may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this Ordinance.

### Section 410 Fees in Escrow (Also See U.S. 41/M-28 Access Article for this provision)

Any application for rezoning, site plan approval, a Conditional Land Use Permit, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which requires a traffic impact study under Section Two or Three, or which has more than twenty (20) dwelling units, or more than twenty-thousand (20,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

- (A) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise The Township of Spurr values to review the proposed application and/or site plan of an applicant. Professional review



## ARTICLE IV – General Regulations

### Section 410 Fees in Escrow (Also See U.S. 41/M-28 Access Article for this provision): Continued

shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this Ordinance and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by The Township of Spurr and a copy of the statement of expenses for the professional services rendered, if requested.

- (B) No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- (C) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by The Township of Spurr in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.
- (D) Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

### Section 411 Exterior Lighting

All lighting for parking areas or for the external illumination of buildings or grounds shall be directed away from and shall be shielded from adjacent residential districts and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares. Lighting standards for signs shall not exceed the maximum height limitations established for each use district as set forth in Section 401.

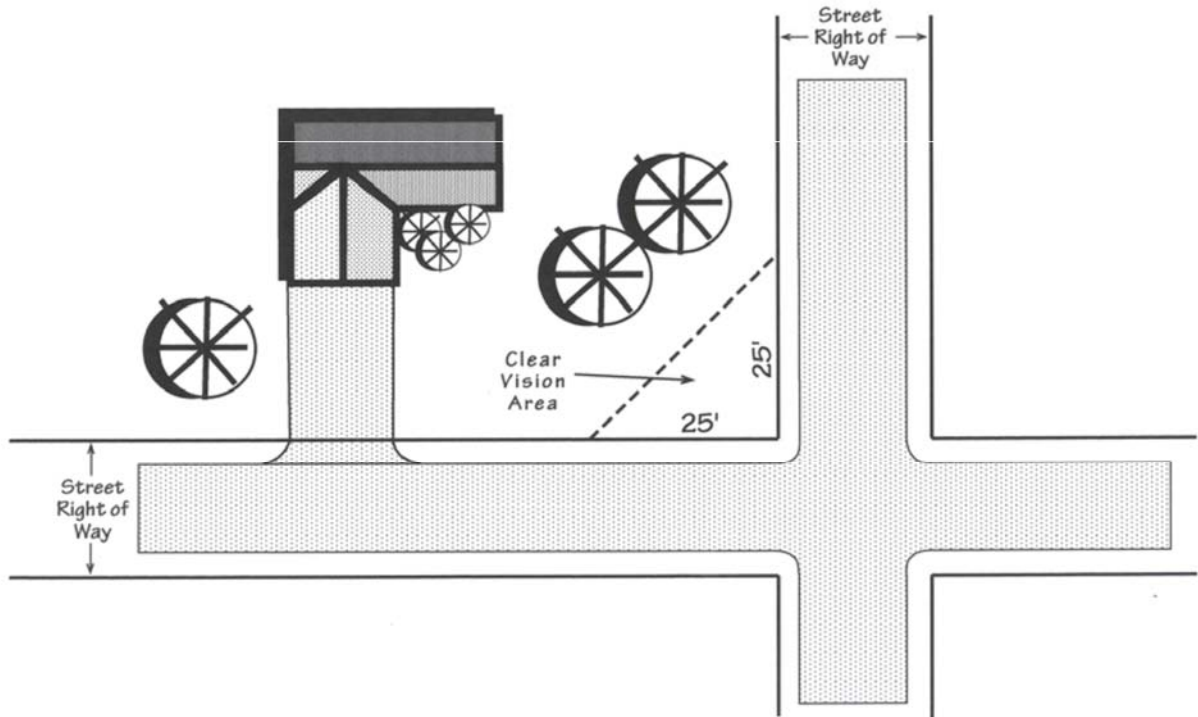
### Section 412 Corner Clearance

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted, (1) within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection, or (2) within the triangular area formed by the intersection of any street right-of-way line and any public or private driveway at a distance along each line of 15 feet from their point or intersection (see illustration below).

ARTICLE IV – General Regulations

Section 412 Corner Clearance: Continued

## Visibility at Intersections and Corner Clearance



Section 413 Sewage disposal system placement

- (A) No element or part of any on-site sewage disposal system, including but not limited to septic field and tank, shall be placed within 20 feet of the edge of a planned road right-of-way as shown on the township thoroughfare plan, or within 20 feet of any side or rear lot line.
- (B) Permits for installation of on-site sewage disposal systems shall be obtained from the county or state health department, as applicable.
- (C) In cases where a township placement requirement differs from that of the state or county, the greater setback or more stringent requirement shall apply.
- (D) Lawful existing nonconforming lots of record which, due to inadequate width, depth, and/or area, cannot meet one or more of the setback standards in this section may in-

## ARTICLE IV – General Regulations

### Section 413 Sewage disposal system placement: Continued

stead comply with minimum county health department standards for side and rear setbacks. In all cases, however, the 20-foot front yard setback from the edge of the planned right-of-way shall be maintained.

### Section 414 Private Road Requirements

#### (A) Definitions.

- CUL-DE-SAC: A vehicular turn-around at the end of a dead-end street, road or easement which is typically circular, and designed and constructed in accordance with the specifications and requirements of the Baraga County Road Commission.
- DRIVEWAY: A private way, usually linear in nature and improved to some degree, which provides for vehicular access from a public or private road to two (2) or fewer lots for a dwelling(s) or to a commercial or non-commercial establishment. A horse-shoe shape drive or a “T” shape drive is included within this definition.
- EASEMENT: A right, in the owner of one parcel of land by reason of such ownership, to use the land of another for the purpose of ingress or egress.
- PRIVATE DRIVE: Any access for vehicular traffic which is privately owned and maintained which provides access to four (4) or less lots or parcels.
- PRIVATE ROAD (or PRIVATE STREET): Any road, street or thoroughfare for vehicular traffic or emergency vehicles which is privately owned and maintained, and which provides the principal means of access to five (5) or more abutting lots or parcels.
- ROAD FRONTAGE: This distance along the street right-of-way line measured along the front of a lot.
- ROAD (or STREET): A public or private dedicated right-of-way or thoroughfare for pedestrian and vehicular traffic, including the terms “avenue,” “lane,” “highway,” or other terms indicating an open, accessible “way”, but excluding driveways, farm roads, trails, or logging roads.

In the case of a “public road”, this shall mean that the road has been officially accepted into a transportation system by a public entity with jurisdiction in a specific given area. Roads usually, though not always, provide a means of access to abutting properties. In the case of a “site condominium,” as defined and as regulated by this Ordinance, the principal means of access to abutting “units of ownership” may be provided by a public street.

#### (B) PRIVATE ROAD REQUIREMENTS

All division of unplatted land shall be in compliance with the requirements of Spurr Township’s Land Division Ordinance. When private road development occurs within Spurr Township, the following Private Road Requirements shall apply. No person, firm, or corporation shall divide land accessed by private roads without providing for permanent or private easements that conform to the following requirements:

## ARTICLE IV – General Regulations

### Section 414 Private Road Requirements: Continued

1. Lots or parcels fronting on a private road or easement shall meet all Zoning Ordinance requirements. Such lots or parcels shall provide safe, road access for fire protection and emergency service vehicles. Any lot or parcel resulting from a land division shall comply with the road frontage requirements of the zoning district in which it is located.
2. All private roads shall provide access to the public road system and shall be centered within a permanent right-of-way easement duly recorded with the Baraga County Register of Deeds. Right-of-way easements shall be dedicated for ingress and egress and installation of public utilities and shall preclude any development that interferes with their use as access roads. All plans submitted for approval shall show the private road easement including the legal description, all use restrictions, grades, and any required drainage facilities and structures.
3. The names of all private roads shall be approved by the Spurr Township Board. Their numbering shall be consistent with the Township address numbering system and Baraga County Road Commission sign standards.
4. There shall be a Clear View Triangle at all corners of intersecting roads. No fence, wall, sign, screen, or any planting shall be erected or maintained in such a way as to obstruct vision within a Clear View Triangle described as being located between a height of three (3') and ten (10') feet within the triangular area formed by the intersection of a road right-of-way line and a private road right-of-way line and a line connecting two (2) points which are located on the intersecting right-of-way lines, thirty (30') feet from the point of intersection.
5. All private road easements shall be a minimum of sixty-six (66') feet wide. The Township Planning Commission may require additional width for the right-of-way easement to allow for road construction and maintenance where deemed necessary.
6. A drainage plan shall be submitted on a topographic map, with a minimum of two-foot contour intervals, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private road be diverted beyond the limits of that private road onto adjacent roads or property unless appropriate drainage easements are provided and ownership designated.
7. A soil erosion permit, if applicable, shall be obtained and provided to the Spurr Township Zoning Administrator prior to the construction of any private road within the Township.
8. A private road/easement serving four (4) or fewer lots, parcels, or condominium units shall be considered a private driveway and shall not be subject to the requirements of this section.
9. A private road serving or intending to serve five (5) to ten (10) lots, parcels, or condominium units shall meet the following design standards:
  - a. The minimum right-of-way width shall be sixty-six (66') feet; the applicant can request a reduction in right-of-way width in order to protect natural features or as a result of space saving features such as curb and gutter,

## ARTICLE IV – General Regulations

### Section 414 Private Road Requirements: Continued

- with the approval of the Planning Commission, provided that in no case shall the right-of-way be less than fifty (50') feet.
- b. A granular soil base of not less than twelve (12") inches in depth. The top six (6") inches in depth shall be, at minimum, road grade processed 22-A gravel.
  - c. The roadbed shall be a minimum of eighteen (18') feet wide with two (2) grass or gravel shoulders, one on each side.
  - d. Adequate culverts and/or ditches shall be provided where necessary.
  - e. Grades shall not exceed seven (7%) percent. If the road is paved and with proper drainage, a road grade up to nine (9%) percent may be permitted.
  - f. A forty (40') foot radius for cul-de-sacs or an eighty (80') foot hammerhead turnaround shall be required for all dead-end roads.
  - g. Proposed roads and right-of-way over three hundred (300') feet long shall provide an adequate place for emergency vehicles to turn around in accordance with the requirements set forth in the standards and specifications for road construction of the Baraga County Road Commission.
  - h. The angle of intersection with any public road, or road right-of-way shall be as close to 90° as possible, but not less than 70°.
10. If eleven (11) or more lots, parcels, or condominium units have access to a private road, the road shall meet all Baraga County Road Commission specifications as required. A second means of access meeting the requirements of this Ordinance shall also be provided.

#### (C) PRIVATE ROAD APPROVAL PROCEDURE

The applicant shall submit six (6) complete copies of the Proposed Development Plan to the Zoning Administrator and/or other official as may be designated by the governing body in accordance with the requirements set forth in this Ordinance which shall detail the following items: *(see also the standards and submittal requirements on the Township Zoning Compliance Application Form.)*

1. Engineered road construction plans by a Certified Licensed Professional Engineer and/or Professional Land Surveyor, demonstrating compliance with Item (B) Private Road Requirements, Items 1-10 inclusive, as applicable.
2. A recordable road maintenance agreement and deed restrictions signed by the Applicant/Owner, providing for:
  - a. An equitable method of apportioning the costs of maintenance and improvements to current and future users, including a method for reapportioning costs for improvements and maintenance to the road in the event that future land division occurs along the road.
  - b. A notice that no public funds of Spurr Township are to be used to initially construct and thereafter repair or maintain the private road.

## ARTICLE IV – General Regulations

### Section 414 Private Road Requirements: Continued

- c. A provision that the owners of the property using the road for access shall not block, prohibit, restrict, limit, or in any manner interfere with normal ingress and egress and use by any of the other owners.
3. A letter from a Licensed Professional Engineer or Professional Land Surveyor certifying that the road has been built to the Spurr Township Private Road Requirements.

**NOTE:** Construction permits from the Baraga County Road Commission are required for connection to County roads. Permits are also required from the Baraga County Soil Erosion Control Officer under the Soil Erosion and Sedimentation Control act, P.A. 347 of 1974, MCLA 282.101 et seq., when applicable. Zoning permits shall not be issued for any private road connecting to a County road until all required County permits have been issued and copies submitted to the Spurr Township Zoning Administrator.

#### (D) ROAD IDENTIFICATION

All private roads shall be designated as such, have a name approved by the Spurr Township Board, and a sign that meets County road sign standards. The sign shall be erected by the property owner and shall be located and placed in accordance with the Baraga County Road Commission specifications.

#### (E) FEES AND COSTS

The applicant shall pay an application fee established by the Spurr Township Board in accordance with Section 908 of this Ordinance. Prior to the final approval of a private road, any additional cost incurred by the Township for the review of plans, on-site inspection of the private road and drainage facilities, and Professional Certification of the road construction shall be paid by the applicant and/or developer.

#### (F) APPEALS

A person or entity aggrieved by the decision of the Zoning Administrator or designee(s) may, within thirty (30) days of said decision, appeal the decision to the Spurr Township Zoning Board of Appeals in accordance with the requirements set forth in Article X, Sections 1002, Meetings and Procedures, and 1003, Power and Jurisdiction, of this Ordinance. The applicant shall pay an application fee established by the Spurr Township Board for any exception, request or appeal.

## ARTICLE IV – General Regulations

### Section 414 Private Road Requirements: Continued

#### (G) PENALTIES

Any parcel accessed by a private road created in non-compliance with the Spurr Township Land Division Ordinance and this section, shall not be granted a Zoning Compliance Permit, Zoning Approval for Land Divisions, a Conditional Land Use, or Site Plan approval. Any violation of this section shall subject the violator to the fines and enforcement actions set forth in Article XII, Section 1204, Penalties and Remedies.

### Section 415 Hobby Farms

Definition: A hobby farm is the keeping of livestock animals that is accessory to a dwelling on non-farm lots or parcels outside of an existing residential plat, subdivision, and condominium development, unless such development is originally designed to provide for said accessory hobby farms as provided herein.

Raising of hobby animals (but not including feedlots) on parcels of land less than ten (10) acres in area shall be limited to one (1) animal unit<sup>1</sup> for the first five (5) acres (See rationale below), plus one (1) additional animal unit for each two (2) additional acres as further defined below. Such use shall be accessory to an existing residential dwelling located on the same lot or parcel. Animals kept for a bona fide youth club or class project are included under this permitted use.

All hobby animals shall be kept within a fenced enclosure or other appropriate barrier sufficient to contain hobby animals on the premises. No animal buildings, pens, concentrated keeping of animals, or collected storage or piling of animal waste materials (manure) shall be located closer than fifty (50') feet from any abutting property line, except that hobby animal paddocks (see definition below) may extend to a fence at the established property line. All hobby animals or animal buildings and enclosures shall be kept in a well-maintained condition, and waste materials shall not create a health hazard or an animal nuisance. Storage or piling of waste materials shall be confined to areas where hobby animal buildings, quarters and pens are permitted and away from wells, water bodies, and drainage ways. Notwithstanding the below table, offspring of said hobby animals may be kept on the premises for the time period which is customary for the species involved. A plot plan only (not a full site plan) is required for this use (See Section 603).

On five-(5) to 6.99, seven-(7) to 8.99, or nine-(9) to 9.99 acre parcels the following numbers of hobby animals, measured in numbers equal (equivalent) to one (1) animal unit, shall be allowed. A mix of animals may be permitted, but in total only 1, 2 or 3 animal units respectively are allowed in accordance with the land area.

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<sup>1</sup> All other animal types not in the table above are to be calculated as one thousand pounds live weight equals one animal unit.

## ARTICLE IV – General Regulations

### Section 415 Hobby Farms: Continued

Type of Hobby Animal	Number of Hobby Animals Allowed On		
	5-6.99 Acres	7-8.99 Acres	9-9.99 Acres
Cattle (slaughter & feeder)	1	2	3
<i>EQUIVALENTS<sup>2</sup></i>			
Horse	-	1	2
Mature Dairy cattle (milked or dry)	-	1	2
Swine <sup>3</sup>	2	5	7
Sheep, lambs, goats, llama, & alpaca	10	20	30
Turkeys	30	60	90
Laying hens	30	60	90
Ducks	5	10	15
Ostrich, emu	2	4	6

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Rationale for the five (5) acre minimum is based on the following premise;

1. One-quarter (¼) acre needed for the dwelling site and well.
2. Two and one-half (2.5) acres needed for septic tank and first drain field.
3. Two and one-half (2.5) acres needed for a replacement (2<sup>nd</sup>) drain field.

Paddock Defined: A fenced in or otherwise contained area for hobby animals to roam, exercise, browse, and/or otherwise behave normally in accordance with the species characteristics. The paddock will have at least 80% vegetative cover (grass, clover, etc.), unless the specific species contained therein dictates a different, more appropriate natural environment.

#### Section 416. On-Site Use Wind Systems

Intent. An on-site use wind energy system (see Section 202 for Wind turbine definitions) is intended to first serve the needs of the applicant. A utility grid wind energy system (see Section 202 for definition) is not a permitted use under this Section. A utility grid wind energy system is separately provided for and regulated as a conditional use (See Article VII) in the RP and I districts. An anemometer tower shall abide by the same regulations below for on-site wind systems and shall be removed before an on-site use wind system is installed.

- (A) Small On-site Windmills. In the RR, RP and I districts windmills with a power generation capacity of 5 kilowatts (or equivalent) or less (e.g. for livestock watering tanks) are a

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<sup>2</sup> The animal equivalents shown here are based on U.S. Code of Federal Regulations: 40 CFR 122, Appendix B (§122.23)

<sup>3</sup> Each weighing over 25 kilograms, approx. 55 lbs.



## ARTICLE IV – General Regulations

### Section 416 On-Site Use Wind Systems: Continued

permitted use, subject to the following requirements. In the TD districts, windmills with a power generation capacity of 5 kilowatts (or equivalent) or less are a conditionally permitted use. There are no limits on the number of these small windmills permitted.

1. Setbacks. The base of tower shall be setback a distance of not less than 1½ times the height of tower from the nearest property line. In addition, no part of the wind energy system structure, including guy wire anchors, may extend closer than ten (10') feet to the nearest property line.
  2. Height. There is no fixed height limit in this case beyond the requirements of paragraphs 1 and 5.
  3. Noise. Sound pressure levels 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 wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
  4. Safety.
    - a. Vertical Clearance. The minimum vertical blade tip clearance from grade shall be twenty (20') feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance from any separate building, structure, utility wire, or tree.
    - b. Guy Wire Visibility. If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of at least six (6') feet above the guy wire anchors.
    - c. Rotor or Blade Integrity Protection. An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.
    - d. Lightning. All wind energy system towers shall have lightning protection.
  5. 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, the Michigan Tall Structures Act, and any local jurisdiction airport overlay zone regulations. If an on-site use wind energy system is attached to a building or structure, the building inspector must approve it as being safe and secure and in accordance with all applicable state construction and electrical codes.
- (B) Larger On-site Windmills. Windmills with a power generation capacity of greater than 5 kilowatts (or equivalent) are a permitted use, subject to the following requirements.
1. Only one (1) wind energy system is permitted per lot or premises.

## ARTICLE IV – General Regulations

### Section 416 On-Site Use Wind Systems: Continued

2. Setbacks. The base of tower shall be setback a distance of not less than 1½ times the height of tower from the nearest property line. In addition, no part of the wind energy system structure, including guy wire anchors, may extend closer than ten (10') feet to the nearest property line.
3. Noise. Sound pressure levels 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 wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
4. Shadow flicker. Prior to a zoning compliance permit and prior to a building permit being issued, the applicant must demonstrate to the Zoning Administrator that no adverse shadow flicker impact will occur from sunrise to sunset throughout the year on any occupied buildings and lands of adjacent properties. The Zoning Administrator, if in doubt, may refer the matter to the Planning Commission. The Planning Commission may require that the potential of an adverse shadow flicker impact be studied by an independent consultant, knowledgeable on the subject. The study shall recommend one or more means by which the impact(s) (if any) can be avoided (including whether or not to construct) or mitigated. The applicant must deposit in advance sufficient funds with the Township to pay for the study.
5. Safety.
  - a. Vertical Clearance. The minimum vertical blade tip clearance from grade shall be twenty (20') feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance from any separate building, structure, utility wire, or tree.
  - b. Guy Wire Visibility. If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of at least six (6') feet above the guy wire anchors.
  - c. Rotor or Blade Integrity Protection. An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.
  - d. Lightning. All wind energy system towers shall have lightning protection.
6. 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, the Michigan Tall Structures Act, and any local jurisdiction airport overlay zone regulations. If an on-site use wind energy system is attached to a building or structure, the building inspector must approve it as being safe and secure and in accordance with all applicable state construction and electrical codes.

## ARTICLE IV – General Regulations

### Section 416 On-Site Use Wind Systems: Continued

7. Wiring. All wiring between the tower and the principal building shall be underground.
8. Residential Districts. When located in RR Districts, the following additional regulations shall apply:
  - a. An on-site use wind energy system shall be located only in a rear yard, or if attached to a building or other structure it shall be located at the rear of said building or structure.
  - b. The height of the tower above the average grade of the lot shall not exceed 75 feet to the top of the blade in its vertical position.
9. Resource Production and Industrial Districts. When located in RP or I Districts the height of the tower may exceed district height limits.
10. Decommissioning. The on-site use wind energy system (windmill) and all appurtenances thereto shall be removed from the site within one (1) year after the windmill is no longer in use (not generating any electricity for over 12 continuous months). The owner of the land upon which the windmill is located shall be responsible for such removal. A windmill which is not so removed shall constitute a public nuisance per se.

### Section 417. Open Space (Residential & Recreational Structure Clustering)

- (A) *Statement of purpose.* The purpose of this section is to provide an optional mechanism for development of single-family residences, where permitted, which assists in meeting the following goals: Maintain the character of the area, maintain an image of open space, permanently preserve open space, timber, and natural resources, protect a portion of lands for agriculture and farming, and achieve a balance between farming, open space and residential growth. Specifically, the township recognizes:
1. That the preservation of wetlands, woodlands, open space and agricultural land in the township is necessary to the conservation of local, state, and national economic resources and is necessary, not only to the maintenance of the economy of the state, but also for the assurance of desirable living conditions for present and future residents of the township;
  2. That the discouragement of unnecessary conversion of open space, timber, natural resources, and agricultural land to urban uses is a matter of public interest and will be of benefit to the township residents overall in that it will discourage non-contiguous urban development patterns, which unnecessarily increase the costs of services to community residents;
  3. That development under the open space preservation development option provisions of this section is a primary goal of the township. Development under the provisions of this option is intended to provide the preferred alternative to lot

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

splitting or conventional subdivision or site condominium development in many areas of the township;

4. That single-family residential developments approved through this development method shall:
    - a. Maintain the township's open space and rural or semi-rural settings;
    - b. Allow greater flexibility and encourage a more creative approach to residential development;
    - c. Preserve the township's natural resources, including woodlands, wetlands, floodplains, agricultural land, and similar natural resource assets;
    - d. Create a more desirable living environment through the preservation and conservation of the natural character of open fields, stands of trees, wetlands, brooks and streams, farmland and other similar assets;
    - e. Provide open space that directly benefits the residents of the development and the township; and
    - f. Protect the rural character of the district, retain rural vistas by requiring optimum setbacks of residential development from rural highways and improve traffic safety by prohibiting direct access from individual home sites to such highways.
- (B) *Eligibility under the Township Zoning Act (MCL 125.271 et seq.).* To utilize this development option, a site without public sewer service shall be located within a zoning district that has a one-half acre (21,280 sq. ft.) or larger minimum lot size or a site with public sewer service shall be located within a zoning district that has a one-third acre (14,420 sq. ft.) or larger minimum lot size. The open space preservation development (residential clustering) option shall be a principal use permitted in the RR, WF and RP districts. This development option may be used for the clustering of recreational structure sites in these districts.
- (C) *Method of land division.* Home sites may be developed under this option as a subdivision, a site condominium, or land division.
- (D) *Open space retained.* To the greatest extent possible, all the natural features of the property such as large trees, natural groves, wetlands, floodplains, watercourses, natural drains and stream channels and similar assets that will add attractiveness and value to

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

the property and will promote the health and welfare of the community shall be preserved. Retained open space and other protected resource areas shall be reasonably contiguous (not fragmented).

1. *Primary conservation areas.* This category consists of:
    - a. Wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), land within the 100-year floodplain, slopes exceeding 25 percent, and soils subject to slumping. These sensitive lands are deducted from the total parcel acreage to produce the "adjusted tract acreage," on which density shall be based (for both conventional and conservation subdivisions). (These areas are deducted because as a rule they would not be buildable lands under traditional development.)
    - b. Land that would be required for street rights-of-way (a minimum 10% of the net tract area) and land under permanent easement prohibiting future development (county drain easements, existing and planned public road ROWs, utility easements, etc.) shall also be deducted.
  2. *Secondary conservation areas.* In addition to the primary conservation areas, at least 50 percent of the remaining land shall be designated and permanently protected. Full density credit shall be allowed for land in this category that would otherwise be buildable under local, state, and federal regulations, so that their development potential is not reduced by this designation. Such density credit may be applied to other unconstrained parts of the site. This category typically includes all or part of the following kinds of resources: mature woodlands, significant wildlife habitat areas, prime farmland, historic and archaeological sites, and scenic views into the site from public roads. At least 25 percent of the total of the minimum required secondary conservation areas may be suitable for active recreation purposes, but no more than 50 percent shall be utilized for that purpose, in order to preserve a reasonable proportion of natural areas on the site. The purposes for which open space areas are proposed shall be documented by the applicant.
  3. *Lots.* Protected areas shall be outside the boundaries of the proposed lots.
- (E) *Method of preservation.* The areas in open space, recreation, agriculture, or commons shall be perpetually protected from development. The open space shall be preserved using one or a combination of the following methods, subject to the review and approval of the township attorney and the township planning commission:

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

1. *Home owners association (HOA).* Title to the open space lands and other protected resource areas may be held by a homeowner's association with required participation of all residents within the development. If an HOA is to hold title, a recognized independent conservation organization shall be granted a conservation easement covering all land areas to be protected.
2. *Protective covenants.* The covenants of the subdivision may include the preservation of lands within them. The exact locations of the open space and other protected resource areas shall be defined within this document. These covenants shall also state the types of uses that would be allowed in such open spaces and other protected areas. Covenants may be used with a home owners association but a recognized independent conservation organization shall be granted a conservation easement covering all land areas to be protected.
3. *Condominium association.* All elements that are reserved for open space and other protected resource areas shall be preserved as common elements as shown on the site plan, except those areas that may be dedicated to a unit of government. Any alteration to the open space and other protected areas under common element status shall require the submittal of a new site plan and approval by the appropriate bodies. If a condominium association is to hold title to any open space and/or other protected areas, a recognized independent conservation organization shall be granted a conservation easement covering all land areas to be protected.
4. *Fee simple dedication to a unit of government.* The open space lands are dedicated to a unit of government (township, village, city, school district, county, state, or federal, etc.). This dedication may have provisions within it that state that in no way shall the unit of government be obligated to any cost due to the acquisition, and that the municipality has ample access to all areas of the open space for adequate maintenance purposes should they ever be needed. There shall also be deed restrictions preventing the unit of government from selling the property or using it for development purposes. If dedication to the township or another governmental body is to be used, a recognized independent conservation organization shall be granted a conservation easement covering all land areas to be protected.
5. *Conservation easements.* The easement over the open space lands and other protected resource areas shall be held by a legal owner/holder, such as a conservation agency, and that owner shall have the right to enforce any aspect of the easement. The easement shall state the uses that are allowed within the open space areas and other protected resource areas and which uses are disallowed. The agreement shall be as specific as possible as to what is allowed and where it is allowed

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

to take place. If the easement is granted to any party other than a recognized independent conservation organization, the easement shall be co-signed by a recognized independent conservation organization to ensure a checks and balance system. Whichever organization holds the legal rights to the easement, they shall visit the site a minimum of once per year to inspect and record any violations that may be occurring within the open space areas and other protected resource areas and create and file a report of what is observed.

6. *Public trust.* The open space lands and other protected resource areas may be dedicated to a public trust. This shall include the accompaniment of money with it to provide funds for the trust to conduct annual surveys on the land to turn into state agencies which may require these reports. The two entities shall enter into an agreement which states that the trust, whose only purpose is to protect open lands and other protected resource areas, shall protect these spaces within the development.
  7. *Conveyance of any unused development rights.* Any unused development rights of the subject property may be conveyed to a unit of government or a conservation agency while allowing present and future owners of the open space lands to continue to maintain farming activities or open lands for their own use but permanently giving up the right to ever develop it.
- (F) *Density limit (yield plan).* The number of dwellings permitted to be constructed shall not exceed the number that would be permitted under conventional zoning regulations as determined by gross parcel area less primary conservation areas as defined in the paragraphs under subsection (D)1., divided by the minimum lot area set forth in the schedule of regulations for the district involved. The permitted density may be modified if a density bonus is approved by the planning commission.
- (G) *Density bonus.*
1. *Generally.* To encourage developers to utilize this development option where a large amount of open space is permanently preserved instead of conventional forms of land division where little or no usable open space remains, the planning commission may permit the number of dwelling units to be increased by up to 30 percent depending upon the physical characteristics of the site and upon a determination by the commission that the plan is well designed and that proposed development complies in all respects with the intent and purpose of this section, provided all other requirements of this section are met. Proceeds from the sale of bonus lots are to be used to provide a conservation endowment (50%) and to

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

provide an incentive (50%) to the developer. Spending from this conservation endowment fund shall be restricted to interest from such fund and shall be used to offset continuing open space monitoring and maintenance costs.

2. *Public access.* To encourage appropriate and desirable lands to be set aside for public access to a portion of the site, a bonus of one additional potential lot may be granted to the developer in exchange for a written and recorded easement to a unit of government for each five (acres of public access land provided. (Note: Land for connecting public paths or trails and adjoining buffer areas are one type of public access that may be desired. Public access to or along water bodies may be desired. Historic, archaeological, or cultural features, rare or unusual plants, or habitats are examples of other potential candidate resources for public access.) Fifty percent of the proceeds from the sale of the bonus lots shall be set aside for a public access endowment. The interest from the endowment shall be used to cover the additional public liability insurance requirements and cover other protection, maintenance, and inspection costs.
- (H) *Minimum lot size.* The conventional minimum lot area and width requirements set forth in the schedule of regulations shall not apply. The minimum lot area and width shall be large enough for anticipated rural or very low density suburban household activities and shall also be determined by land area and distances required to comply with yard and setback requirements and county health department on-site sewage disposal and well requirements (including isolation distances and sufficient land area for replacement septic fields).
- (I) *Frontage on internal road.* All lots shall front only upon a road which is internal to the development. No lots may be created which front upon existing public roads.
- (J) *Road standards.* All internal public roads shall be designed and constructed to meet all requirements of the Baraga County Road Commission (BCRC) and as may be set forth in the township subdivision regulations or the township site condominium requirements. All proposed internal public roads shall be dedicated to the BCRC, must be accepted, and be incorporated into the BCRC road system. All internal private roads shall be designed and constructed to meet all requirements of Section 414.
- (K) *Clustered home sites or recreational structure sites.*
1. *General evaluation criteria.*
    - a. Protects and preserves all floodplains, wetlands, and steep slopes.



## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

- b. Preserves and maintains mature woodlands, existing fields, pastures, meadows, orchards, and creates sufficient buffer areas.
- c. If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads.
- d. Maintains or creates an upland buffer of natural native species vegetation adjacent to wetlands and surface waters.
- e. Designs around existing tree lines and hedgerows between fields or meadows, and minimizes impacts on large woodlands (greater than five acres).
- f. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares.
- g. Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- h. Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern.
- i. Designs around and preserves sites of historic, archaeological, or cultural value, their environs, and their related features (e.g. stones walls, earthworks, and burial grounds).
- j. Protects rural roadside character.
- k. Landscapes common areas (such as community greens), cul-de-sac islands, and both sides of new streets with native specie shade trees and flowering shrubs with high wildlife conservation value.
- l. Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby house lots.
- m. Includes a safe internal pedestrian circulation system, ideally connected to community pedestrian/bicycle system. The system must be integrated with open space, recreation, preservation areas, and provide convenient access from home sites.

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

- n. Provides open space that is reasonably contiguous. (Design and Management Handbook for Preservation Areas, by the Natural Land Trust is a good reference resource.)
2. *Specific criteria.*
- a. *Location of house (recreational structure) sites.* House sites should generally be located not closer than 100 feet from primary conservation areas, but may be situated within 50 feet of secondary conservation areas to provide buffering distances and afford enjoyable views. The building "footprint" of proposed residences may be changed in any direction by less than 50 feet without approval. Changes involving 50 feet or more may be changed with approval from the planning commission.
  - b. *Street and lot layout.* When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the primary and secondary conservation areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15 percent shall be strongly discouraged. Street connections shall generally be encouraged to minimize the number of new culs-de-sac to be maintained by the county and to facilitate easy access throughout the development. Single-loaded residential access streets may maximize the number of homes with enjoyment of open space views, but may require more land to be disturbed.
  - c. *Lot lines.* These are generally drawn midway between adjacent house locations. Lots may be irregularly shaped, including L-shaped "flag-lots".
- (L) *Setbacks.* Dwellings shall be located in compliance with all yard and setback requirements of the district in which they are located. Dwelling units and structures shall be set back a minimum of 50 feet from any perimeter lot line of the parent parcel, except that they shall be set back at least 250 feet from any existing public road right-of-way which borders the perimeter of the project site. Dwelling unit clusters shall be spaced an appropriate distance apart from another cluster, as determined by the planning commission, compatible with the surrounding community character and to discourage a suburban subdivision appearance.
- (M) *Landscaping.* To maintain the rural or very low density suburban character of the district, the frontage along the perimeter public road shall be heavily landscaped to screen clustered home sites from view of the public to the greatest extent feasible. Scenic vistas from the perimeter public road shall be maintained (and perhaps enhanced) to the greatest extent feasible. A landscape plan for such areas shall be reviewed and approved by

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

the planning commission. Existing natural screens, or new screens may be used. The planning commission may require the installation of a landscaped berm where necessary to meet the intent of this section.

- (N) *Sewage disposal and water supply.* Use of on-site wells and septic systems are anticipated in the township. However, community septic systems or package treatment plants and community wells in lieu of individual wells and septic fields may be permitted if approved by the county and/or state health department. Public water and sewage disposal systems shall not be extended to serve projects developed under this section if the site lies beyond an urban services area boundary, as may be set forth within the master plan, except in such instances where such utilities already are located at the perimeter of the site. Portions of the open space may be used, if approved by the planning commission and the county health department for individual or community wells, for underground drainage fields for individual or community septic systems and for "spray fields" for spray irrigation purposes in a "land treatment" sewage disposal system. However, "mound" systems protruding above grade and aerated sewage treatment ponds shall be limited to no more than ten percent of the required minimum open space.
- (O) *Pedestrian linkages to open space.* To the greatest extent feasible, the open spaces should be located and interwoven with the dwelling unit clusters so as to be easily accessible to residents of the development, except in cases where the open space to be preserved is not intended for the use of the residents (as in the case of active farming or protection of endangered species). Linking pedestrian trails shall be provided within the open space.
- (P) *Site plan.* Approval under this section requires that a site plan meeting the requirements of Article VI be reviewed and approved by the planning commission. In addition to a site plan, the planning commission may require the submittal of additional documents as specified or called for herein.
- (Q) *Site condominium, subdivision approval, or land division.* A project approved under this section shall also comply with all requirements of the township, county, and state for a site condominium, subdivision, or land division as may be applicable, and shall follow all such steps and procedures for approval required therein. If clustering under land division is intended, documentation of the potential number of new parcels out of the parent parcel must be submitted. Notwithstanding other provisions of this section, if developed under the land division method, the number of parcels or lots to be created shall not exceed the maximum number permitted under the state Land Division Act (MCL 560.101 et seq.).

## ARTICLE IV – General Regulations

### Section 417. Open Space (Residential & Recreational Structure Clustering): Continued

(R) *Application and approval process.*

1. The applicant shall prepare and present the following exhibits to the planning commission for review and approval. The planning commission shall submit the applicant's exhibits to the township planner for a recommendation, as may be necessary or advisable. A recommendation from the township engineer may also be sought during the preliminary approval process.
  - a. Applicant prepares and presents a "yield plan" for review and approval of the planning commission. The "yield plan" shall identify all primary conservation areas as defined in the paragraphs under subsection D.1. and shall accurately demonstrate the maximum number of lots or parcels which could be created if the property was developed conventionally.
  - b. Applicant submits conceptual preliminary plan with all basic existing and proposed land features and structures shown separately. Aerial photos and simple transparencies may be used.
  - c. Applicant submits conceptual landscape plan with all basic existing and proposed topography and vegetation features shown separately. Photos and simple transparencies may be used.
  - d. A site walkabout may be scheduled for the applicant, planning commissioners, and the local government's staff and/or consultants.
2. Planning commission site plan review procedures (see Article VI) are required in all eligible districts (RR, WF and RP) for this principal permitted use. All required steps shall be scheduled with a determination of approval, approval with conditions, or disapproval to follow accordingly.
3. Any legal instruments (easements, covenants, etc.) pertinent to the effectuating of the proposed open space preservation development must be reviewed and approved by the township attorney. Any approved easements, covenants, or other legal instruments which run with the land are to be recorded with the county register of deeds. No zoning compliance permit or building permit shall be issued until this has been accomplished.

**ARTICLE IV – General Regulations**

**Section 417. Open Space (Residential & Recreational Structure Clustering): Continued**

**Example**

*Parcel Size:* 40 acres (A site like this with various natural limitations can be made more buildable under this development option.)

*Normal Zoning—WF District:* 1.0 acre minimum lot size per recreational structure

*Calculation of allowable number of lots:*

40 acres = gross area

- Less 15 percent for internal roadways (6.0 acres).
- Less one (1.0) acre for planned county road ROW (parcel legal description running to the center of the road).
- Less 1.5 acres for a county waterfront easement.
- Less 6.5 acres of regulated wetland, also 100-year floodplain, adjacent to county waterfront easement (a primary conservation area).

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= 25 net acres/1.0 acre minimum lot size = 25.0. [40 - 6.0 - 1.0 - 1.5 - 6.5 = 25 acres [adjusted tract acreage]

Therefore, 25 lots allowed [result of lot "yield plan"].

Adjusted tract acreage eligible for development minus 50% preservation = Net amount of land to be developed.

25 acres	-	12.5 acres	=	12.5 net acres	[12.5 acres of secondary conservation areas to be permanently conserved:
					- 5.0 acres on north side of parcel to be retained by original farm owner for farming together with adjacent 160 acre cropland.
					- 2.5 acres of upland woods and stream to be held in common by recreational structure owners.
					- 5.0 acres on east side to be dedicated for public access. See bonus below.]

12.5 acres = net developable area

less 10% for roadway (reduced need)

$12.5 \times 0.90 = \mathbf{11.25 \text{ net acres}}$

Area per buildable recreational structure site:

11.25 net acres/25 allowable units.

Typical recreational structure site = 0.45 acre.\*

**ARTICLE IV – General Regulations**

**Section 417. Open Space (Residential & Recreational Structure Clustering): Continued**

Potential Bonus Lots (Section 417, (G)1. Density Bonus).

Allowable units × (maximum 30% bonus) = Potential Bonus Lots

25 × 0.30 = + 7.5 (fractions 0.5 and over rounded up)

Potential Total: 25 + 8 = 33 Lots\*

Potential Bonus Lots (Section 417, (G)2. Public Access Bonus)

	3.0 acres for 50 ft. buffer area surrounding portions of wetlands
+	1.5 acres for county trailway.
+	0.5 acre for wetland observation site and interpretative displays
	5.0 acres open to the general public (out of 15 acres of site conservation area.)

5 Acres Public Access = 1 Additional Bonus Lots

Potential Total 25 + 8 + 1 = 34 lots\*

11.25 net acres/**34 allowable units**

Typical recreational structure site = 0.33 acre\*

\* *Note: Actual typical recreational structure or home site size may vary due to on-site conditions affecting well and septic placement as well as health department requirements. See subsection (N) for potential well and/or septic field placement option.*

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS

#### (A) *PURPOSE*

The purpose of this Section is to control and regulate Condominium Development and Platted Subdivisions within Spurr Township, and;

1. To provide for the orderly growth and harmonious development within the community.
2. To provide for the Health, Safety, and Welfare of residents and property owners within the Township.
3. To ensure that public and emergency services can safely enter and exit private property at all times.

#### (B) *INTENT*

The primary intent of this Section is to guide and outline the necessary procedures for regulating the development of land within Spurr Township in accordance with the provisions and requirements of the Condominium Act, Public Act 59 of 1978 (MCL 559.172), as amended, and the subdivision of land into plats in accordance with the requirements set forth in the Land Division Act, Public Act 288, 1967, as amended. All land divisions created exclusive of the aforementioned Condominium Land Division Act shall be developed in accordance with the requirements set forth in the Spurr Township Land Division Ordinance, and all Private Roads shall be approved and constructed in accordance with the requirements as set forth in Section 414, Private Road Requirements, of this Ordinance. All Private Roads shall be maintained exclusively by the benefitting private property owners.

#### (C) DESIGNATED AUTHORITY

The Spurr Township Board, Planning Commission and Zoning Administrator are hereby designed as approving and/or recommending authorities as specified in the Articles and Sections of the Spurr Township Ordinance.

#### (D) CONDOMINIUM DEVELOPMENT AND SUBDIVISION PLAT APPROVAL

The Condominium Development and Subdivision Plat Approval Procedural Process Approval is outlined on Table I of this Section.

NOTE: It is the intent of this Section that all Proposed Subdivision Plats follow the detailed procedures and approval requirements as outlined in the provisions of the Land Division Act, Public Act 288, 1967, as amended, utilizing the outline in Table I as a supplemental procedural guide during the approval process. In addition to the Procedural Approval Guide Requirements, outlined in Table I, Condominium Developments shall fulfill all of

**ARTICLE IV – General Regulations**

**Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued**

the requirements as set forth in the Condominium Act, PA 59, 1978, as amended, along with all subsequent requirements set forth in this Section.

PROCEDURAL APPROVAL PROCESS  
CONDOMINIUM DEVELOPMENT / SUBDIVISION PLAT

**TABLE I**

SUBMISSION	MUNICIPAL REVIEW BODY/ACTION	
PRE-APPLICATION REVIEW	PLANNING COMMISSION	TOWNSHIP BOARD
Condominium Development	Not Applicable	Not Applicable
Subdivision Plat (Optional)	Municipal representative attends a meeting for informal review of proprietor’s concept plan	
PRE-PRELIMINARY		
Condominium Development (Required)	Review / COMMENT	Not Applicable
Subdivision Plat (Optional)	Review / COMMENT	Not Applicable
PRELIMINARY		
Condominium Development (Required)	Review / RECOMMEND	Review / FINAL APPROVAL
Subdivision Plat (Required)	<sup>4</sup> Review / RECOMMEND <sup>5</sup> PUBLIC HEARING	Review / CONDITIONED TENTATIVE APPROVAL
FINAL PRELIMINARY		
Condominium Development	Review / RECOMMEND	Not Applicable
Subdivision Plat (Required)	Not Applicable	Review / FINAL PRELIMINARY APPROVAL
DEVELOPMENT COMPLETION		
Condominium Development	Not Applicable	<sup>5</sup> ISSUES ZONING COMPLIANCE PERMITS
Subdivision Plat	Not Applicable	<b>EXECUTES MUNICIPAL CERTIFICATE</b>

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<sup>4</sup> The Planning Commission shall conduct a public hearing with a public notice published in a local newspaper at least fifteen (15) days before the hearing and a mailing sent to the proprietor, applicant, and owners of land immediately adjoining the proposed plat (M.C.L. 125.3871, Section 71(5)).

<sup>5</sup> Zoning Administrator or Township designee.



## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

#### (E) DEFINITIONS

“As-built Plans” are the as-constructed record plans showing all approved field changes, which vary from the original approved plan documents.

“Building Site” within a condominium development, shall mean that portion of a lot or parcel, which is a two-dimensional condominium unit of land (i.e., envelope, foot print), along with any designated space above and/or below the land, designed for the construction of a principal building in addition to any accessory buildings. All building sites shall have access to a public or private street or road.

“Common Elements” means the portions of a condominium project other than the condominium units.

“Comprehensive Plan.” See the definition of Master Plan in Section 202.

“Condominium” means a single real property parcel with all the unit owners having a right in common to use the common elements with separate ownership confined to the individual units which are serially designated, or a system of separate ownership of individual units in multiple-unit building.

“Condominium Act” means Public Act No. 59 of 1978 (MCL 559.101 et seq.), as amended.

“Condominium Development” means a project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act.

“Condominium Plan” means the plan as required by this Section, including but not limited to, building site, the boundary survey, utility plans, floor plans, and sections, as appropriate, and the location of the existing and proposed structures and improvements. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume for each unit composed of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements.

“Condominium Unit” means that portion of a condominium project designed and intended for separate ownership and use, as described in the Master Deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce for such projects.

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

“Consolidating Master Deed” means the final amended Master Deed for a Contractible Condominium Project, an Expandable Condominium Project, or a condominium project containing Convertible Land or Convertible Space in which the final amended Master Deed fully describes the condominium project as completed.

“Contractible Condominium” means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provisions in the condominium documents and in accordance with this Section and the Condominium Act.

“Convertible Area” means a unit or a portion of the Common Elements of the condominium project referred to in the condominium documents within which additional condominium units or General or Limited Common Elements may be created pursuant to express provision in the condominium documents, in accordance with this Section and the Condominium Act.

“Cul-de-sac.” See Section 414(A) Definitions.

“Expandable Condominium” means a condominium project to which additional land may be added pursuant to the express provisions in the condominium documents and in accordance with this Section and the Condominium Act.

“Limited Common Elements” means that portion(s) of the Common Elements reserved in the Master Deed of a condominium project for the exclusive use of less than all the owners of the condominium units in the project.

“Lot.” See the definition of Lot in Section 202.

“Master Deed” means the legal document prepared and recorded pursuant to the Condominium Act, and which was previously approved by the zoning administrator, within which are, or to which are attached exhibits and incorporated by reference, the approved Bylaws for the project and the approved Condominium Subdivision Plan for the project.

“Outlot” means a lot included within the boundary of a recorded plat that is set aside for purposes other than a development site, park, or other land which is dedicated for public use or reserved for private use.

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

“Pre-Application Review Meeting” means a meeting held at the option of a proprietor. The purpose of the meeting is to conduct an informal review of the proprietor’s concept plan for the Preliminary Plat with the Planning Commission.

“Reserve Strip” means a strip of land, typically at the boundary of a subdivision, retained by a proprietor in order to control future access.

#### (F) *SUBMISSION OF CONDOMINIUM DEVELOPMENT PLAN OR PRE-PRELIMINARY SUBDIVISION PLAT - GENERAL REQUIREMENTS*

All Subdivision Plats shall comply with the requirements of the Michigan Land Division Act, PA 288, 1967 as amended, along with the requirements of this Ordinance and all Condominium Developments shall comply with the provisions of the Michigan Condominium Act, Public Act 59, 1978, as amended, as well as with the provisions of this Ordinance. All information shall be submitted to the Township Zoning Administrator or Designee in accordance with the following requirements.

1. At the option of the Applicant and /or Proprietor, ten (10) copies of a Pre-Preliminary Subdivision Plat or Pre-Preliminary Condominium Development Plan may be submitted to the Zoning Administrator, or designee, at least ten (10) business days before the next regular meeting of the Planning Commission for their initial review and comment along with a completed Application Form approved by the Township and the required fee.
2. The Applicant shall pay a reasonable fee, as determined from time to time by resolution of the Township Board.
3. No construction, grading, work, or other development shall be commenced upon the land intended to be used for a condominium development until a Final Site Plan has been approved, without express permission of the Township Board. This requirement shall include Contractible, Conversion, and Expandable Condominium Projects.
4. If a building, structure, or use to be placed on a condominium unit requires Site Plan Review approval under Article VI of the Spurr Township Zoning Ordinance, then a Site Plan for the building, structure, or use shall be approved in accordance with the Site Plan Review, before a Zoning Compliance Permit can be issued.
5. The Township Board shall have the authority to review and approve or deny Preliminary and/or Final Site Plans for all condominium projects based on compliance with the provisions and requirements of this Ordinance.
6. Each condominium unit shall be located within a zoning district that permits the proposed use.

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

7. For the purpose of this Ordinance, each site condominium unit shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located. In the case of a Site Condominium containing only single-family detached condominium units, no more than one condominium unit shall be located on a single site, and no dwelling unit shall be located on an individual site with any other principal structure or use. Required setbacks shall be measured from the boundaries of the individual site condominium. Ground Floor Coverage and Floor Area Ratio shall be calculated using the area of the site condominium unit.
8. Each condominium unit shall be connected to a public water supply and to sanitary sewer facilities if available.
9. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48, of the Condominium Act, shall comply with all regulations of the zoning district in which they are located, and they shall be approved by the Zoning Administrator. These requirements shall also be made a part of the Bylaws and recorded as part of the Master Deed.
10. Each condominium unit that results from the subdivision of another condominium unit, if permitted by the condominium document as provided in Section 49, of the Condominium Act, shall comply with all regulations of the zoning district in which it is located and shall be approved by the Zoning Administrator. These requirements shall also be made a part of the Condominium Bylaws and recorded as part of the Master Deed.
11. All information required by this Ordinance shall be provided to the Zoning Administrator until all required Zoning Compliance Permits have been issued in accordance with the requirements set forth in Article IX, Administration and Enforcement, Section 905, Zoning Compliance Permits.

#### (G) APPLICATION AND APPROVAL PROCESS

1. PRE-APPLICATION APPROVAL PROCESS
  - a. Before submitting any formal documents for approval of a Condominium Development Plan or Proposed Subdivision Plat, the Applicant may meet and confer with the Spurr Township Zoning Administrator and Township official(s) regarding the preparation of the Application. It shall be the responsibility of the Zoning Administrator to contact the invite the Township official(s) to the initial meeting. If the Proposed Development is a Subdivision Plat, a pre-application review meeting with the Planning Commission may be held at the option of the proprietor. The purpose of the meeting is to conduct an informal review of the proprietor's concept plan for the Preliminary Plat. If the Proposed Development is a Condominium Project, the general outline of the Proposed Condominium Project, evidenced by Sketch Plans, may be reviewed at this initial meeting before submission

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

of a Condominium Plan Project Application. The Zoning Administrator shall furnish the Applicant with written comments regarding the meeting, including appropriate recommendations, to inform and assist the Applicant prior to preparing a condominium plan. The Applicant may then proceed with pursuing approval of the proposed plan(s) with the Township Planning Commission.

#### 2. PRELIMINARY SITE PLAN REQUIREMENTS

**NOTE: Incomplete plan will not be reviewed and shall be returned to the Applicant with deficiencies noted. Preliminary Plans shall be prepared by a Professional Engineer, Professional Land Surveyor, or other professionally qualified person and licensed by the State of Michigan.**

- a. A Preliminary Site Plan shall be filed for approval concurrently with a Notice of Proposed Action filed with the Spurr Zoning Administrator.
- b. The Preliminary Site Plan shall include all of the land that the developer intends to include in the proposed Condominium Development Project.
- c. The Preliminary Site Plan shall be prepared in accordance with the requirements set forth in Article VI, Site Plan Review. In the case of a development that consists only of Site Condominium Units and not buildings or other structures at the time of Site Plan Application, the location and dimensions of all Site Condominium Units and all required side yards and setbacks, shall be shown on the Preliminary Site Plan.
- d. A Final Site Plan for any phase of the Condominium Development Plan shall not be filed nor reviewed by the Planning Commission until a Preliminary Site Plan has been reviewed and approved by the Planning Commission.

#### 3. FINAL SITE PLAN REQUIREMENTS

- a. A Final Site Plan shall be filed for review and approval for each phase of development shown on the approved Preliminary Site Plan.
- b. A Final Site Plan shall include all information required in Section 66, of the Condominium Act, and the Master Deed and Bylaws. The Final Site Plan shall be prepared in accordance with the requirements set forth in Article VI, Site Plan Review. In the case of a development that consists only of condominium units and not buildings or other structures at the time of the site plan application, the location and dimensions of all Site Condominium Units and required side yards and setbacks, shall be shown on the Final Site Plan.
- c. The Applicant shall provide proof of approvals by all County and State agencies having jurisdiction over the improvements relating to the Condominium Development Project, including but not limited to the Baraga

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

County Drain Commissioner, Road Commission, and the Health Department. The Planning Commission shall not approve a Final Site Plan until the Baraga County and State Agencies, having jurisdiction with the Condominium Development Project area, have approved the Final Site Plan.

#### 4. REVISION OF CONDOMINIUM DEVELOPMENT

If the Condominium Development Plan is revised, the Final Site Plan shall be revised accordingly and be submitted for review and approval by the Township Board before a Building Permit can be issued.

#### 5. STREETS / ROADS

All streets/roads proposed for any Condominium Development Project shall be developed in accordance with the requirements set forth in Article IV, GENERAL REGULATIONS, Section 414, Detailed Use Regulations, (B) Private Road Requirements.

#### 6. AMENDMENTS TO MASTER DEED OR BYLAWS

Amendments to a Master Deed or the Bylaws that affect the approved Preliminary or Final Site Plan, shall be reviewed and approved by the Planning Commission before any Building Permit can be issued. The Planning Commission shall review any amended Site Plan if changes to the Master Deed or Bylaws require corresponding changes in the approved Site Plan.

#### 7. RELATION TO THE SPURR TOWNSHIP LAND DIVISION ORDINANCE

All Condominium Development Projects shall conform to the plan preparation requirements, design, layout, and improvement standards as outlined, along with any required financial guarantees deemed to be necessary by the Township Board. The Standards and Requirements of this Section intended to apply to lots in a subdivision shall also apply to Site Condominium Units. Nothing in this Section shall be construed as requiring Site Condominium Developments to obtain approval under the requirements of the Spurr Township Land Division Ordinance or the Subdivision Control Act.

#### 8. DEVELOPMENT AGREEMENT

The Spurr Township Board may require, as a condition of approval, that the Applicant enter into a Development Agreement with the Township, incorporating

## ARTICLE IV – General Regulations

### Section 418. CONDOMINIUM DEVELOPMENT and SUBDIVISION PLATS: Continued

the terms and conditions of the Final Site Plan approval. It shall be the responsibility of the Applicant to have the agreement documents recorded with the Office of the Register of Deeds for Baraga County.

#### 9. CONSTRUCTION LOCATED IN GENERAL COMMON ELEMENT

An Application for a Building Permit for any construction located within a General Common Element shall include a written authorization from the Condominium Association.

#### 10. MONUMENTS AND LOT IRONS

Monuments shall be set in accordance with the Michigan Condominium Act and any other related State Rules and Regulations. The Planning Commission may grant a delay in the setting of required monuments for a reasonable time, but not to exceed one year, on condition that the developer deposit with the Spurr Township Clerk; Cash, a Certified Check, or an Irrevocable Bank Letter of Credit endorsed to Spurr Township, whichever the developer selects, in an amount as determined by resolution of the Township Board. Such deposit shall be returned to the developer upon receipt of a certification by a Profession Land Surveyor, licensed in the State of Michigan, certifying that the monuments and irons have been set as required within the time specified. If the developer defaults, the Township Board shall promptly retain a Licensed Land Surveyor to set the monuments and irons in the ground as shown on the Condominium Site Plan, at a cost not to exceed the amount of the security deposit.

#### 11. RIGHT-OF-WAY AND UTILITY EASEMENTS

All Right-of-Way and utility easements shall be described separately from individual site condominium lots and shall be accurately delineated by bearings and distances on the Condominium Development Plan and the Final Site Plan. The Right-of-Way and utility easements shall be separately designed for their individual purpose such as, access, roadway, locations, installation, maintenance, and replacing of public utilities. Water, sewer and electrical easements may be placed within road Right-of-Ways, subject to Township approval and in accordance with the Standards and Specifications as required by the Baraga County Road Commission.

#### 12. COMPLIANCE WITH FEDERAL , STATE, AND LOCAL LAW

All Condominium projects shall comply with Federal and State statutes and local ordinances.

## **ARTICLE IV – General Regulations**

### Section 419. Buildings to be Moved

Any building or structure which has been wholly or partially erected on any premise located within the township shall not be moved to and placed upon any other premise in this township until a Zoning Compliance Permit for such removal and relocation shall have been secured from the Zoning Administrator and until other approvals are obtained from such other inspectors and/or authorities as may be required under existing law. Any such proposed relocated building or structure shall fully conform to all the provisions of this Ordinance in the same manner as a newly constructed building or structure.

### Section 420. Conflicting Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern.

### Section 421. Compliance

No building, structure or part thereof shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

### Section 422. Required Road (Street) Access

*Generally.* Except as otherwise provided in this Ordinance, every lot or parcel of record created after the effective date of the ordinance shall front upon a public road or state highway or private road for the required width of the lot as provided in Section 401. Lot width shall be measured as defined in the definition of "lot width" in Section 202.

### Section 423 Residential Limited Animal Keeping

Intent Language. This permitted accessory use is intended to be for the benefit of the occupants of the dwelling on-site, and not for commercial use. This use allows the limited keeping of animals in the RR and WF districts as a permitted use, where there is a separate occupied dwelling. That means the limited animal keeping can only be accessory. Animals being kept in a residential environment need to be cared for and monitored daily to maintain animal health and to prevent nuisance problems with neighbors and the community. *(This Section assumes that a right-to-farm livestock siting situation does not apply.)*

- A detailed plot plan needs to be provided in accordance with Section 603.
- One or more of the following types for animals (chickens, rabbits, bees) are permitted in accordance with this Section on the same property.



## ARTICLE IV – General Regulations

### Section 423. RESIDENTIAL LIMITED ANIMAL KEEPING: Continued

- All seed, fertilizer, and animal feed shall be stored in a secured, rodent-, and raccoon-proof container and housed within an enclosed structure.
  - Signage shall not be permitted.
  - All animal structures and roaming areas shall be kept sanitary and free from accumulations of animal excrement and objectionable odors.
  - Killing and dressing of animals raised on the premises shall be permitted if conducted entirely within an enclosed building.
- (A) Limited Residential Keeping of **Chickens**: Required Conditions
1. Roosters are not permitted.
  2. A minimum area of 2,000 sq.ft., dedicated exclusively for chicken(s), is required for a maximum of up to three (3) chickens. For every additional one-thousand (1,000) sq.ft. of area dedicated exclusively for chickens, one (1) additional chicken is permitted.
  3. All structures related to the housing of chickens shall be at least six (6) square feet in size to start for the first three (3) chickens, with an additional minimum of two (2) sq.ft. for each additional chicken.
  4. All structures related to the housing of chickens shall be set back at least ten (10') feet from any property line.
  5. Outdoor roaming areas shall be sufficiently enclosed and screened from the street and neighboring properties to protect them from vehicular traffic, and to minimize external impacts of the outdoor roaming areas.
- (B) Limited Residential Keeping of **Rabbits**: Required Conditions
1. Rabbits shall only be kept within an enclosed structure, cage, or hutch, except for monitored exercise periods.
  2. A minimum area of one-hundred (100) sq.ft., dedicated exclusively for rabbit(s), is required for a maximum of up to four (4) rabbit hutches. For every additional fifteen (15) sq.ft. of area dedicated exclusively for rabbits, one (1) additional rabbit hutch is permitted.
  3. All structures related to the housing of rabbits shall be set back at least ten (10') feet from any property line.
- (C) Limited Residential Keeping of **Bees**: Required Conditions
1. A minimum area of 2,000 sq.ft. dedicated exclusively for bees, is required for a maximum of up to two (2) beehives. For every additional two-thousand (2,000) sq.ft. of area dedicated exclusively for bees, two (2) additional beehives are permitted.
  2. All structures necessary for and related to the housing of honeybees shall be set back at least ten (10') feet from any property line.
  3. Ground mounted beehives shall be located no higher than six (6') feet from grade.

## ARTICLE IV – General Regulations

### Section 423. RESIDENTIAL LIMITED ANIMAL KEEPING: Continued

4. Ground mounted beehives shall be permitted in side and rear yards, and shall be provided an enclosed barrier along the property line six (6') feet in height consisting of a solid fence, dense vegetation or combination thereof. In cases where there is ample yard-area, a flyway may be substituted for perimeter barriers, consisting of six (6') foot high barriers on both sides of the bee colony, creating a channel extending twenty (20') feet in each chosen direction beyond each bee colony entrance.
5. Roof mounted beehives shall be located on primary and accessory structures no lower than ten (10') feet from grade and shall not be within the required district setback.

### Section 424 Recreational Vehicle as a Temporary Dwelling Unit

- A. A recreational vehicle having a valid state license/registration may be used on a lot without a principal building for dwelling purposes for a period not exceeding 90 consecutive calendar days. A 30-day extension may be granted at the discretion of the Zoning Administrator.
- B. One recreational vehicle shall be allowed per lot for temporary dwelling purposes.
- C. Persons using a recreational vehicle for such use must register with the Zoning Administrator. Vehicles remaining unattended must have the owner's name, address and telephone number visibly placed on the vehicle.

### Section 425 Recreational Vehicle Storage

- A. The parking and/or storage of recreational vehicles, snowmobile, motorcycles, scooters, 3 and 4 wheelers, boats, and other similar vehicles (whether on trailer or not) are permitted in the side and rear yards provided there is a minimum setback of one (1) foot.
- B. The storage of the above items is only permitted on lots with a principal building.
- C. Travel trailers, campers, or other recreational vehicles may be stored in the rear or side yard, provided that such vehicles are not occupied for a period of more than 14 days in any 12-month period.
- D. Recreational vehicles, snowmobiles, motorcycles, scooters, 3 and 4 wheelers, boats and other similar vehicles (whether on trailer or not) shall not be parked or stored on the front setback area of the property, unless on an area permanently constructed as a driveway or parking area.

## ARTICLE IV – General Regulations

### Section 425. RECREATIONAL VEHICLE STORAGE: Continued

- E. At no time shall any recreational vehicles, snowmobiles, motorcycles, scooters, 3 and 4 wheelers, boats and other similar vehicles (whether on trailer or not) be parked on a public right-of-way, that area defined as from the curb to the sidewalk, commonly referred to as the parkway or boulevard, be it paved or unpaved.

## ARTICLE V

### ARTICLE V SIGNS

#### Section 501 Intent

It is hereby determined that regulation of the locations, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among business for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs which may lawfully be erected and maintained under the provisions of this Ordinance are consistent with customary usage, and that signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are unwarranted invasions of the rights of legitimate business interests and of the public.

#### Section 502 Residential District Regulations for Signs

Within all districts allowing residential dwellings as a use, signs shall be permitted as follows;

- (A) One sign to announce the sale or rent of property whose area shall not exceed six (6) square feet.
- (B) Churches shall be permitted total sign area of 20 square feet. The total sign area may be divided into two signs: one identification sign and one bulletin board.
- (C) One sign per vehicle entrance which identifies a platted subdivision development or be manufactured housing community not exceeding 32 square feet and eight feet in height.
- (D) Multiple dwellings and nursing homes shall be permitted one identification sign not to exceed 12 square feet and eight feet in height.
- (E) One sign shall be permitted to advertise a home occupation not to exceed six (6) square feet and shall not detract from the visual appearance of the neighborhood.
- (F) Signs permitted by this Section are exempt from the setback requirements of Section 401. Signs, however, shall not be located on the right-of-way and shall not interfere with traffic visibility.

#### Section 503 Town Development District Sign Regulations

Signs are permitted in the Town Development (TD) District on parcels that are already developed. Free-standing (ground) signs are permitted having an area not exceeding six (6) square feet for each ten (10) feet of frontage (or fraction thereof), or sixty (60) square feet for each acre, whichever is larger. There shall be a maximum of one hundred (100) square feet of sign area for each developed parcel. Where a premise has more than one occupant, the permitted sign area shall be divided among them in the same proportion as floor space and outdoor sales as occupied by them. Where a premise has more than two occupants and has a name distinct from that of the occupants, as in a shopping center, an additional two (2) square feet of sign area for each ten (10) feet or fraction of street frontage, with a maximum of two hundred (200) square feet, is permitted only for signs identifying the developed premises.

## ARTICLE V – SIGNS

### Section 503 Town Development District Sign Regulations: Continued

With the exception of area provided for shopping center identification, sign area not utilized by occupants of the premises may be made available for off premise directional signs.

Signs shall be subject to the following setback requirements; minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign whether it be at or above grade. Signs shall be subject to the height regulations for the Town Development District.

### Section 504 Industrial District Sign Regulations

In the (I) Industrial District, on-premise signs are permitted have a sign area not exceeding one hundred (100) square feet. Off-premise signs are permitted and shall have a maximum sign area of three-hundred (300) square feet per sign. Back-to-back signs shall have a maximum of three hundred (300) square feet for each side and shall not be further apart than four (4) feet. Individual signs shall be at least three-hundred (300) feet apart and shall maintain a forty (40) foot setback. The maximum height for signs in the Industrial District shall be thirty (30) feet.

### Section 505 Conditional Use and Residential Zone – Non-Residential Principal Use Sign Regulation

On-premise signs are permitted to identify or advertise an approved conditional use or activity and shall not advertise a specific product not produced on the premises. Signs shall have a maximum sign area of sixteen (16) square feet and not exceed eight (8) feet in height. Signs shall be subject to the following setback requirements: minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Sign regulations in this Section shall not apply to any conditional use or non-residential principal use located in the TD or I Districts, or to places of assembly, multiple family dwellings, nursing homes or home occupations which are regulated elsewhere in this Article.

### Section 506 Temporary Signs

Signs which are intended to identify or advertise a non-profit annual or one-time event or occurrence, such as a fair or other event of general public interest, shall be authorized by the Zoning Administrator for a period of not more than two months by written permits upon finding that the proposed sign is not contrary to the spirit and purpose of this Ordinance and shall conform

## ARTICLE V – SIGNS

### **Section 506 Temporary Signs: Continued**

to all size limitations set forth by this Ordinance. The applicant is responsible for both the erection and removal of all signs. All signs must be removed no later than 10 days after the end of the event.

### Section 507 Construction Signs

One construction sign is permitted per project not exceeding sixteen (16) feet in sign area for residential districts and thirty-two (32) square feet for Town Development or Industrial Districts. Signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed prior to occupancy.

### Section 508 Exempt Signs

The following signs shall not exceed nine (9) square feet and are otherwise exempt from this Ordinance:

- Public Signs – Signs for a noncommercial nature and in the public interest, erected by or on the order of a public officer in the performance of official duty.
- Political Signs – Those signs which are intended to advertise a public election, individual actively participating in such an election, or other public ballot issue, are permitted on private property with the owner’s permission. All political signs must be removed within 10 days after the election date and shall not be located on the public right-of-way.
- Signs which announce no hunting or no trespassing.
- Signs which identify the name of a farm or farming operation.
- Residential Identification Signs – Those signs which have an occupant’s name and/or house number.

### Section 509 Lighting of Signs

No lighted sign shall be permitted within the RR or WF Districts. No strobe or other pulsating lights shall be permitted in any district. No sign shall be lighted so as to create a traffic hazard or to adversely affect neighboring land uses. No sign, especially a LED lighted sign, may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, or general welfare.

### Section 510 Maintenance of Signs

Dilapidated sign structures, which are likely to cause injury or degrade the surrounding area, and signs which advertise a closed business, past event, or past political election, and those signs which are no longer legible, or are otherwise untimely or unsafe; are hereby defined to be a

## ARTICLE V – SIGNS

### **Section 510 Maintenance of Signs: Continued**

nuisance or danger to the public and are prohibited or are subject to remedy under this Ordinance. The Zoning Administrator is authorized to remove, or to have removed, all dangerous or nuisance signs, the cost of which is to be borne by the sign owner and/or property owner.

### Section 511 Nonconforming Signs

- (A) It is the intent and purpose of this Section to eliminate nonconforming signs, except as otherwise specifically set forth in this Section, as rapidly as the police power of the Township permits. No sign shall be designated as Class A Nonconforming.
- (B) No nonconforming sign:
  - 1. Shall be structurally altered so as to prolong the life of the signs, nor shall the shape, size, type, or design of the sign structure be altered;
  - 2. Shall be continued after the activity, business, or usage to which it relates has been discontinued for 30 days or longer; or
  - 3. Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50% of the sign value.
- (C) No conforming sign may be changed to another nonconforming use.
- (D) Nonconforming signs may have their face or message updated, but not structurally altered.

### Section 512 Animation of Signs and/or Lighting

A sign may show animation (changing) of character(s), message(s), and image(s), and the lighting of a sign may be changed in color or intensity provided that no more than one change of each is made, during the time that it takes a driver of a vehicle to pass the site of such host sign, one time at the posted speed limit. This limitation shall also apply to bulletin boards.

## ARTICLE VI

### ARTICLE VI SITE PLAN REVIEW

#### Section 601 Intent

It is the purpose of this Article to require site plan review approval for all buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the Township; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments by preventing the impairment or depreciation of land values and development, by preventing the erection of structures or additions or alterations thereto, without proper attention to setting or to unsightly or undesirable appearances; by promoting harmonious relationship to buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

#### Section 602 Site Plan Required (in accordance with Sections 603 and 604)

A site plan is required for and shall accompany the applications for:

- (A) Zoning Compliance Permits for:
  - 1. Any proposed construction
  - 2. Any commencement of a new use
  - 3. Any proposed change in use
- (B) Conditional Use Permit
- (C) Variances
- (D) Class A Non-Conforming use designations
- (E) All developments or redevelopments subject to Article XV Access Management Regulations.
- (F) Any other request for zoning status where the Zoning Administrator determines a site plan is necessary for accurate review or documentation of the existing development.

The site plan may be drawn on the application form or on a separate sheet(s) of paper as appropriate to the scale and amount of information shown. Added digital copy may also be provided.

#### Section 603 Site Plans (plot plans) for Single- and Two-Family Dwellings, and Residential Accessory Uses and Structures and for Recreational Structures

The site plan for single- and two-family dwellings, residential accessory uses and structures and recreational structures shall show the following information:

- (A) A legal description of the site.
- (B) All lot lines and dimensions of the lot.
- (C) All roads and easements.



## ARTICLE VI – SITE PLAN REVIEW

### Section 603 Site Plans (plot plans): Continued

- (D) All existing and proposed buildings shall be shown and labeled.
- (E) Proposed use of each building.
- (F) Distances between buildings and all lot lines.
- (G) Building dimensions.
- (H) Natural features affecting development (rock, water, etc.)
- (I) Well and septic locations.
- (J) A north arrow.

### Section 604 Site Plans for Commercial, Industrial and Multiple Family Development, including all other development

Site plans meeting the following standards shall be required for the following: all commercial uses and developments in the Town Development and Industrial Districts; and uses utilizing more than one (1) acre of land (except timber and agricultural uses). This information shall be provided on six (6) identical copies on one or more sheets.

- (A) A scale adequate to illustrate the proposed activity.
- (B) A legal description of the lot; the name, address and telephone number of the owner, developer and designer.
- (C) Date, north point, and scale. The certifying signature of the professional engineer, architect, or surveyor who attests to the accuracy of the site plan.
- (D) The actual dimensions of the proposed developed area (as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with the survey stakes visible) showing the relationship of the subject property to abutting properties.
- (E) The location of all existing and proposed structures, including signs, on the subject property and all existing and proposed structures on lands immediately adjacent to the site within 100 feet of the site's parcel lines.
- (F) The location of all existing and proposed drives and parking areas.
- (G) The location and right-of-way widths of all abutting streets, alleys, and private easements.
- (H) The location of proposed planting and screening, fencing, signs and advertising features.
- (I) The height and floor area of all proposed structures.
- (J) The size and location of all existing and proposed public and private utilities and required landscaping.
- (K) Any other information necessary to establish compliance with this Ordinance or any other applicable ordinances.
- (L) Location of all existing and proposed surface water impoundments and surface water drainage pattern.
- (M) The location and extent of all earth movement which is planned. Indicate if a sedimentation and erosion control permit has been applied for.

## ARTICLE VI – SITE PLAN REVIEW

### Section 605 Review Procedures

Upon receipt of any site plan, the Zoning Administrator shall review it to determine whether it is administratively complete; including whether it is in proper form, contains all of the required information, shows compliance with this Ordinance and all other ordinances of Spurr Township, and demonstrates the adequacy of utility service. The Zoning Administrator may request assistance from a planning consultant, engineer, or other professional consultant(s) as needed at the applicant's expense. A site plan must first be found to be administratively complete before review and approval determination proceedings are initiated. An administratively incomplete site plan submission shall be returned to the proposer with indication of the inadequacy(ies). Certain specific items of required information may be waived by the Zoning Administrator, if determined to be inapplicable to a specific site or site development proposal.

- (A) Zoning Administrator Review and Approval. For all structures of 2,500 square feet in size or less, and for all non-structural land uses of two (2) acres in size or less, upon demand by the proposer of the site plan, the Zoning Administrator shall, within fifteen (15) working days, approve or deny in writing, setting forth in detail the reasons, which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance and any changes which would make the plan acceptable. The proposer may appeal any denial to the Township Zoning Board of Appeals. The Zoning Administrator and Zoning Board of Appeals shall use the following standards in their review.
- (B) Planning Commission Review and Approval. For all structures larger than 2,500 square feet in size, and for all non-structural land uses larger than two (2) acres in size, upon demand by the proposer of the site plan, the Planning Commission shall, within sixty (60) working days, approve or deny in writing, setting forth in detail the reasons, which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance and any changes which would make the plan acceptable. The proposer may appeal any denial to the Township Zoning Board of Appeals. The Planning Commission and Zoning Board of Appeals shall use the following standards in their review.

### Section 606 Standards for Site Plan Approval

- (A) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- (B) The landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- (C) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

## ARTICLE VI – SITE PLAN REVIEW

### **Section 606 Standards for Site Plan Approval: Continued**

- (D) The site plan shall provide reasonable visual and auditory privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- (E) All buildings or group(s) of buildings shall be so arranged as to permit emergency vehicle access to all sides.
- (F) Every structure or dwelling shall have access to a public or private street, walkway or other area dedicated to common use.
- (G) All loading or unloading and outside storage areas, including areas for storage of trash, which face or are visible from residential properties, abut a residential zone or public or private thoroughfares, shall be screened by a vertical fence consisting of structural (fence) or plant materials no less than six (6') feet in height.
- (H) Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

### Section 607 Land Clearing

Grading, clearing, cutting and filling, excavating or tree removal associated with site development shall be consistent with an approval site plan pursuant to Article VI, including any required planting screens (Section 409). Such activity shall not proceed without first obtaining any necessary soil erosion and sedimentation control permits, wetland permits or floodplain permits, as applicable.

### Section 608 Time Limit to Implement Approved Site Plan

The approved site plan shall be implemented and all required improvements completed no later than two (2) years after the date of initial approval. The Zoning Administrator or, for site plan reviews under its jurisdiction, the Planning Commission, at its option, may authorize a one (1) year extension to the initial approval if extenuating circumstances justify an extension of time.

### Section 609 As-Built Site Plan

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator one (1) reproducible Mylar copy of an "as-built" site plan, certified by a licensed professional as noted in Section 604, required information, Item (C), at least ten (10) days prior to the anticipated occupancy of any building. Added digital copy may also be provided.

## ARTICLE VII

### ARTICLE VII CONDITIONAL USE PERMITS

#### Section 701 Intent

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditional Uses and may be authorized by the issuance of a Conditional Use Permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections (702 through 705), together with previous references in other sections (308 through 317), designate what uses require a Conditional Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all conditional uses indicated.

#### Section 702 Application Procedure

- (A) Any person having an interest in a property may file an application for a Conditional Use Permit for the zoning district in which the land is situated.
- (B) Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- (C) Data Required in Application:
  - 1. Conditional use form supplied by the Zoning Administrator filled out by the applicant.
  - 2. Site plan drawn to a readable scale and containing that information specified in Article VI, Section 603 or 604.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 702 Application Procedure: Continued

3. A statement with supporting evidence regarding the required findings specified in Section 704.
- (D) Approval of a Conditional Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.
  - (E) In instances where development authorized by a Conditional Use Permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of the Ordinance. Upon finding that there has been a violation in the conditions of the Conditional Use Permit granted under the provisions of this Ordinance, the Planning Commission may declare the permit null and void.
  - (F) If development of a Conditional Use Permit has not commenced within one (1) year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant.

### Section 703 Review and Findings

The Planning Commission shall approve, approve with conditions, or reject the application within sixty (60) days of the public hearing based upon materials received and testimony recorded at the public hearing. The Township Board may provide for planning consultant, engineer or other professional consultant assistance to the Zoning Administrator and Planning Commission as needed, at the applicant's expense. The Planning Commission shall set forth the reasons for approval, denial, or modification of the conditional use permit application. All conditions shall be clearly specified in writing and be consistent with Sections 704 and 902 (C). The petitioner has one (1) year from date of hearing to comply with all specified conditions. Compliance shall occur prior to issuance of a zoning compliance permit by the Zoning Administrator pursuant to Section 905 and the commencement of the use, unless a specified time is set or implied in the motion granting the Conditional Use Permit.

### Section 704 General Standards

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (A) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- (B) Will not be hazardous or disturbing to existing or future neighboring uses;
- (C) Will not diminish the value of land, buildings, or structures in the District;
- (D) Will be adequately served by essential public facilities and services, such as highways, roads, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 704 General Standards: Continued

- (E) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (F) Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;
- (G) Will protect the public health, safety and general welfare of the community; and
- (H) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

### Section 705 Conditions and Safeguards

- (A) Prior to granting any Conditional Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Conditional Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole; and be consistent with the general standards listed in Section 704 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (B) Conditions and requirements stated as part of Conditional Use Permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by Conditional Use Permit to determine compliance with all requirements.
- (C) Conditional Use Permits may be issued for time periods as determined by the Planning Commission. Conditional Use Permits may be renewed in the same manner as originally applied for.
- (D) In authorizing a Conditional Use Permit, the Planning Commission may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- (E) Revocation of a Conditional Use Permit by the Planning Commission shall be made after a public hearing, following the same procedures as original approval to the effect that:
  - 1. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 705 Conditions and Safeguards: Continued

2. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this zoning ordinance.
- (F) All plans, specifications and statements submitted with the application for a Conditional Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Conditional Use Permit issued thereto.
- (G) Any person aggrieved by the Planning Commission's granting or failure to grant a conditional use permit must appeal that decision to the Circuit Court. Such an appeal must be filed within 30 days after the decision has been certified in writing, or the minutes that record the decision are approved. The Zoning Board of Appeals shall notify all affected parties and hold a public hearing on the appeal as specified in Section 902, Administrative Standards and Procedures.
- (H) The standards in Section 704 are basic to all conditional uses. The specific requirements accompanying Sections 308 through 318 and Sections 706 through 720 relating to particular uses are in addition to the standards in Section 704 and shall be required in all applicable situations.

### Section 706 Group (child) day care home

Group day care home with seven to 12 children (as defined under Public Act of 116 of 1973, as amended, see definition) are permitted in the RR and TD districts subject to the requirements of this Article and the following special standards:

- (A) Adequate ingress and egress, parking and circulation shall be provided on the site.
- (B) The lot or parcel on which such use is located shall be located no closer than 1,500 feet to any of the following:
1. Another group day care home.
  2. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being Sections 400.701 to 400.737 of the Michigan Compiled Laws.
  3. A facility offering substance abuse treatment and rehabilitation service to seven or more persons, licensed by the Michigan Office of Substance Abuse Services.
  4. A community corrections center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- (C) The construction and use shall be licensed by the Michigan Department of Social Services prior to beginning operation which has minimum regulations and requirement regarding play space.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 707 Child care center (day care center)

Child care centers, nursery schools, and day nurseries (see definition) may be permitted in the TD, Town Development district as a permitted use and in the RR district as a conditional use subject to the following conditional approval requirements:

- (A) The child care center shall be licensed by the Michigan Division of Child Day Care Licensing, which includes minimum outdoor play area requirements.
- (B) Adequate ingress and egress, parking and circulation shall be provided on the site, including a drop-off/pick-up area for children, outside of any public right-of-way.

### Section 708 Private use landing areas

Landing areas for the private use of the property owner may be permitted in the I, Industrial Districts; and as a conditional use in the RP Districts subject to the following provisions:

- (A) Said landing area is subject to all rules and regulations of the Federal Aviation Administration and the Michigan Aeronautics Commission which agencies shall approve the preliminary plans submitted to the township.
- (B) No landing area for private use shall be established within five (5) miles of a public use facility certified by the Michigan Aeronautics Commission without approval of said commission. No landing area for private use shall be established within a two (2) mile radius of another landing area.
- (C) All landing areas shall have a minimum runway with a 1,500-foot landing length in each direction from a clear approach slope of 20:1 and a 80-foot usable width with an additional 35-foot minimum width on each side which is free of obstructions. The approach slope with a width of not less than 150 feet shall be based on a clearance of all objects within the approach area, including a roadway clearance of 15 feet or 17 feet over an interstate highway, a railway clearance of 23 feet, and a clearance at the property line of 25 feet. The landing area shall be marked in accordance with Michigan Aeronautical Commission standards.
- (D) No landing area shall be approved that would interfere with the right of nearby and adjacent owners and occupants of property or to peaceful enjoyment of their property. Adjacent property owners shall not be required under any circumstances to accommodate a proposed private use landing area (e.g. trim or remove trees, limit or remove construction, curtail occupancy, limit or reduce height of structures) beyond those limits and regulations which might normally apply to their property(ies) under this ordinance.
- (E) Hazards to navigation. No obstruction of whatever character, object of natural growth, or use of land, upon the premises of the landing area which prevents the safe use of such facilities for the take-off or landing of aircraft shall be permitted.
- (F) Yard and placement regulations.
  - 1. The site shall not abut directly or across a street a WF, Waterfront or TD, Town Development district.
  - 2. Landing areas shall be located on a contiguous parcel of land not less than 20 acres in area. The parcel shall have a width of not less than 350 feet. The parcel shall



## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 708 Private use landing areas: Continued

have a depth of not less than 2,000 feet. It is not required that the necessary clear zones be contained within the site, however, if future development intrudes upon the required clear zones, use of the landing area shall immediately cease, unless adequate and appropriate easements are first obtained and recorded by the private use landing area owner.

- (G) All lights used for landing areas and other lighting facilities shall be arranged so as not to reflect towards adjoining non-landing area uses.
- (H) Prohibited uses.
  - 1. The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted.
  - 2. Use of a private use landing area is limited solely to the single owner. No commercial activity or operations (such as the sale of gasoline or oil, the soliciting or engaging in charter flying or student instruction, the provision of shelter or the tie-down of an aircraft (except owner's), the overhaul or repair of an aircraft or of engines, or otherwise offering aeronautic facilities or services to the public) shall be permitted on the premises.
- (I) Private use helicopter landing areas shall conform to all of the above regulations, except for those regulations intended to clearly apply only to airplane landing areas. Placement and operation of helicopter landing facilities shall otherwise comply with all regulations of the Michigan Aeronautics Commission and the Federal Aeronautics Administration (FAA).

### Section 709 Nursing homes, convalescent or rest homes, and homes for the aged, indigent or handicapped, and Orphanages

A nursing home, convalescent or rest home, or a home for the aged, indigent or physically handicapped, or an orphanage, is permitted in the RR, WF and TD districts subject to the requirements of this Article and the following special standards:

- (A) Site requirements.
  - 1. All ingress and egress shall be directly onto a public road having an existing right-of-way of not less than 66 feet.
  - 2. The maximum extent of development shall not exceed 30 children or patients per acre.
- (B) Yard and building placement requirements. No building other than a structure for strictly residential purposes shall be closer than 60 feet to any property line.
- (C) Off-street parking requirements.
  - 1. There shall be one parking space provided for each two beds and every two staff members.
  - 2. All off-street parking shall be constructed to the standards shown in Section 409.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 710 Places of Assembly (and other places of religious activity; synagogues, mosques, temples, or gathering, etc.).

Places of Assembly and other similar facilities are a conditional use in the RR, WF, and TD districts subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Site requirements. The site shall abut a public or private road having an existing right-of-way of not less than 66 feet.
- (B) Yard requirements; maximum lot coverage.
  - 1. Front and rear yard. The front and rear yard requirements shall be the same as those listed for the district in which the conditional land use is requested.
  - 2. Side yard. The side yard requirements shall be the same as those listed in the requested district for permitted nonresidential uses.
  - 3. Maximum lot coverage. The maximum lot coverage shall be the same as for the district in which the conditional land use is requested.
- (C) Off-street parking.
  - 1. A facility without fixed seats or pews shall have one parking space for every 100 square feet of usable floor area.
  - 2. No off-street parking shall be permitted in the front yard space.
  - 3. All off-street parking shall be constructed to the standards of this Ordinance.

### Section 711 Kennels and Veterinarian Clinics

Public, private or commercial kennels and veterinary clinics may be permitted upon conditional approval in the RR, RP and TD districts provided:

- (A) Kennels and veterinary clinics with kennels are located on a continuous parcel of land five (5) acres or more in area.
- (B) That no building(s) or runs shall be closer than 50 feet to any abutting property line and all runs or breeding areas shall be enclosed by a chain link fence not less than six feet in height.
- (C) For public or commercial kennels, one parking space shall be provided for every five kennel runs. For veterinary clinics parking requirements shall be in accord with those of professional offices of doctors, dentists or similar professions (Section 408). All off-street parking shall be constructed to the standards of this Ordinance.
- (D) That the Planning Commission may require adequate means of noise control, including, but not limited to buffering, use of berms, inside night time (also potentially day time) housing of animals, and any other reasonable means to insure adequate protection and enjoyment of neighboring properties. Failure by the developer of a proposed kennel to demonstrate within his proposal that adequate means to noise control will be provided, shall be grounds to deny a conditional land use permit.

### Section 712 Outdoor Wood Burning Boilers and Appliances (heating units)

- (A) Boilers/Units and outside wood burning are a Conditional Use in the RR, WF, RP, and I zoned districts.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 712 Outdoor Wood Burning Boilers and Appliances (heating units): Continued

1. Conditions for approval:
  - a. Lots of 2.5 acres or larger;
  - b. A setback of 75 feet from any and all lot/property lines, easements and right-of-ways;
  - c. Minimum chimney height of 15 feet, measured from grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling, within 1000 feet, whichever is higher;
  - d. No fuel other than natural wood, without additives, wood pellets without additives and agricultural seeds in their natural state may be burned and no outdoor wood burning boiler or appliance may be used as a waste incinerator;
  - e. Any fuel source other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state shall require a variance;
  - f. Unit shall not be located in the front yard;
  - g. A grant of Zoning Compliance Permit constitutes an agreement between the land owner and Spurr Township, that the Zoning Administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with above conditions.
- (B) Outdoor Storage of Wood.
  1. The storage of wood shall be adequately secured against rolling or falling and may not be stacked or placed higher than eight (8) feet.
  2. On corner lots, no wood shall be stored or placed so as to interfere with the clear vision from a road, street or alley to an intersecting road, street or alley. Clear vision shall be maintained at no less than three and one-half (3½') feet in height from the grade of the road, street or alley for a continuous length of twenty-five (25') feet from the curb or shoulder of the intersecting street.

### Section 713 Golf courses

Golf courses are permitted in the RR, WF and RP districts subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Accessory uses. Major accessory uses such as a restaurant and bar shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as a maintenance garage and pro shop or golf shop, may be located in separate structures. No structure shall be located closer than 75 feet to the lot line of any adjacent residential land or to any existing or proposed public right-of-way.
- (B) Parking areas. All parking areas shall be constructed in accordance with the standards of this Ordinance.
- (C) Access. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 713 Golf courses: Continued

- (D) Lighting. All outdoor lighting shall be shielded to reduce glare and arranged so as to reflect the light away from abutting residential areas.
- (E) Swimming pool fencing. Whenever included, swimming pools shall be provided with a protective fence not less than six feet in height, and entry shall be provided by means of a controlled gate or mechanism for controlled access.

### Section 714 Hotels, motels, resorts and lodges

Hotels, motels and resorts may be permitted in the WF, RP and TD districts subject to the following requirements:

- (A) Vehicular ingress and egress from the site shall be directly onto a major thoroughfare having an existing right-of-way 66 feet.
- (B) Each unit shall contain no less than 250 square feet of floor area.
- (C) Units shall not be occupied as a place of permanent residence and a guest register shall be maintained.

### Section 715 Private and public recreational facilities, including parks, playgrounds, camps, campgrounds, gun clubs, lodges and similar recreation uses

Recreation uses, including golf courses, driving ranges, gun clubs, lodges, rifle, trap, and pistol ranges, archery ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type tracks and rides, and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses, outdoor drive-in theatres, motorcycle and auto racetracks, and horse or dog tracks) may be permitted in the various districts (See Sections 309 through 311 districts) upon conditional use approval subject to the requirements of this Ordinance and the following conditional use requirements:

- (A) Site requirements.
  - 1. All approved uses shall be on a contiguous parcel of 5 acres or more in area.
  - 2. All vehicular ingress and egress from the site shall be directly onto a thoroughfare having an existing right-of-way of not less than 66 feet.
  - 3. Review of the proposed site plan in accordance with Section 605, must show that a proper relationship exists between the major or secondary thoroughfare and all proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.
- (B) Yard and building placement requirements.
  - 1. All development features, including the principal building, shall be related to minimize the possibility of any adverse effect upon adjacent property. This shall mean a minimum distance of 200 feet to the property line of abutting residentially zoned lands and public rights-of-way; provided that, where topography conditions are such that the building would be screened from view, this requirement may be modified.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 715 Private and public recreational facilities: Continued

2. No improved or constructed activity shall take place within 30 feet of the outside perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property.
  3. Related accessory commercial uses may be permitted in conjunction with recreation use when they are clearly incidental to the main recreational character of the use. Such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site, except those owned by the proprietor.
  4. Permitted accessory uses which are generally of a commercial nature shall be housed in a single building. Minor accessory uses, which are strictly related to the operation of the recreation use itself, such as a maintenance garage, may be located in a separate building.
- (C) Other requirements.
1. Swimming pool fencing. Whenever a swimming pool is to be provided, the pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate or mechanism to control access.
  2. Gun clubs. When a gun club is proposed, it shall be clearly established that the activities shall in no way endanger the health, safety or welfare of any persons and will not become a nuisance in any manner whatsoever.
  3. Off-street parking. Off-street parking shall be permitted in accordance with this Ordinance.

### Section 716 Mini-warehouses

Mini-warehouses shall be permitted as a conditional land use in the TD, Town Development district, and as a permitted use in the I, Industrial district, in all cases subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Site area and location; access. The site shall be at least one (1) acre in size and shall be located on a road having an existing right-of-way of 66 feet and shall not directly abut a residential district. The only access to the site shall be from the access road(s).
- (B) Parking and vehicular circulation areas. All driveways and parking, loading, and vehicular circulation areas shall be improved and maintained with gravel. All one-way driveways shall provide for one ten-foot parking lane and one 15-foot travel lane. All two-way driveways shall provide for one ten-foot parking lane and two 12-foot travel lanes.
- (C) Business activities, manufacturing, flea markets and garage sales are prohibited. No business activities, manufacturing, flea markets or garage sales shall be conducted on the premises. The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles is part of the business.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 716 Mini-warehouses: Continued

- (D) Servicing or repair of equipment prohibited. The servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall not be conducted on the premises.
- (E) Supervision. The area shall be properly policed by the owner or operator for removal of trash and debris and for compliance with public and private restrictions.
- (F) Signs. Signs shall be limited to one per arterial street frontage and shall comply with the requirements of Article V.
- (G) Caretaker's residence. A residence for a resident caretaker or manager may be constructed on the premises. The residence shall comply with all provisions of this Ordinance and the Michigan building code.
- (H) Storage of explosive or radioactive materials. No explosive or radioactive materials shall be stored on the premises.
- (I) Fencing. The complex shall be entirely surrounded by a rustproof security fence.

### Section 717 Wireless Communication Facilities and Structures

- (A) Location Requirements. Communications towers are permitted by conditional use permit in the TD, Town Development, RP, Resource Production and I, Industrial districts.
- (B) Site Requirement: A minimum site of three (3) acres.
- (C) Buffering Requirements: The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property, or in accordance with Section 1107, Height Requirement Exceptions. The base of the tower and wire/cable supports shall be fenced with a minimum six (6') foot woven fence with 3 top strands of barbed wire.
- (D) Performance Standards.
  1. The tower must be setback from all property lines and from the edge of the road right-of-way a distance equal to its height for reasons of safety and aesthetics and at least two hundred (200') feet from any single family dwelling. Except that the setback may be reduced by the Planning Commission with due consideration of aesthetic circumstances, if the developer submits evidence that the tower is designed in the event of failure, to collapse within a more confined distance. Land included within such minimum required setbacks shall remain undivided and undeveloped with other structures not accessory to the tower.
  2. All towers shall be equipped with an anti-climbing device and fence to prevent unauthorized access.
  3. A building permit is required for the tower. The tower drawing shall be prepared and stamped by a professional engineer (State of Michigan) to certify that all the support structures meet the wind speeds and icing conditions under the worst conditions for this area.
  4. The communication tower shall meet all the requirements of the FCC and FAA and provide documentation to the staff.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 717 Wireless Communication Facilities and Structures: Continued

5. Whenever possible the structure shall be of monopole construction.
6. Accessory structures are limited to uses associated with operation of the tower.
7. Free-standing towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
8. All the on-site accessory buildings shall meet all the zoning requirements for building, including height and setback requirements.
9. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
10. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable local statutes, regulations and standards.
11. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
12. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
13. The tower shall be located, operated and maintained in a manner which does not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
14. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
15. The base of the tower shall occupy not more than five hundred (500) square feet and the top of the tower shall be no larger than the base.
16. Minimum spacing between tower locations shall be one (1) mile measured by a straight line to encourage co-location.
17. Height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant, but shall not exceed six hundred (600') feet from grade.
18. Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the Township's approval and orientated inward so as not to project onto surrounding property. Strobe lights shall not be used.
19. Existing on-site vegetation shall be preserved to the maximum extent practicable. Landscaping is required to provide screening and aesthetic enhancement to the base of the structure and accessory buildings.
20. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
21. The color of the tower shall blend in with the surrounding environment.
22. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 717 Wireless Communication Facilities and Structures: Continued

- are adopted in the future, the antenna shall be made to conform to such standards, or the conditional use permit will be subject to revocation by the Township Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna, as needed.
23. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
  24. The tower shall be designed to allow for the co-location of additional providers in the future; also, space for police, emergency warning system and fire service antennas at a minimal cost to the community.
  25. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall become a nonconforming structure and shall not be altered or expanded in any way in the future.
  26. In the event the tower's use is discontinued for 12 months, the tower and all accessories shall be removed within six months. After the complete demolition and removal, the premises shall be restored with six inches of topsoil, seeded and mulched. The applicant will post a bond to the Township in the amount of 50% of the construction cost to ensure removal of the tower.
  27. The site shall have legal documented access to a public road.
  28. Dust control shall be maintained on the gravel access road using a non-petroleum based product.
  29. The applicant shall provide a maintenance plan for the tower or a maintenance agreement with a third party, which details a maintenance schedule to ensure the tower and site will be maintained in a neat and orderly fashion.
  30. The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

### Section 718 Sexually Oriented Businesses

- (A) Intent and Purpose: The Board of the Township of Spurr acknowledges that there are some uses of land which because of their sexually oriented nature are recognized as having serious unique objectionable characteristics and deleterious and adverse effects and consequences on surrounding properties. Conditional regulation of these sexually oriented businesses is needed to fulfill the goals of the Township's Comprehensive Plan to prevent the adverse effects, i.e. blight and urban deterioration, reductions in value of surrounding property, social disorder and crime, the negative effects on community standards for aesthetic values and the Township's tax base associated with the location and operation of sexually oriented businesses. The Township Board believes that the purpose and intent of this section will best be accomplished by requiring that sexually oriented businesses may be located only in those areas of the Township which are zoned



## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 718 Sexually Oriented Businesses: Continued

I, Industrial and then only upon the Planning Commission holding a public hearing and issuing a conditional use permit after having determined that the proposed use meets the requirements of Article VII, and specifically the requirements of Section 718 of this Ordinance.

(B) Definitions:

1. Sexually Oriented Business Use – Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter, actions depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas”. Sexually Oriented Business uses shall include, but not be limited to the following:
  - a. An Adult Motion Picture Theater is an enclosed building with a capacity of fifty (50) or more persons used for presenting material which has a significant portion of any motion picture or other display, depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by patrons therein.
  - b. An Adult Mini-Motion Picture Theater is an enclosed building with a capacity for less than fifty (50) persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - c. An Adult Motion Picture Arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where a significant portion of images so displayed depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - d. An Adult Book or Supply Store, Adult Novelty Store or Adult Video Store is defined as a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale or warehouse space devoted to the distribution, display, storage, sale, or rental of any form of sexually explicit materials or adult novelty items. Also, an establishment with a significant portion devoted to the sale or display of sexually explicit materials or adult novelty items.
  - e. An Adult Cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, “go-go” dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - f. Adult Smoking or Sexual Paraphernalia Store is an establishment having, as a substantial portion of its stock in trade and offers for sale, for any form

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 718 Sexually Oriented Businesses: Continued

- of consideration, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.
- g. Massage Parlor is an establishment having a substantial portion of its space devoted to massages of the human body or parts thereof by means or pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient. The following uses shall not be included in the definitions of a massage parlor:
- i. Establishments which routinely provide such services by a licensed physician, a licensed physician's assistant, a licensed chiropractor, a licensed osteopathy, a licensed physical therapist, a licensed nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional;
  - ii. Fitness center;
  - iii. Electrolysis treatment by a licensed operator of electrolysis equipment; and
  - iv. Hospitals, nursing homes, medical clinics or medical offices.
- h. An Adult Model Studio is any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona-fide art school or similar educational institution.
- i. An Adult Personal Service Business is a business having as its principal activity a person, while nude or while displaying "Specified Anatomical Areas", providing personal services for another person. Such businesses include, but are not limited to modeling studios, body painting studios, wrestling studios, and conversational parlors.
- j. An Adult Sexual Encounter Center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three (3) or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas".
2. Significant Portion – as used in the above definitions, the phrase "Significant Portion" shall mean and include:
- a. Any one or more portions of the display having continuous duration in excess of five (5) minutes; and/or

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 718 Sexually Oriented Businesses: Continued

- b. The aggregate of portions of the display having a duration equal to ten percent (10%) or more of the display; and/or
    - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten percent (10%) or more of the display.
  3. Display – As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act or placing of materials or engaging in activities on or in a newsstand, display rack, window, showcase, display case or similar place so that the material or activity is easily visible to the general population whether for free or otherwise.
  4. Specified Sexual Activities – as used in the above definitions, the phrase “Specified Sexual Activities” shall mean and include:
    - a. Human genitals in a state of sexual stimulation or arousal;
    - b. Acts of human masturbation, sexual intercourse or sodomy;
    - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast; and
    - d. Appearing in a state of nudity.
  5. Specified Anatomical Areas – as used in the above definitions, the phrase “Specified Anatomical Areas” shall mean and include:
    - a. Less than completely and opaquely covered: (a) human genitals, pubic region (b) buttocks, and (c) female breast below a point immediately above the top of the areola; and
    - b. Human genitals in a discernibly turgid state, even if completely and opaquely covered.
  6. Regulated Uses – Those uses and activities which require licenses, approval or permits by Township regulations.
  7. Sexually Oriented Business Merchandise/Products – Sexually oriented business merchandise/products means any book, magazine, periodical, slide, picture, photograph, drawing, sculpture, software, video cassettes or discs, video reproductions, or motion picture film, activity or other printed, electronic recorded or visual representation or image or novelty item which has as a significant portion of its content or exhibit matter of actions depicting, describing, or relating to “Specified Sexual Activities” or “Special Anatomical Areas”, such as but not limited to, depiction of uncovered or less than opaquely covered human or animal genitals or pubic areas, human sexual intercourse, human or animal masturbation, oral or anal intercourse, human-animal intercourse, excretory functions, physical stimulation or touching of genitals or pubic areas, or flagellation or torture by or upon a person who is nude or clad in revealing costumes in the context of sexual stimulation. The merchandise/products shall be judged without regard to any covering which may be affixed or printed over the merchandise/products or activity in order to obscure genital areas in a depiction which otherwise would fall within the definitions of this section. Works of artistic, anthropological, scientific, library or medical significance, which taken as a whole have serious literary, artistic, political

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 718 Sexually Oriented Businesses: Continued

or scientific value, are not intended to be included within the definitions of this subsection. This definition is intended to include any merchandise/products which result from any technology, whether that technology is available on the effective date of this amendment or becomes available after that date.

8. Adult Novelty Items – Adult novelty items means any object, substance, instrument, paraphernalia, item or device offered for sale which is distinguished, designed, or characterized by an emphasis on matters relating to “Specified Sexual Activities”, or sexual stimulation or arousal of “Specified Anatomical Areas”.

#### (C) Dispersal Regulations:

1. No sexually oriented business shall be located within one-thousand (1,000) feet of any other sexually oriented business or within one-thousand (1,000) feet of any of the following uses:
  - a. Any Class “C” establishment licensed by the Michigan Liquor Control Commission;
  - b. Pool or billiard halls;
  - c. Coin operated amusement centers;
  - d. Teenage discos or dance halls;
  - e. Ice or roller skating rinks;
  - f. Pawn shops;
  - g. Indoor or drive-in movie theaters;
  - h. Any public park;
  - i. Any church (or other religious site or structure where a person or persons worship or gather);
  - j. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through twelve (1-12);
  - k. Any child care center or nursery;
  - l. Any adult foster care facility;
  - m. Any senior citizen’s center; and
  - n. Any other regulated uses as defined herein.
2. Such distance shall be measured along the center line of the street or streets or address between two (2) fixed points on the center lines determined by projecting straight lines from the part of the above listed uses nearest to the contemplated location of the structure containing the sexually oriented business and from the contemplated location of the structure containing the sexually oriented business nearest to a use listed above.
3. Prohibited Zone – No sexually oriented business shall be located within one thousand (1,000) feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the sexually oriented business to a point on the contemplated structure or contemplated location of the structure containing the sexually oriented business nearest to the boundary line of a zoned residential area.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 718 Sexually Oriented Businesses: Continued

(D) Age/Visibility Restrictions:

1. No person under eighteen (18) years of age shall be permitted to enter any portion of the premises of a sexually oriented business where sexually oriented business products are displayed.
2. A sexually oriented business which sells or displays videotapes, discs or cassettes of general interest but also has a section or segment of the establishment devoted to the sale or display of sexually oriented business merchandise/products which distinguished or characterized by their emphasis on matter depicting, describing or relating to “Specified Anatomical Areas” or “Specified Sexual Activities”: as both are defined herein, shall provide for the display of such materials in a fully enclosed room with solid walls and doors separate from the common area of the premises and which totally obstructs viewing from the outside. The door shall have self-closing mechanism and shall be clearly marked “Adults Only”.
3. All entries, windows and other building openings for a sexually oriented business shall be located, covered, screened in such a manner as to prevent anyone from being able to view or otherwise observe the interior of the sexually oriented business from any vantage point outside of the business.

(E) Advertising/Signage Limitations:

1. Signs advertising sexually oriented businesses and sexually oriented business merchandise/products shall be permitted, subject to the following limitations and restrictions:
  - a. Any signs advertising the existence of any sexually oriented business shall not exceed a total aggregate area of twenty (20) square feet;
  - b. Any signs, advertisements, displays or any other material promoting sexually oriented business merchandise/products shall not be displayed, shown or exhibited in any manner that allows them to be viewed by the public from any vantage point outside of the business;
  - c. Any signs advertising the existence of any sexually oriented business shall not be illuminated by any type of flashing, blinking or strobe lights;
  - d. Any signs advertising the existence of any sexually oriented business shall not be located within the public right of way;
  - e. Any signs advertising the existence of any sexually oriented business shall not be illuminated or located in any manner which causes it to be a traffic hazard or have a negative or detrimental effect on any surrounding land use; and
  - f. Any signs advertising the existence of a sexually oriented business shall only be located on the property for which a conditional use permit to operate a sexually oriented business has been granted.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 719 Utility grid wind energy systems (wind farms)

Intent: A utility grid wind energy system (wind farm) is a wind energy system that is designed and built to provide electricity to the electric utility grid. These wind farms are intended to be so constructed and located to be compatible with other land uses such as timber production, farms and heavy industrial uses, while protecting and being distant from residential developments. An anemometer tower shall abide by the same regulations below for a utility grid wind energy system and shall be removed before a utility grid wind energy system is installed. Utility grid wind energy systems may be permitted as a conditional use in the RP and I, Industrial districts subject to the following conditions:

- (A) Setbacks. Any towers shall be setback a minimum of one-thousand three-hundred and twenty (1,320') feet from the RR, Rural Residential, WF, Waterfront and TD, Town Development districts, and one-thousand (1,000') feet from any existing off-site residence. Furthermore, the base of any tower shall be setback from the nearest property line, a distance of not less than 1½ times the height of the tower. In addition, no part of the wind energy system, including any guy wire anchors, may extend closer than forty (40') feet to any property line or existing right-of-way line, unless a plan for location(s) of accessory structures and equipment is presented (including screening) and is approved as part of the site plan. Land included within such minimum setback areas from a property line shall remain undivided and undeveloped with other structures not accessory to the tower.
- (B) Noise. Sound pressure levels shall not exceed 55 dB(A)<sup>1</sup> 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 wind storms. If the ambient sound pressure level exceeds 55 dB(A)<sup>1</sup>, the standard shall be ambient dB(A)<sup>1</sup> plus 5 dB(A)<sup>1</sup>.
- (C) Shadow flicker. Prior to a zoning compliance permit and prior to a building permit being issued, the applicant must demonstrate to the Zoning Administrator that no adverse shadow flicker impact will occur from sunrise to sunset throughout the year on any occupied buildings and lands of adjacent properties. The Zoning Administrator, if in doubt, may refer the matter to the Planning Commission. The Planning Commission may require that the potential of an adverse shadow flicker impact be studied by an independent consultant, knowledgeable on the subject. The study shall recommend one or more means by which the impact(s) (if any) can be avoided (including whether or not to construct) or mitigated. The applicant must deposit in advance sufficient funds with the Township to pay for the study.
- (D) Safety.
  - 1. Clearances. The minimum vertical blade tip clearance from grade shall be thirty (30') feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance (at least twenty (20') feet) from any separate building, structure, utility wire, or tree.

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<sup>1</sup> A-weighted decibels, abbreviated dB(A) is an expression of the relative loudness of sounds in air as perceived by the human ear. In the A-weighted system, the decibel values of sounds at low frequencies are reduced, compared with unweighted decibels, in which no correction is made for audio frequency. This correction is made because the human ear is less sensitive at low audio frequencies, especially below 1000 Hz, than at high audio frequencies.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 719 Wind Farms: Continued

2. Guy Wire Visibility. If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of a least six (6') feet above the guy wire anchors.
  3. Rotor or Blade Integrity Protection. A wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.
  4. Lightning. All wind energy system towers shall have lightning protection.
- (E) Construction Codes, Towers and Interconnection Standards. Wind energy systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems, including towers, shall comply with Federal Aviation Administration requirements, the regulations of the Michigan Aeronautics Commission, and the Michigan Tall Structures Act. If a utility grid wind energy system is attached to a building(s) or structure(s), it must be approved by the County building inspector and must be found to be in accordance with all applicable state construction and electrical codes.
- (F) A utility grid wind energy system (wind farm) may exceed district height limits. Multiple towers are permitted.
- (G) Miscellaneous Requirements.
1. Electromagnetic Interference. No wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless telephone 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. The applicant shall submit documentation from the manufacturer which demonstrates that the wind energy systems' generation of electromagnetic energy falls within a range that minimizes or eliminates any off-site interference.
  2. Vibration/Enhanced wind currents. No wind energy system generated vibrations or enhanced wind currents shall be humanly perceptible beyond the property boundaries of the lot or parcel on which the wind energy system is located.
  3. The Manufacturer's Material Safety Data Sheet(s) shall be provided to the Township with the application. Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
  4. The applicant shall provide documentation that the Baraga County Road Commission has been contacted, and if required, that a performance bond has been posted (or other measures have been taken) for the protection and/or restoration of all roads over which heavy equipment or materials will be transported.
- (H) Decommissioning. The utility grid wind energy system (wind farm) and all appurtenances thereto shall be removed from the site within one (1) year after the wind energy system is no longer in use (not generating any electricity for over 12 continuous months). The

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 719 Wind Farms: Continued

owner of the land upon which the system is located shall be responsible for such removal. A wind energy system which is not so removed shall constitute a public nuisance per se. The applicant shall post a bond (cash or irrevocable bank letter of credit) with the Township in an amount sufficient for the removal of the utility grid wind energy system (wind farm) including all accessory buildings and structures, clean-up of site including removal of the foundations and restoration of the site to a condition equal to or better than that which existed prior to the installation of the system.

- (I) A developer may seek planning commission approval of a utility grid wind energy system (wind farm) incorporating a block of or group of properties under multiple, separate ownerships provided;
  - 1. that all of the above regulations [subsections (A) – (H) still apply], but to the whole rather than individual properties,
  - 2. that a written agreement among the participating property owners has been signed and recorded at the County Register of Deeds, and
  - 3. that the proposal does not leave one or more non-participating properties surrounded or otherwise isolated.

### Section 720 Mineral extraction

All uses in the RP, Resource Production and I, Industrial are districts are on notice that earth removal, quarrying, gravel processing, and mining, as regulated in this Ordinance, may be permitted anywhere within these districts with a Conditional Use Permit.

Specific performance standards for earth removal, quarrying, gravel processing, and mining operations are as follows:

- (A) Maximum depth of excavation shall not be below existing groundwater table.
- (B) Where necessary the Commission may require the applicant to construct or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the deterioration of existing roads which are not "all weather" roads. All access roads shall be considered part of the mining operation.
- (C) Setbacks.
  - 1. All mining operations shall be a minimum of ninety (90') feet from any public right-of-way, not including ingress and egress roads.
  - 2. All mining operations shall be a minimum of five hundred fifty (550') feet from any body of water, as defined in Act No. 346 of the Public Acts of 1972, including but not limited to, inland lakes, rivers, streams, and impoundments.
  - 3. All mining operations and all ingress and egress roads shall be a minimum of ninety (90') feet from any other property line.
  - 4. All mining operations shall be a minimum of five hundred (500') feet from any place of assembly or public park.



## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 720 Mineral extraction: Continued

5. All mining operations shall be a minimum of one-thousand (1,000') feet from any school, hospital or nursing home.
  6. All mining operations and all ingress and egress roads shall be a minimum of three hundred (300') feet from an existing house on an adjacent property.
  7. All ingress and egress roads shall be by the most direct route to a public right-of-way.
  8. All ingress and egress roads will require a legal driveway permit.
- (D) A permanent processing plant at the mine site shall not be located closer than three hundred (300') feet from any property line and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impacts.
- (E) Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed which lack natural screening conditions through existing vegetative growth. The following minimum standards shall apply:
1. A continuous screen at least six (6') feet in height is required to provide maximum screening of the site.
    - a. This landscape buffer may consist of earthen berms, and/or living materials.
    - b. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface being a minimum of two (2') feet in width at the highest point of the berm, and extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other forms of natural ground cover.
- (F) Nuisance Abatement.
1. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
  2. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution. Interior roads used in the operation shall have their surfaces treated to minimize any such nuisance.
  3. A noise barrier shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed, which lack sufficient existing vegetation to meet the minimum standards, as follows:
    - a. There shall be two (2) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted parallel to the boundaries of the property.
    - b. The spacing between rows shall not exceed six (6) feet.
    - c. The spacing between trees within a row shall not exceed six (6) feet.
    - d. The Planning Commission may allow the preservation of existing trees within the setback areas to qualify toward satisfying (a.) above.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 720 Mineral extraction: Continued

- e. A "Performance Guarantee" concerning the trees will be required.
  - f. The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.
- (G) Reclamation of mined or excavated areas.
- 1. Earth removal, quarrying, gravel processing and mining, shall be considered temporary uses. Mined or excavated sites shall be reclaimed properly and in a timely fashion.
  - 2. A "Performance Guarantee" shall be posted by the land owner with the Spurr Township Board to cover the estimated costs of reclamation. This "Performance Guarantee" shall be received by the Township Clerk within 30 days of the approved site plan. "Performance Guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit, acceptable to the Township, in the amount of the estimated cost of reclamation. It shall be subject to review and adjustment by the Commission at the end of twelve (12) months, and thereafter at two (2) year intervals.
  - 3. Reclamation shall be completed as agreed upon by the Commission and applicant in an approved development site plan.
  - 4. Inactivity at a site for a continuous twenty-four (24) month period shall constitute termination of mining activity and require that site reclamation commence and be completed.
  - 5. Upon the failure of any operator to perform reclamation of the mining site in a proper and timely manner as agreed to in the approved site plan the "Performance Guarantee" will be forfeited. The Spurr Township Board shall use the funds to cover the cost of restoring the site and administrative cost incurred in so doing. Any cost in addition of those covered by the "Performance Guarantee" shall be billed to the operator and a lien placed against the subject property. If unpaid, the cost shall be collected in the same manner as delinquent taxes or as allowed by law.
  - 6. Standards controlling reclamation
    - a. Excavated areas shall not collect stagnant water.
    - b. Surface of such area which is not intended to be permanently submerged shall be graded or back-filled with non-toxic, non-flammable and non-combustible solids as necessary to produce a surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
    - c. The banks of all excavation shall be sloped to the waterline in a water producing excavation and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 720 Mineral extraction: Continued

- d. Vegetation shall be restored within one year by the appropriate planting of indigenous grasses, trees, or shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
  - e. Maintenance
    - (i.) Slopes and surfaces shall be maintained as agreed in the development site plan.
    - (ii.) Erosion areas shall be filled and the surface restored.
    - (iii.) All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.
  - f. Reclamation plans shall follow the standards detailed for the most appropriate uses(s) allowed by this ordinance.
  - g. Future uses shall conform with uses indicated in the Township Master Plan or as approved in the Development Site Plan.
- (H) Additional requirements for earth removal, quarrying, gravel processing or mining.
- 1. On the development site plan:
    - a. North point, scale and date;
    - b. Extent of the area to be excavated;
    - c. Location, width and grade of all easements or rights-of-way on or abutting the property;
    - d. Location of all existing and proposed structures on the property;
    - e. Site drainage features and flow directions indicated;
    - f. Bench marks;
    - g. Location of any bodies of water and wetlands on the proposed site or within one-thousand five-hundred (1,500) feet;
    - h. Areas to be used for ponding;
    - i. Depth to groundwater;
    - j. Processing, loading and storage areas;
    - k. Proposed fencing, gates, parking and signs;
    - l. Existing and proposed ingress-egress roads, on-site roads and proposed surface treatment and means to limit dust; and
    - m. Setback lines for all activities of the site.
  - 2. An operational statement, which shall include at a minimum:
    - a. The approximate date of commencement of the excavation and the duration of the operation;
    - b. Amount and type of material or resources to be removed;
    - c. Method of extracting and processing, including the disposition of overburden;
    - d. Equipment proposed to be used in the operation of the excavation;
    - e. Location and type of processing plants, temporary and permanent;
    - f. Proposed hours and days of operation;

## ARTICLE VII – CONDITIONAL USE PERMITS

### Section 720 Mineral extraction: Continued

- g. Operating practices proposed to be used to minimize noise, dust, air contaminants and vibrations;
  - h. Amount and source of water to be utilized in processing; and
  - i. Methods to prevent:
    - (i.) Pollution of surface water or groundwater;
    - (ii.) Adverse effects on the quantity and quality of surface water and groundwater runoff from the property; and
    - (iii.) Adverse effects on wetlands both on and near the property.
3. A rehabilitation or reclamation plan that shall include as a minimum:
- a. A reclamation statement and plan, including identification of post-mining land use, methods of accomplishment, phasing and timing;
  - b. A plan indicating any proposed structures to be built on the site, the final grade, i.e., post-mining topography of the excavation, any water bodies included in the reclamation, and methods planned to prevent stagnation and pollution, landscaping and areas of cut and fill;
  - c. The methods of disposing of any equipment or structures used in the operation of excavation upon completion of the excavation.

**ARTICLE VII – CONDITIONAL USE PERMITS**

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## ARTICLE VIII

### ARTICLE VIII NONCONFORMING USES AND STRUCTURES

#### Section 801 Intent

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. Any previous Class A designation authorized by formal action through the Baraga County Planning Commission shall remain in effect. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.

The zoning regulations established by this Ordinance are designated to guide the future use of land in Spurr Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established.

This Ordinance distinguishes by class the various nonconforming uses and structures. In general, Class A nonconforming uses and structures have been found by the Planning Commission not to be contrary to the public health, safety, and general welfare, or the spirit of this Ordinance or the Township master plan or other standard in this Ordinance and as such should either be encouraged or at a minimum not be discouraged to continue. In contrast, the Class B nonconforming uses and structures are not consistent with the aforementioned, and as such, should not be encouraged to exist by the Township. Different regulations are established for each class. The degree of restriction over each class is a function of the degree to which that class of nonconformity is a nuisance or incompatible with the purposes and regulations of this Ordinance.

Any use or structure created in violation of any preceding adopted Township or County zoning ordinance remains a violation.

#### Section 802 Class A Nonconforming Uses and Structures

Class A nonconforming uses and structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare, or to the spirit of this Ordinance; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; that it meets the standards set out in Section 704 of this Ordinance; and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

## **ARTICLE VIII – NONCONFORMING USES AND STRUCTURES**

### Section 803 Procedure For Obtaining Class A Designation

A written application shall be filed with the Planning Commission utilizing forms obtained from the Zoning Administrator which shall include:

- (A) Name and address of property owner and applicant if not same;
- (B) A legal description of the property or lot;
- (C) A site plan pursuant to Article VI.
- (D) An explanation describing the present nonconforming use or structure.
- (E) An explanation of any proposed addition or alteration to the uses or structures.

The Planning Commission shall, upon receipt of said application, schedule a public hearing in accordance with the procedures set out in Section 902, Administrative Standards and Procedures, of this Ordinance. Upon hearing the facts and information, the Planning Commission shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the General Standards identified in Section 704. Conditions may be attached, including any time limit, where necessary to assure that the use or structure does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this Ordinance.

### Section 804 Provisions for Class A Nonconforming Uses and Structures

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (A) No such Class A Nonconforming Use or Structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except with specific approval of the Planning Commission.
- (B) No such Class A Nonconforming Use or Structure shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except with specific approval of the Planning Commission.
- (C) No Class A Nonconforming Use or Structure shall be extended to displace a permitted (conforming) use.
- (D) A Class A Nonconforming Use or Structure shall not be changed to another nonconforming use, except with specific approval of the Planning Commission. Before granting such approval, the Planning Commission shall determine that such change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.
- (E) No Class A Nonconforming Use shall be expanded to add another nonconforming use, except with the specific approval by the Planning Commission. The proposed nonconforming use shall satisfy the General Standards as set out in Section 704.

## ARTICLE VIII – NONCONFORMING USES AND STRUCTURES

### Section 804 Provisions for Class A Nonconforming Uses and Structures: Continued

- (F) Class A Nonconforming Structures shall not be altered or expanded without the specific approval of the Planning Commission, except that the following structural alterations may be permitted without prior approval of the Planning Commission:
1. Structural alterations or additions increasing the bulk of a structure are permitted provided all regulations contained in this Ordinance are met.
  2. Structural alterations which do not add to the bulk of structure or increase the intensity of use of the structure.

### Section 805 Regulations Pertaining to Class A Nonconforming Uses and Structures

No Class A Nonconforming Use or Structure shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period. No Class A Structure shall be used, altered, or enlarged in violation of any condition imposed in its designation.

### Section 806 Class B Nonconforming Uses and Structures

- (A) All nonconforming uses and structures not designated as Class A are considered as Class B. It is the purpose of this Ordinance to eliminate Class B Nonconforming Uses and Structures as rapidly as is permitted by law without payment of compensation. No Class B Nonconforming Use shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50%) percent of the reproduction cost of such structure.
- (B) No Class B Nonconforming Structure shall be enlarged or structurally altered, except as may be provided under paragraph (C) below. No Class B Nonconforming Use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than was used at the time of becoming nonconforming, except as may be provided under paragraph (C) below.
- (C) Potential exception to upgrade. There shall be a potential exception to upgrade in the direction of greater conformity as follows. The owner of a Class B nonconforming use or structure, **may apply** to the Planning Commission to make a nonconforming use, structure, or characteristic of use more conforming, provided such change is not likely, in the determination of the Planning Commission, to substantially increase the life of the nonconforming use or structure. The Planning Commission's determination shall be in writing, setting forth the rationale for its decision.
- (D) No Class B Nonconforming Use or Structure shall be permitted to continue in existence if it was unlawful at the time of its inception.



## **ARTICLE VIII – NONCONFORMING USES AND STRUCTURES**

### Section 807 General Standards

The Planning Commission shall review the particular facts and circumstances of each Class A proposal in terms of the intent of this Article and the General Standards as set out in Section 704 of this Ordinance. Each individual proposal shall follow the procedure identified in Section 902, Administrative Standards and Procedures of this Ordinance.

### Section 808 Revocation of Class A Nonconforming Uses and Structures

Any Class A nonconforming use or structure maintained or used in violation of this Ordinance is a nuisance per se. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation. Such notice shall be directed to each property owner of or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

All violations of Class A nonconforming uses and structures shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Planning Commission. The Planning Commission shall, upon receipt of said violation, schedule a public hearing in accordance with the procedures set out in Section 902, Administrative Standards and Procedures of this Ordinance. Upon hearing the facts and information, the Planning Commission shall make its decision to consider revocation of the Class A designation in writing and set forth the findings and reasons on which it is based.

### Section 809 Appeal of Granting, Denying, or Revocation of Class A Status

Any person aggrieved by the Planning Commission's granting or failure to grant a Class A status must appeal that decision to the Circuit Court. Such an appeal must be filed within 30 days after the decision has been certified in writing, or the minutes that record the decision are approved. The Zoning Board of Appeals shall notify all affected parties and hold a public hearing on the appeal as specified in Section 902, Administrative Standards and Procedures.

## ARTICLE IX

### ARTICLE IX ADMINISTRATION AND ENFORCEMENT

#### Section 901 Administration

The administration and enforcement of this Ordinance shall be the responsibility of the Township Board. The Township Board shall have the right to delegate said responsibility to appropriate township officers or employees. The person or persons administering and enforcing this Ordinance shall be known as the Zoning Administrator(s).

#### Section 902 Administrative Standards and Procedures

- (A) Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.
- (B) Where a public hearing is required<sup>1</sup> in the administration of this Ordinance, the Zoning Board of Appeals and the Planning Commission:
1. Shall base their decision upon facts presented at a public hearing. Applications which require hearings before the Spurr Township Planning Commission or the Zoning Board of Appeals shall be submitted at least thirty (30) days prior to the regular meeting date of that body. Late applications may be scheduled for hearings upon authorization by the Chairperson after review of the upcoming agenda, and the work load and ability of the staff to meet legal notice deadlines and to prepare reports and recommendations. Under no circumstances may a late application be accepted less than twenty (20) days prior to a legal notice deadline;
  2. Shall provide all notices as required in the Michigan Zoning Enabling Act of 2006, which require, at a minimum, that the Public Hearing Notice must be published in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing. If one or more specific properties are involved in an action, additional notice steps are required. The number of adjacent properties will also determine the minimum notice requirements to owners and occupants;
  3. All hearing notices shall include the time, place and nature of the request, proposed action, or complaint, the specific geographic area included (if any), where and when written comments will be received, and where and when a description of request, proposed action, or complaint, and any applicable legal land description(s) and any map(s) may be examined and a copy(ies) at cost may be obtained;
  4. Shall permit interested parties at the hearing to present and rebut information either supporting or opposing the zoning action under consideration;

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<sup>1</sup> For example; for a conditional use proposal, a proposed rezoning, a proposed zoning ordinance text amendment or a requested variance.

## ARTICLE IX – ADMINISTRATION AND ENFORCEMENT

### Section 902 Administrative Standards and Procedures: Continued

5. Shall prepare a comprehensive summary record of the hearing, including a record of motions, votes and other official action(s);
  6. Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision by any official or body;
  7. Shall file the record, written testimony, or documents submitted with regard to the hearing, and the decision with the Township Clerk, and maintain an affidavit of mailing for each mailing (if any) made under this section;
  8. Shall comply with all other requirements under the law; and
  9. Shall have all administrative actions recorded in the Official Zoning Orders Book and Map.
- (C) Whenever a **discretionary decision** is authorized in this Ordinance, such as, but not limited to, the issuance of conditional use permits, conditions, including, but not limited to greater setbacks, parking, screening, drainage, access control and other similar requirements, may be imposed provided they are:
1. Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole;
  2. Related to the valid exercise of the police power, and the purposes which are affected by the proposed use or activity;
  3. Necessary to meet the intent and purpose of the zoning ordinance, are related to standards established in the Ordinance for the land use or activity under consideration, and are necessary to insure compliance with those standards; and
  4. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. A record of changed condition shall also be maintained.
- (D) All administrative guides or rules developed to assist the Zoning Board of Appeals or the Planning Commission in the administration of this Ordinance shall be filed with the Township Clerk and be open to public inspection.

### Section 903 Zoning Administrator

The Zoning Administrator shall be appointed by the Township Board and shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of this Township. The Zoning Administrator, or their designated employee, shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. They shall have no power to vary or waive Ordinance requirements.

## **ARTICLE IX – ADMINISTRATION AND ENFORCEMENT**

### Section 904 Duties of Zoning Administrator

- (A) The Zoning Administrator shall have the power to issue a Zoning Compliance Permit and to review Site Plans to determine whether they are in proper form, contains all of the required information and is in accordance with the provisions of this Ordinance. The Zoning Administrator shall make inspections of premises and collect such investigative data deemed necessary to carry out his duties in the enforcement of this Ordinance.
- (B) If the Zoning Administrator shall find that any provision of this Ordinance is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to insure or prevent violation of the provisions of this Ordinance.
- (C) The Zoning Administrator shall not vary, change or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements of this Ordinance.
- (D) It shall be unlawful for the Zoning Administrator to issue a Zoning Compliance Permit or other such permits, for any construction or use until he has inspected such plans and found them to conform with the requirements set forth in this Ordinance.

### Section 905 Zoning Compliance Permit

- (A) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a Zoning Compliance Permit shall have been issued therefore by the Zoning Administrator. The Permit shall state that the building, structure, and lot, and use thereof, conform to the requirements of this Ordinance.
- (B) The Zoning Administrator shall maintain a record of all Zoning Compliance Permits and said record shall be open for public inspection. Failure to obtain a Zoning Compliance Permit shall be a violation of this Ordinance.

### Section 906 Enforcement and Violation

#### Notice of Violation:

- (A) Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation.
- (B) Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.
- (C) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.
- (D) All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Township Board who shall initiate prosecution procedures.

## **ARTICLE IX – ADMINISTRATION AND ENFORCEMENT**

### Section 907 Special Zoning Orders Book and Map

The Zoning Administrator shall keep a Special Zoning Orders Book, which shall list, with a brief description, all variances, conditional use permits, rezonings, designations of Class A nonconformance, and any terminations of any of them. Each item shall be assigned a number when entered. The Zoning Administrator shall also keep a map, to be known as the Special Zoning Orders Map, on which shall be recorded the numbers in the Special Zoning Orders Book to indicate the locations affected by the items in the book. The Special Zoning Orders Book and Map shall be open to public inspection.

### Section 908 Fees

The Township Board shall periodically establish by resolution a schedule of fees for administering this Ordinance. The schedule of fees shall be made available in the office of the Zoning Administrator and may be changed only by the Township Board. No permit shall be issued unless such fees have been paid in full.

## ARTICLE X

### ARTICLE X ZONING BOARD OF APPEALS

#### Section 1001 Creation and Membership

- (A) *Board established; composition.* There is hereby established a Zoning Board of Appeals, which shall perform and exercise its powers as provided in Public Act No. 110 of 2006 (MCL 125.3601 et seq.), and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall consist of the following three members appointed by the township board:
1. The first member of the zoning board of appeals shall be a member of the township planning commission.
  2. The remaining members of the zoning board of appeals shall be selected from the electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the township. One regular or alternate member may be a member of the township board. An elected officer of the township shall not serve as chairperson of the board of appeals. An employee or contractor of the township board may not serve as a member or an employee of the township zoning board of appeals.
  3. Terms shall be for three years, except for members serving because of their membership on the planning commission or township board, whose terms shall be limited to the time they are members of the planning commission or township board respectively, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than three years to provide for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
  4. The township board may appoint not more than two alternate members for the same term as regular members to the board. The alternate member(s) has the same voting rights as a regular member of the board when serving. The alternate member appointed to a case shall serve in the case until a final decision is made. An alternate member may be called to serve as a regular member of the board if;
    - a. The regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the board, or
    - b. The regular member will be unable to attend meetings for a period of more than thirty (30) consecutive days, or
    - c. A regular member needs to abstain for reasons of conflict of interest.
- (B) *Compensation of members.* The total amount allowed the zoning board of appeals in any one year as per diem or as expenses actually incurred in the discharge of its duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the township board.

## ARTICLE X – ZONING BOARD OF APPEALS

### Section 1001 Creation and Membership: Continued

- (C) *Removal of members.* Members of the zoning board of appeals shall be removable by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing.
- (D) *Conflict of interest.* A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest shall constitute misconduct in office.
- (E) *Quorum.* The township zoning board of appeals shall not conduct business unless a majority of the members of the board is present.

### Section 1002 Meetings and Procedures

- (A) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the zoning board of appeals shall be open to the public. The board shall maintain a record of its proceedings, which shall be filed in the office of the township clerk and shall be a public record.
- (B) The zoning board of appeals may fix rules to govern its procedures.
- (C) The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the township, county, or state.
- (D) Such appeal shall be taken within such time as shall be prescribed by the township board of appeals by general rule, by filing with the zoning administrator and with the board of appeals a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (E) The township zoning board of appeals shall fix a reasonable time for dealing with an appeal, schedule a public hearing, give due notice thereof to the parties, and decide the appeal within a reasonable time, in accordance with Public Act No. 110 of 2006 (MCL 125.3601 et seq.) Sections 103, 602 and 604. At the hearing, a party may appear in person or by agent or by attorney.
- (F) The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse an order, requirement, decision or determination of the zoning administrator or body from whom the appeal was taken, or to decide in favor of the applicant, any matter upon which it is required to pass or to effect any variation in this Article.
- (G) The zoning board of appeals shall state in writing the grounds of each determination.
- (H) An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the township board of appeals after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the

## ARTICLE X – ZONING BOARD OF APPEALS

### Section 1002 Meetings and Procedures: Continued

board of appeals or by the circuit court, on application, on notice to the zoning administrator and on due cause shown.

### Section 1003 Power and Jurisdiction

The zoning board of appeals shall have the following powers and areas of jurisdiction:

- (A) It shall hear and decide appeals from and review any order, requirements, decisions, or determination made by any administrative official or body charged with enforcement of this Ordinance.
- (B) It shall hear and decide all matters referred to it or upon which it is required to pass pursuant to this Ordinance.
- (C) With regard to conditional land use and planned unit development decisions, no appeal may be taken to the zoning board of appeals except as otherwise provided in this Ordinance.
- (D) The township zoning board of appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the zoning maps.
- (E) The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as in its opinion ought to be made, and to that end shall have all the powers of the zoning administrator or body from whom the appeal was taken and may issue or direct the issuance of a permit.
- (F) Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the zoning board of appeals in passing upon appeals may vary or modify any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done.
- (G) The zoning board of appeals may impose conditions with an affirmative decision. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources and the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of this Ordinance.
  - 4. Be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.



## **ARTICLE X – ZONING BOARD OF APPEALS**

### Section 1004 Standards for Granting Variance

- (A) No variance (see the Definition in Article II, Section 202) or modification of the provisions of this Ordinance shall be granted by the zoning board of appeals unless it appears beyond a reasonable doubt that a literal enforcement of the provisions of this Ordinance would involve practical difficulties and that all the following facts and conditions exist:
1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or classes of use in the same district or zone.
  2. Such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
  3. The granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
  4. The granting of such variance will not adversely affect the purpose or objectives of the master plan of the township.
- (B) In consideration of all appeals and all proposed variations to this Ordinance, the zoning board of appeals shall, before making any variations from this Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the township.
- (C) Nothing contained in this section shall be construed to give or grant to the zoning board of appeals the power or authority to alter or change this Ordinance or the official zoning map, such power and authority being reserved to the township board in the manner provided by law.

### Section 1005 Appeal to Circuit Court

- (A) Decisions of the zoning board of appeals shall be final. However, a person having an interest affected by this Ordinance may appeal to the circuit court within thirty (30) days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision. Upon appeal, the circuit court shall review the record and decision of the zoning board of appeals to ensure that the decision:
1. Complies with the constitution and laws of the state.
  2. Is based upon proper procedure.
  3. Is supported by competent material and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

## ARTICLE X – ZONING BOARD OF APPEALS

### **Section 1005 Appeal to Circuit Court: Continued**

- (B) If the court finds the record of the zoning board of appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the zoning board of appeals, the court shall order further proceedings before the zoning board of appeals on conditions which the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.
- (C) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the zoning board of appeals.

### Section 1006 Lapse of Approval

- (A) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. The zoning board of appeals, upon written application and upon a showing of good cause, may grant up to two (2) extensions of up to six (6) months each for the starting of, and/or the completion of construction, provided that application for an extension is made prior to the lapse of approval.
- (B) No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. The zoning board of appeals, upon written application and upon a showing of good cause, may grant up to two (2) extensions of up to six (6) months each for the establishment of such use, the starting of construction, and/or the completion of construction, provided that application for an extension is made prior to the lapse of approval.

### Section 1007 Notice Requirements

- (A) The zoning board of appeals shall make no recommendation except in a specific case and only after a public hearing has been conducted by the zoning board of appeals. A written notice of the time and place of such hearing shall be mailed to the owners of all lots or parcels of land, or portion thereof, lying within 300 feet of the property in question. Such notice shall be served not less than 15 days prior to the date of the hearing.
- (B) Public notices regarding the time and place of regular and special meetings of the zoning board of appeals shall comply with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.).

## **ARTICLE X – ZONING BOARD OF APPEALS**

### Section 1008 Fees

The township board may from time to time set a reasonable schedule of fees to be charged to applicants for appeals to the zoning board of appeals. A fee shall be paid to the township clerk at the time the notice of appeal is filed.

## ARTICLE XI

### ARTICLE XI GENERAL EXCEPTIONS

#### Section 1101 Applicability

The regulations in this Ordinance shall be subject to the interpretations and exceptions set forth in this Ordinance.

#### Section 1102 Voting places

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a township or other public election.

#### Section 1103 Yard regulations

When yard regulations cannot reasonably be complied with, as in the case of a planned development where permitted, or where their application cannot be determined on lots of peculiar shape or topography or due to architectural or site arrangement, such regulations may be modified or determined by the Zoning Board of Appeals (ZBA).

#### Section 1104 Uncovered porches

An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten (10') feet, but this shall not be interpreted to include or permit fixed canopies.

#### Section 1105 Projections into yards

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two (2") inches for each one (1') foot of width of such side yard, and may extend or project into a required front yard or rear yard not more than three (3') feet.

#### Section 1106 Access drives, walks and other access through yards

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine (9") inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard.

## **ARTICLE XI – GENERAL EXCEPTIONS**

### Section 1107 Height Requirement Exceptions

The following are exempted from height limit requirements, provided that no portion of the exempted structure may be used for human occupancy:

- (A) Those purely ornamental in purpose such as church spires, belfries, domes, ornamental towers, flagpoles and monuments;
- (B) Those necessary appurtenances to mechanical or structural functions, television antennas and satellite dishes, wire transmission structures, and cooling towers;
- (C) Public utility structures;
- (D) Agriculture related structures such as barns, silos, elevators and the like; and
- (E) Commercial communication towers shall be so located that the distance from the base of the tower to the nearest property line shall be either equal to the height of the structure plus the required setback in that zoning district, or the radius of the collapse /failure zone, as certified by a professional structural engineer, plus the required setback for the zoning district where located.

## ARTICLE XII

### ARTICLE XII INTERPRETATION, SEVERABILITY, NO VESTED RIGHT, PENALTIES, AND EFFECTIVE DATE

#### Section 1201 Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by the Ordinance to repeal, abrogate, annul, or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the courtyards or other open spaces that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

#### Section 1202 Severability

This Ordinance and the various parts, sections, subsections, and clauses, thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property, building, or structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any conditional use permit, variance, zoning compliance permit, site plan approval, or designation of Class A nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

#### Section 1203 No Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

#### Section 1204 Penalties and Remedies

- (A) Civil Law: Any building, structure, or use constructed, altered, moved or maintained in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se.

**Section 1204 Penalties and Remedies: Continued**

- (B) Criminal Law: Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five-hundred (\$500) dollars and imprisoned for not more than ninety (90) days, or both, and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
  
- (C) Remedies: The Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

Section 1205 Effective Date

This Ordinance shall become effective on November 10, 2016 <sup>1</sup>.

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<sup>1</sup>The effective date will be seven (7) days after the Notice of Adoption is published.

## **ARTICLE XIII**

### **ARTICLE XIII TOWNSHIP PLANNING COMMISSION: PLANNING AND ZONING AUTHORITY**

#### Section 1301 Designation

The Spurr Township Planning Commission is the planning commission for Spurr Township, Baraga County, Michigan under the Michigan Planning Enabling Act, Public Act No. 33 of the Public Acts of 2008. Further, the Spurr Township Planning Commission has assumed the duties of the zoning commission prescribed in Section 301, of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

#### Section 1302 Changes and Amendments

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, by an individual, or by any interested entity in accordance with Article XIV, Amendments and Rezoning.



**ARTICLE XIII**

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## ARTICLE XIV

### ARTICLE XIV AMENDMENTS AND REZONING

#### Section 1401 Authorization

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

#### Section 1402 Rezoning

For the purposes of this Article 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 Article for Amendments.

#### Section 1403 Initiation of Amendments

Proposals for text amendments may be initiated by the Township Board, Planning Commission, or any person or persons. Proposals for a zoning district amendment (i.e. a rezoning) may be initiated by the Township Board, Planning Commission, or any person or persons having a property interest in the land sought to be rezoned.

#### Section 1404 General Procedure

Except as provided in Section 1405, the procedure for proposals by owners of property shall be set forth in this Section 1404.

- (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 recommendation.
- (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 legally required notice(s) and public 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 amendments to this Ordinance, the Planning Commission shall conduct a public hearing, with public notice being given by the Township as specified below, in subsections 1404 (D) Published Notice and 1404 (E) Mailed/Delivered Notices. Said notice shall contain the time, place, date and purpose of the hearing, the name of the applicant, a description of the property to be rezoned and

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1404 General Procedure: Continued

- the requested zoning change or, if a text change, an outline of the proposed amendment and where and when the text of the proposed amendment may be examined.
- (D) Published Notice. Notice shall be given by publication in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing.
- (E) Mailed/Delivered Notices. Mailed or delivered notice shall be made in accordance with the following:
1. To each railroad, electric, gas, pipeline, and telephone company that registers its name and mailing address with the Township for the purpose of receiving such notice. Said notice shall be made at least fifteen (15) days in advance of the hearing.
  2. To each owner of property as listed on the most recent tax roll of all real property located within three hundred (300') feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than fifteen (15) days before the date the request will be considered.
  3. To each occupant(s) of all structures within three hundred (300') feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than fifteen (15) days before the date the request will be considered.
  4. To the applicant and/or owner of the property in question.
- (F) Following the Planning Commission's public hearing, the proposed zoning amendment(s), including zoning map(s), shall be submitted by the Planning Commission to the Baraga County Planning Commission<sup>1</sup> for its recommendation. Upon receipt of the Baraga County Planning Commission's<sup>1</sup> recommendation or expiration of thirty (30) days, the Township Board shall review both the County and the Township Planning Commissions' recommendations.
1. The Township Board may hold its own public hearing if it considers it necessary. The Township board shall also grant a hearing on the proposed amendment(s) to any interested property owner who has filed a written request for such a hearing with the Township Clerk. Said request shall be delivered by certified mail. The Planning Commission may be requested to attend the hearing. Notice of the hearing shall be published in a newspaper of general circulation within the Township. The notice shall be published not less than fifteen (15) days prior to the hearing.
  2. If the Township Board deems advisable any changes or additions to the amendment(s) recommended by the Planning Commission, it shall 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 shall grant a public hearing on the proposed amendment(s) as is specified in Section 1404 General Procedure, (F) 1., above.

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<sup>1</sup> At the present date, 10/17/16, it is understood that Baraga County does not have a County Planning Commission.

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1404 General Procedure: Continued

- (G) Following a public hearing or review of the Planning Commission's report, the Township Board by majority vote of its membership may adopt or reject the proposed amendment(s) with or without changes. Any proposed added, significant element of regulation or proposed added land area to be changed in zoning classification, which did not proceed through the required public hearing process, shall be submitted through the required public hearing process before being considered for further action. A lesser portion (either regulations or land area) of a proposed amendment, which has received full public hearing consideration, may be considered for further action, including deletion without a new public hearing process.
- (H) If no effective date is specified, the amendment(s) will take effect seven (7) days after publication of the notice of adoption (Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, Section 401).
- (I) The amendment(s) 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 after adoption. The notice shall contain:
  - 1. Either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s);
  - 2. The effective date of the amendment(s); and
  - 3. The time and place where a copy of the amendment(s) may be examined.
- (J) 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 amendments to any other board or agency provided for in this Ordinance.

### Section 1405 Procedure for Petitions to Rezone to Permit the Extraction of Natural Resources

#### (A) Introduction

The following procedure shall apply to applications for rezoning property to permit the extraction of natural resources in accordance with the Michigan Zoning Enabling Act of 2006, as amended, Section 205 [MCL 125.3205(3) et seq. enacted by Act 113, PA 2011 ("**Act 113**")]] with regard to property not situated within the RP, Resource Production, or I, Industrial Zoning Districts established in this Ordinance. An application to permit the extraction of natural resources on properties that are situated in the RP, Resource Production or I, Industrial Zoning Districts shall be governed by Section 720. An application to permit the extraction of natural resources on properties that are not situated in the RP, Resource Production, or I, Industrial Zoning Districts shall be governed by this Section 1405.

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

In conformance with Act 113, an application under this Section shall be divided into two parts.

Part (1) addresses whether the applicant has a sufficient property interest in the natural resource, whether valuable natural resources are located on the applicant's property, and whether there is a need for the natural resource sought to be extracted. Part (1) shall consist of an administrative proceeding. The Planning Commission shall conduct an initial hearing and make findings and a recommendation to the Township Board.

Part (2) addresses the decision on whether the proposed extractive operation would be appropriate in the Township in the context of whether or not very serious consequences would result from the extraction of the resource. Part (2) shall only be necessary in the event the applicant has satisfied the requirements of Part (1).

#### (B) Findings

As the Michigan Supreme Court determined in *Kyser v Kasson Township*, 486 Mich 514, 518 (2010) "In 1988, there were seven gravel mines operating in the township, and over the following six years, there were seven rezoning applications submitted to the Township Board to allow for additional gravel mining, resulting in both litigation and the establishment of new mining operations. In response, the township took several steps to address its overall mining policy, culminating in the establishment of a gravel mining district in accordance with the ZEA" ("Zoning Enabling Act" for clarification).

The Gravel Mining District in Kasson Township encompasses 3,100 acres, or over five square miles and was adopted as part of the 1995 Master Plan (amended in 2004) and incorporated in the 1997 Zoning Ordinance. The defined Gravel Mining District was intended, and continues to be intended, to protect the Township's stability and quality of life from the threats of *Ad Hoc* rezoning applications and approvals of gravel extraction operations in unplanned locations without notice to surrounding properties, and without consideration of the Township's long-term land-use planning concerns. The Gravel District was also intended to ensure that sufficient land was zoned to satisfy the need for gravel resources for the foreseeable future. In Spurr Township the vast majority of the township is zoned RP, Resource Production, which permits natural resource extraction.

The Kasson Township's study and approval of its Gravel District were actions directly and critically related to the public health, safety, and welfare in the Township, expressly recognized to be important considerations in Act 113.

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

Moreover, because the provisions of Act 113 are a part of the broader Zoning Enabling Act, under the rules of statutory construction recognized in *Kyser*, the exception to general rules of zoning and planning, set forth in Act 113, must be construed narrowly, and the applicant has a heavy burden to demonstrate that no very serious consequences will result from a change in the planning and zoning established in the Township and relied upon by Township property owners with respect to the established Gravel Mining District.

Act 113 specifies that the standards in *Silva v Ada Township*, 416 Mich. 153 (1982) ("*Silva*") shall be applied in reviewing an application to permit the extraction of natural resources. As dictated by *Silva*, the existing zoning ordinance, including the existing boundaries of the Gravel Zoning District, shall be presumed to be reasonable. Likewise, existing boundaries of the RP and I Zoning Districts in Spurr Township's case are also presumed to be reasonable.

While Act 113 establishes a "hybrid" analysis for zoning decision-making, Act 113 remains within the context of land use decision-making that is within the Zoning Enabling Act as a whole. Accordingly, in any decision to rezone additional property into the RP or I Zoning District(s), the Township must consider the decision's effect not only upon a specific project or property, but also upon the impact upon the surrounding area, future planning and all projects in the Township.

#### (C) Definitions

1. As used in this Section, the phrase "Need for the Natural Resources," shall represent the phrase included in Michigan Zoning Enabling Act of 2006, as amended, Section 205 [MCL 125.3205(4) et seq. enacted by Act 113, PA 2011]: "Need for the Natural Resources by the person or in the market served by the person". "Need for the Natural Resources" shall mean a demonstrable need for a commercially meaningful quantity of the natural resources proposed to be excavated on the applicant's property. Demonstrating such a need shall require the applicant to show either of the following in relation to the natural resources on applicant's property: a commercial need for the natural resources to satisfy a current and ongoing requirement by an active business operated principally by the applicant using the natural resources in the production of a final product for sale that is different than the natural resources; or a present commercial need by purchasers of such natural resources from the applicant's property.

For purposes of this definition of Need for the Natural Resources:

- a. "commercial need" in relation to applicant's property will only be deemed to exist to the extent, if any, that the need for the natural resources cannot otherwise be met within the commercial market.

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

- b. “commercially meaningful quantity” shall mean that quantity, taking into consideration the quality and type of natural resources, that a person who is experienced and knowledgeable in the industry would require as a condition to expending the time and money necessary to commence and operate a mining enterprise that is expected to be profitable for a sustained period of time.
    - c. “commercial market” means that geographic area within which there would be a commercial demand for the natural resources from the applicant’s property, considering factors including, but not limited to: the transportation expenses and other factors relevant to cost; and the actual or available alternative supply of the natural resources from active mining sites and vacant land classified to permit mining within the Township’s RP-10, RP-20, TP-40 and I Zoning Districts, as well as other active mines, quarries, and vacant land classified for such purpose that could provide an alternative supply to meet such demand in whole or part.
  2. As used in this Section, the terms “natural resource” and “natural resources” shall mean and include “gravel,” as well as other minerals.
  3. As used in this Section, the phrase “sufficiency of applicant’s property interest” shall mean a requirement that, with regard to the land which is the subject of the application, applicant has, as a matter of substance, a “possessory property interest” in the land, as that term is understood in Michigan real property law, including, but not limited to a fee simple interest. An option to purchase a possessory interest shall not be a sufficient property interest.
- (D) Administrative Procedure.
  1. The process of review for a request to permit the extraction of natural resources on properties that are not situated in the RP or I Zoning District(s) shall be commenced by the applicant filing an application for an administrative determination with regard to the following, consistent with the terms defined above:
    - a. The sufficiency of the applicant’s property interest; and
    - b. A determination as to whether there are “valuable” natural resources on the applicant’s property, that is, whether the applicant can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted, and
    - c. The Need for the Natural Resources. This determination shall include the duration of the need.

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the three determinations. The Planning Commission shall conduct an administrative hearing on the application, which shall be a public hearing. Prior to the hearing, the Zoning Administrator shall review the application and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The hearing on the issues specified in subparagraphs a. through c., above, shall not be noticed until the applicant has cured the deficiencies, if any, found to exist in accordance with this procedure. Public notice of the hearing shall be provided in conformance with Section 1404.

2. At the hearing the applicant shall have the initial burden of showing:
  - a. The sufficiency of the applicant’s property interest; and
  - b. That the natural resources are “valuable,” that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted; and
  - c. The Need for the Natural Resources. This determination shall include the duration of the need.
3. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in subsection 2., above. At the completion of the applicant’s presentation, the Township Zoning Administrator and/or Township Planner, any expert retained by the Township or other interested person and all interested citizens may address and offer evidence or argument on these issues.
4. Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made a sufficient showing on each of the determinations in subsection 2., above.
5. The Planning Commission shall forward its findings and recommendation to the Township Board which shall, taking into consideration the Planning Commission’s recommendation, then make its own findings and conclusions on each of the determinations in subsection 2., above. The Township Board may conduct an additional public hearing at its discretion. If the Township Board does schedule an additional public hearing, notice shall proceed in conformance with Section 1404.
6. Appeal. With regard to all findings and conclusions made by the Township Board, an aggrieved applicant or other interested party may appeal to the circuit court.



## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

#### (E) Legislative Procedure.

##### 1. Standards for Review

The following standards shall be applied for the purpose of determining whether the applicant has proven that “no very serious consequences” would result from the applicant’s proposed extraction, by mining of natural resources, to the extent each is relevant:

- a. The relationship of applicant’s proposed extraction and associated activities with existing land uses; and
- b. The impact of applicant’s proposed extraction and associated activities on existing land uses in the vicinity of the property; and
- c. The impact of applicant’s proposed extraction and associated activities on property values in the vicinity of the property and along the proposed hauling route serving the property; and
- d. The impact of applicant’s proposed extraction and associated activities on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property; and
- e. The impact of applicant’s proposed extraction and associated activities on identifiable health, safety, and welfare interests in the Township. For purposes of this provision, “health, safety, and welfare” shall have the meaning attributed to such terms by the courts, e.g., *Berman v Parker*, 348 U.S. 26 (1954); *Village of Belle Terre v Boraas*, 416 US 1 (1974), *Kyser* (majority opinion), *Cady v City of Detroit*, 289 Mich. 499 (1939), and *Hess v Charter Township of West Bloomfield*, 439 Mich. 550 (1992), including the manner in which such meaning has been expressed by the Township legislative body in the Master Plan and Zoning Ordinance, read as a whole, including the crucial and material stability and quality of life achieved by establishing the fixed boundaries of the Gravel Zoning District [RP and I Zoning Districts in Spurr Township’s case] (e.g. dissenting opinion of Judge (later Justice) Davis in the Court of Appeals opinion in *Kyser v Kasson Township*, 278 Mich.App. 743, 773 [referenced with approval by the Michigan Supreme Court in *Kyser*, 486 Mich. 514, 519 (2010)]); and
- f. The overall public interest in the extraction of the specific natural resources on the property; and
- g. Any other standard from *Silva*.

##### 2. Burden of Proof

Considering that the boundaries of the RP, Resource Production and I, Industrial Zoning Districts are presumed reasonable, as dictated by *Silva*, at 162, and taking into consideration that zoning regulations seek to serve the interests of the community as a whole, *Silva*, at 158, the applicant shall have the burden of

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

overcoming the presumption of validity of the boundaries of the RP, Resource Production and I, Industrial Zoning Districts, including the burden of proving that, if approved, the applicant's proposed Extractive Operation would result in "no very serious consequences," as such standard is defined above.

3. Review Process – Planning Commission
  - a. The applicant shall submit an application to amend a RP, Resource Production or I, Industrial Zoning District to permit natural resource extraction on the applicant's property if the Township Board has found and concluded under Section 1405, (D) Administrative Procedure, that the applicant has shown all of the following in the administrative procedure provided for above: a. The sufficiency of applicant's property interest; and b. That the resources sought to be extracted are "valuable," that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted and c. The Need for the Natural Resources.
  - b. The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the criteria on the issue of whether "no very serious consequence" shall result in relation to the property and haul route, and in the community, as set forth in MCL 125.3205(5) and as defined above. Prior to conducting a public hearing, the Zoning Administrator shall review the petition and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The public hearing on the application to amend a RP, Resource Production or I, Industrial Zoning District shall not be noticed until the applicant has cured the deficiencies, if any, found to exist in accordance with this procedure. Notice shall be given in accordance with Section 1404.
  - c. The Planning Commission shall conduct a public hearing on the application. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in this Subsection (E). At the completion of the applicant's presentation, the Township Zoning Administrator and/or the Township Planner, any expert retained by the Township or other interested person and all interested citizens may address these issues.
  - d. Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made

## ARTICLE XIV – AMENDMENTS AND REZONING

### Section 1405 Procedure - Rezone for Extraction of Natural Resources: Continued

- a sufficient showing on whether there would be “no very serious consequences” as a result of the proposed natural resources extraction operation, as defined in this Section.
- e. Following all of the hearing procedures and requirements specified above, the Planning Commission shall forward its findings and recommendation on whether to amend the boundaries of a RP, Resource Production or I, Industrial Zoning District to include the applicant's property in accordance with Section 1404, (F).
4. **Review Process – Review by County Planning and Township Board**  
The proceedings following the findings and recommendation of the Planning Commission shall be in accordance with Section 1404 of this Ordinance, subsections (F) through (I), above. As part of the Township Board’s action of adopting or rejecting the proposed amendment of the boundaries of a RP, Resource Production or I, Industrial Zoning Districts (with or without changes as provided in subsection 1404, (G), if the Board adopts the proposed amendment, the Board may consider that “extraction of natural resources is frequently a temporary use of the land and that the land can often be restored for other uses, and appropriate assurances with adequate security can properly be demanded as a precondition to the commencement of extraction operations.” *Silva*, at 160-161. Thus, the Board may take into consideration its findings with regard to the matter of “Need for the Natural Resources” and/or “public interest” with the view that, if reasonably feasible, a finite time period in which the applicant shall have a vested right to undertake the extractive operation shall be established, and following such time period, applicant shall be required to demonstrate a new “Need for the Natural Resources” and/or “public interest” as a condition to being entitled to continue the use. If such a time period is included in the Board’s adoption of an amendment to a RP, Resource Production, or I, Industrial Zoning District(s) with regard to the property at issue, the property owner shall not be authorized to make any improvements on the property and commence any operation unless and until the owner of the property files an affidavit with the Register of Deeds attaching the adoption action of the Board under this Section, including any such time limitation. At the conclusion of the time limitation established for mining, if any, as such time may be extended consistent with this provision, the Township may rezone the property to a new reasonable classification. In such event, after giving the property owner a right to a hearing before the Township Board, the Board may order the stoppage of all mining activities and a reclamation of the property.

## ARTICLE XV

### ARTICLE XV ACCESS MANAGEMENT

#### Section 1501 Findings and Intent

Conditions along the major highways in Baraga County are changing with increasing development and traffic. Continued development along U.S. Highway 41/State Highway M-28 will further increase traffic volumes and introduce additional conflict points, which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement, and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway.

The provisions of this Article are intended to promote safe and efficient travel within Spurr Township; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Spurr Township Master Plan and the U.S. Highway 41/State Highway M-28 Access Management Plan goals and objectives; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Baraga County Road Commission, and adjoining jurisdictions, as applicable.

To these ends, the following provisions apply:

1. Establish a Highway Overlay Zone to regulate access points along the highway.
2. Identify additional submittal information and review procedures required for parcels that front along U.S. Highway 41/State Highway M-28.
3. Require demonstration that new parcels are accessible and in compliance with the access standards of this Ordinance to ensure safe accessibility as required by the Land Division Act.
4. Restrict lots and parcels to a single access point except under certain circumstances.
5. Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;
6. Require coordinated access among adjacent lands wherever feasible;
7. Improve situations where existing development along the highways does not conform to the standards and intent of this Ordinance.
8. Establish uniform standards to ensure fair and equal application.

## **ARTICLE XV – Access Management**

### Section 1502 Applicability

The standards of this Section apply to all lots and parcels that abut the highway right-of-way of U.S. Highway 41/State Highway M-28 and such other lands that front on intersecting streets within three hundred fifty (350) feet of the U.S. Highway 41/State Highway M-28 right-of-way within Spurr Township. This area is referred to as the Highway Overlay Zone.

The standards of this Article shall be applied by the Zoning Administrator and Planning Commission during site plan review, as is appropriate to the application. The Planning Commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this article prior to disapproving or approving a site plan per the requirements of Article VI (Site Plan Review) of the Zoning Ordinance. Spurr Township shall coordinate its review of the access elements of a site plan with the appropriate road authority prior to making a decision on an application (see Section 1504). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the Baraga County Road Commission, or the Michigan Department of Transportation. Any driveway permit obtained by an applicant prior to review and approval of a site plan as required under this Ordinance will be ignored, unless it is conditioned upon approval under this Ordinance.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Uses within the Highway Overlay Zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements of that district, with the following additional provisions:

1. The number of access points is the fewest needed to allow motorists reasonable access to the site.
2. Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay Zone, and the guidelines of the applicable road agency (MDOT) and/or the Baraga County Road Commission) and the recommendations of the Spurr Township Master Plan, as appropriate.
3. Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the Baraga County Register of Deeds.
4. No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay Zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.
5. No land division, subdivision, or site condominium project for land within this Highway Overlay Zone shall be approved unless in compliance with the access spacing standards in this Article is demonstrated.
6. Any change in use on a site that does not meet the access standards of this Highway Overlay Zone, shall be required to submit an application for approval by the Planning

## ARTICLE XV – Access Management

### Section 1502 Applicability: Continued

Commission and submit information to the MDOT, and/or Baraga County Road Commission as appropriate, to determine if a new access permit is required. See Section 1511 below.

7. For building or parking lot expansions, changes in use, or site redevelopment that cannot meet the standards of this ordinance due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this Highway Overlay Zone. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the Spurr Township Master Plan, and any recommendations from the MDOT, and/or Baraga County Road Commission as appropriate. Required improvements may include removal, rearrangement, or redesign of driveways or other access.
8. Where conflict occurs between the standards of this Ordinance and other applicable ordinances, the more restrictive regulations shall apply.

### Section 1503 One Access Per Parcel

1. All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the Ordinance (hereafter referred to as "the parent parcel"), that shares a lot line of less than six hundred (600) feet with right-of-way on U.S. Highway 41/State Highway M-28 shall be entitled to one (1) driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.
  - a. All subsequent land divisions of a parent parcel shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.
  - b. Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive.
2. Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of a. and b. above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic

## ARTICLE XV – Access Management

### Section 1503 One Access Per Parcel: Continued

engineer determines to the satisfaction of the Planning Commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. See also Section 1518 (2).

### Section 1504 Applications

1. Applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Baraga County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well.
2. Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article VI in addition to those of this Section (1504). In addition:
  - a. Applications are strongly encouraged to rely on the following sources for access designs, the National Access Management Manual, TRB, 2003; National Cooperative Highway Research Program (NCHRP), “Access Management Guidelines to Activity Centers” Report 348, “Impacts of Access Management Techniques” Report 420; and the AASHTO (American Association of State Highway and Transportation Officials) “Green Book” A Policy on Geometric Design of Highways and Streets. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:
    - 1) Not more than one driveway access per abutting road
    - 2) Shared driveways
    - 3) Service drives: front and/or rear
    - 4) Parking lot connections with adjacent property
    - 5) Other appropriate designs to limit access points on an arterial or collector.
  - b. As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of Section 1108.

## ARTICLE XV – Access Management

### Section 1504 Applications: Continued

- c. In addition to the information required in Article VI, the information listed below shall also be submitted for any lot or parcel within the Highway Overlay Zone accompanied by clear, scaled drawings (minimum of 1" = 20') showing the following items:
- 1) Existing access points. Existing access points within 250 feet on either side of the U.S. Highway 41/State Highway M-28 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
  - 2) Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.
  - 3) The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
  - 4) Size and arrangement of parking stalls and aisles.
  - 5) The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Baraga County Road Commission are met.
  - 6) Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
  - 7) Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
  - 8) Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the County Register of Deeds.
  - 9) Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.



## ARTICLE XV – Access Management

### Section 1504 Applications: Continued

- 10) Dumpsters or other garbage containers.
- 11) The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
- 12) Traffic impact study meeting the requirements of Section 1521 where applicable.

### Section 1505 Review and Approval Process

The following process shall be completed to obtain access approval:

1. An Access Application meeting the requirements of Section 1504 above shall be submitted to the Zoning Administrator on the same day it was submitted to the Michigan Department of Transportation and/or the Baraga County Road Commission, as applicable.
2. The completed application must be received by the Zoning Administrator at least 30 days prior to the Planning Commission meeting where the application will be reviewed.
3. The applicant, the Zoning Administrator and representatives of the Baraga County Road Commission, the Michigan Department of Transportation, and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design.
4. If the Planning Commission considers the application first, it shall recommend approval conditioned upon approval of the applicable road authority, or it shall recommend denial based on nonconformance with this Ordinance, or if necessary, table action and request additional information. The action of the Planning Commission shall be immediately transmitted to the applicable road authority.
5. It is expected that if the Michigan Department of Transportation and/or the Baraga County Road Commission, as applicable, review the application first, each entity will immediately send its decision on the application to the Planning Commission for their consideration. One of three actions may result;
  - a. If the Planning Commission and the Michigan Department of Transportation, and the Road Commission, as applicable, approve the application as submitted, the access application shall be approved.

## ARTICLE XV – Access Management

### **Section 1505 Review and Approval Process: Continued**

- b. If both the Planning Commission and the Michigan Department of Transportation and the Road Commission, as applicable, deny the application, the application shall not be approved.
  - c. If either the Planning Commission, Michigan Department of Transportation, or Road Commission, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission and staff of the Michigan Department of Transportation and/or the Baraga County Road Commission, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authority(ies) regarding approval or denial and the terms and conditions of any permit approval.
6. No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case, the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.

### Section 1506 Record of Application

The Zoning Administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

### Section 1507 Period of Approval

Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road, is not initiated by the end of one (1) year, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Use Permits or variances, also expire at the end of one year.

### Section 1508 Renewal

An approval may be extended for a period not to exceed one-year. The extension must be requested in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or plan, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that

## **ARTICLE XV – Access Management**

### **Section 1508 Renewal: Continued**

creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Michigan Department of Transportation and/ or the Baraga County Road Commission, as applicable, for input.

### Section 1509 Re-issuance Requires New Application

Re-issuance of an authorization that has expired requires a new Access Application form to be filled out, fee paid, and processed independently of previous action. See Section 1505, step 1.

### Section 1510 Maintenance

The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.

### Section 1511 Change of Use Also May Require New Driveway

When a building permit is sought for the reconstruction, rehabilitation, or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by the Michigan Department of Transportation and/or the Baraga County Road Commission as applicable, and as set forth in this Ordinance prior to the issuance of a Zoning Permit, and pursuant to the procedures of this section.

### Section 1512 Changes Require New Application

Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised Access Application has been submitted and approved as specified in Section 1505.

### Section 1513 Closing of Driveways

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.

### Section 1514 Inspection

The Zoning Administrator shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County

## **ARTICLE XV – Access Management**

### **Section 1514 Inspection: Continued**

Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

### Section 1515 Performance Bond

Spurr Township may require a performance bond or cash deposit in any sum not to exceed \$5,000 for each such driveway approach or entrance to insure compliance with an approved application. Such bond shall terminate and the deposit be returned to the applicant when the terms of the approval have been met or when the authorization is canceled or terminated.

### Section 1516 Reserved for Future Use

### Section 1517 Lot Width and Setbacks

1. Minimum Lot Width - Except for existing lots of record, all lots fronting on U.S. Highway 41/State Highway M-28 subject to this Article, shall not be less than three hundred (300) feet in width, unless served by shared access or a service drive that meets the requirements of Section 1518 (9, 10, or 11), in which case minimum lot width may be reduced to not less than one hundred (100) feet in width if a deed restriction is approved and recorded with the County Register of Deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.
2. Structure Setback – See Section 401
3. Parking Setback and Landscaped Area - No parking or display of vehicles, goods, or other materials for sale, shall be located within fifty (50) feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of Article IV.

### Section 1518 Access Management Standards

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay Zone shall be established, reconstructed or removed without first meeting the requirements of this Section.

1. Each lot/parcel with frontage on highways U.S. 41/State M-28 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in Sections 1502 and 1503, land divisions shall not be permitted that may prevent compliance with the access location standards of this Highway Overlay Zone.

## ARTICLE XV – Access Management

### Section 1518 Access Management Standards: Continued

2. When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on U.S. Highway 41/State Highway M-28, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:
  - a. One (1) standard, two-way driveway;
  - b. Additional ingress/egress lanes on one (1) standard, two-way driveway;
  - c. Two (2), one-way driveways;
  - d. Additional ingress/egress lanes on two (2), one-way driveways;
  - e. Additional driveway(s) on an abutting street with a lower functional classification;
  - f. Additional driveway on an arterial street.

Note: Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.

3. Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

Posted Speed Limit	Along U.S.-41/M-28*	Along Other Intersecting Major Arterials	Along all Other Intersecting Streets (not major arterials)
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

\* Unless greater spacing is required by MDOT

4. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
5. Driveways and new intersecting streets shall be aligned with driveways on the oppo-

## ARTICLE XV – Access Management

### Section 1518 Access Management Standards: Continued

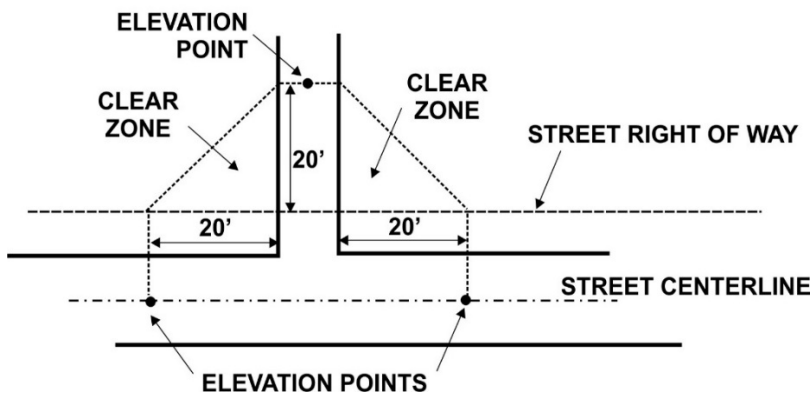
- site side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT or Baraga County Road Commission, as appropriate.
6. Minimum spacing of driveways from intersections shall be 300 feet on U.S. Highway 41/State Highway M-28, and 200 feet along all other public streets (measured from pavement edge to pavement edge) unless MDOT or Baraga County Road Commission, as appropriate, authorizes a lesser spacing.
  7. Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.
  8.
    - a. Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of Section 1518 (3) above, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
    - b. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.
  9. Parking Lot Connections or Parking Lot Cross-Access: Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.

**ARTICLE XV – Access Management**

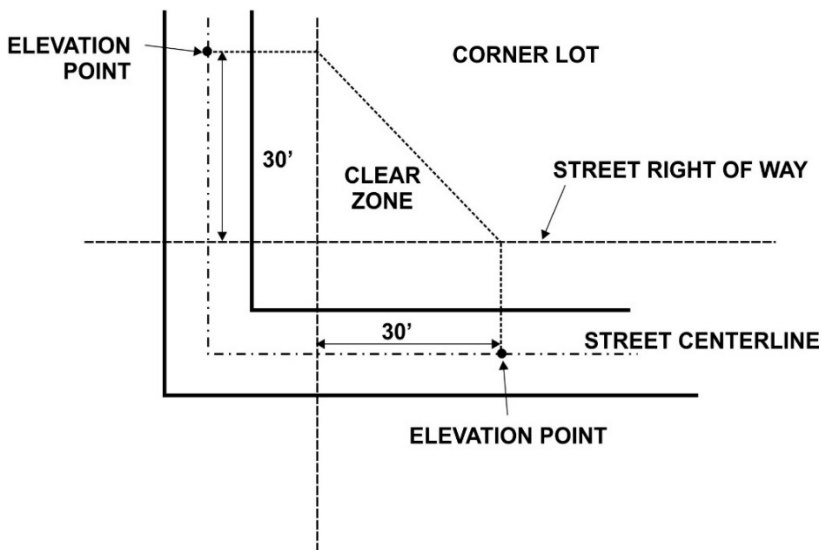
**Section 1518 Access Management Standards: Continued**

10. Access Easements: Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.
11. Access points shall be located to provide safe sight distance, as determined by the applicable road agency.
12. All access points shall maintain clear vision as illustrated in Figures 1 and 2 (below).

**Figure 1  
CLEAR VISION AT DRIVEWAYS**



**Figure 2  
CLEAR VISION ON CORNER**



## ARTICLE XV – Access Management

### Section 1518 Access Management Standards: Continued

13. Throat width and throat length of driveways shall be as required by the road authority and this Ordinance. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.
14. Grades and drainage:
  - a. Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5% (one and one-half foot vertical rise in one-hundred feet of horizontal distance) wherever feasible. Where not feasible, grades shall conform with requirements of the applicable road authority.
  - b. Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required, shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.
15. Directional Signs and Pavement Markings - In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location(s) as required by Spurr Township as part of the site plan review process and approved by the Michigan Department of Transportation and the Baraga County Road Commission (as appropriate), and shall be maintained on a permanent basis by the property owner. Directional signs and pavement markings shall conform to the standards in the Michigan Manual of Uniform Traffic Control Devices.
16. No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.

### Section 1519 Nonconforming Driveways

1. Driveways that do not conform to the regulations in this Article, and were constructed before the effective date of this Article, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by MDOT



## ARTICLE XV – Access Management

### Section 1519 Nonconforming Driveways: Continued

or the Baraga County Road Commission are legal nonconforming driveways until such time as the temporary access permit expires.

2. Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of twelve (12) months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this Article.
3. Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the Ordinance.
4. Driveways that do not conform to the regulations in this Ordinance and were constructed after adoption of this Ordinance shall be considered illegal nonconforming driveways.
5. Illegal nonconforming driveways are a violation of this Ordinance. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.
6. Nothing in this Ordinance shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this Article.

### Section 1520 Waivers and Variances of Requirements

1. Any applicant for access approval under the provisions of Article XV may apply for a waiver of standards in Section 1518 if the applicant cannot meet one or more of the standards according to the procedures provided below:
  - a. For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: Where the standards in Section 1518 cannot be met, suitable alternatives that substantially achieve the intent of the Section may be accepted by the Zoning Administrator, provided that all of the following apply:
    - 1) The use has insufficient size to meet the dimensional standards.

## ARTICLE XV – Access Management

### Section 1520 Waivers and Variances of Requirements: Continued

- 2) Adjacent development renders adherence to these standards economically unfeasible.
  - 3) There is no other reasonable access due to topographic or other considerations.
  - 4) The standards in Section 1518 shall be applied to the maximum extent feasible.
  - 5) The responsible road authority agrees a waiver is warranted.
- b. For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: During site plan review the Planning Commission shall have the authority to waive or otherwise modify the standards of Section 1518 following an analysis of suitable alternatives that substantially achieve the intent of this Section, provided all of the following apply:
- 1) Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
  - 2) Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
  - 3) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
  - 4) The proposed location and design is supported by the County Road Commission and/or the Michigan Department of Transportation, as applicable, as an acceptable design under the circumstances.
2. Variance Standards: The following standards shall apply when the Zoning Board of Appeals considers a request for a variance from the standards of Section 1518.
- a. The granting of a variance shall not be considered until a waiver under Section 1520 (1) above has been considered and rejected.
  - b. Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange)

## ARTICLE XV – Access Management

### Section 1520 Waivers and Variances of Requirements: Continued

that make strict application of the provisions of Section 1518 impractical. This shall include proof that:

- 1) indirect or restricted access cannot be obtained; and,
  - 2) no reasonable engineering or construction solution can be applied to mitigate the condition; and,
  - 3) no reasonable alternative access is available from a road with a lower functional classification than the primary road; and,
  - 4) without the variance, there is no reasonable access to the site and the responsible road authority agrees.
- c. The Zoning Board of Appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of Section 1518, and is the minimum necessary to provide reasonable access.
- d. Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.

### Section 1521 Traffic Impact Study

- A. If the proposed land use exceeds the traffic generation thresholds below, then the Zoning Administrator may require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the Zoning Administrator or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Dept. of Transportation or County Road Commission, as applicable:
1. For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or
  2. When permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven-hundred fifty (750) trips in an average day.

## ARTICLE XV – Access Management

### Section 1521 Traffic Impact Study: Continued




3. Such other development that may pose traffic problems in the opinion of the Planning Commission.
- B. At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook Evaluating Traffic Impact Studies, a Recommended Practice for Michigan, developed by the MDOT and other Michigan transportation agencies and contain the following:
1. A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes, roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis software should be the same for each project, such as using HCS 2000 or a later version.
  2. Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers Trip Generation manual. Spurr Township may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
  3. Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.
  4. Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.
  5. Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the Master Plan, and will not reduce capacity or traffic operations along the roadway.
  7. Qualifications and documented experience of the author of the Traffic Impact Study, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

## **ARTICLE XV – Access Management**




### **Section 1521 Traffic Impact Study: Continued**

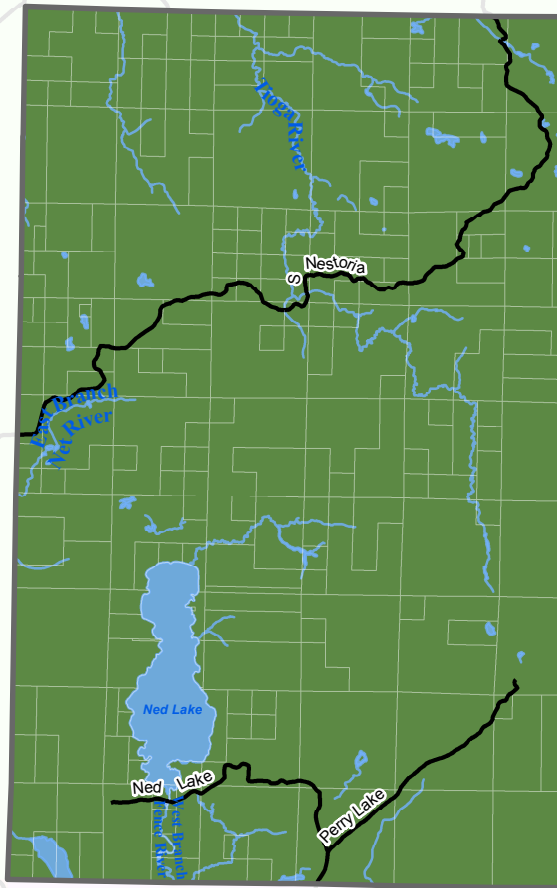
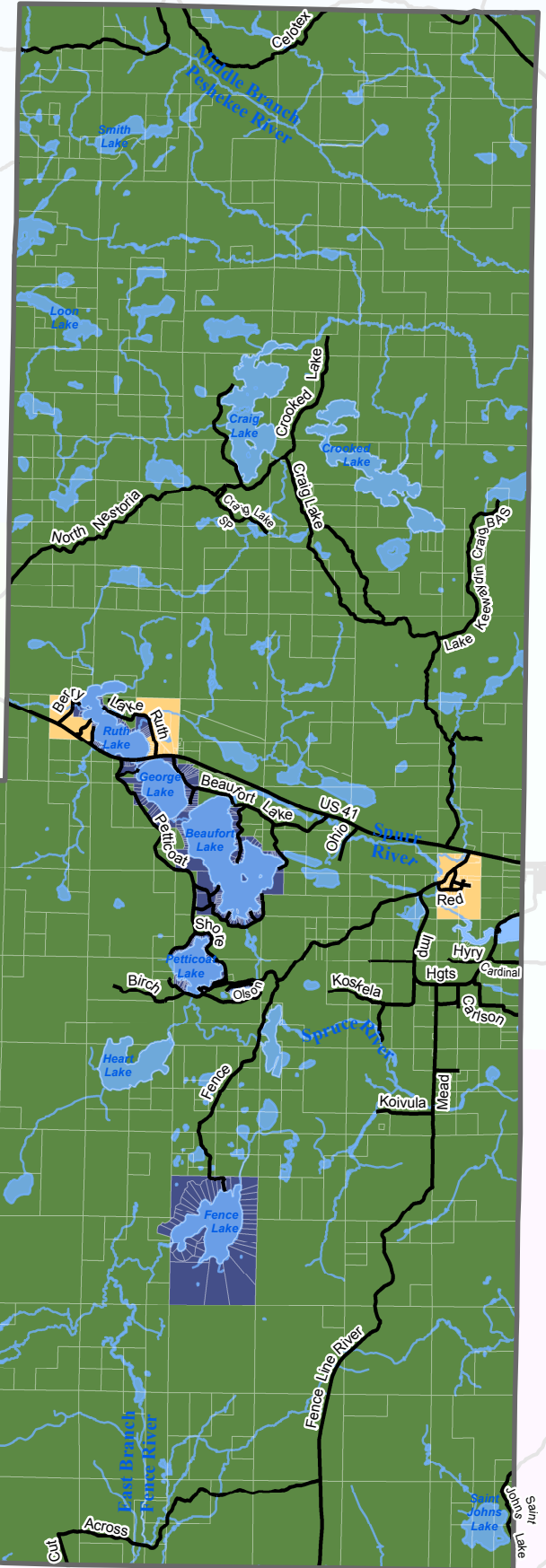
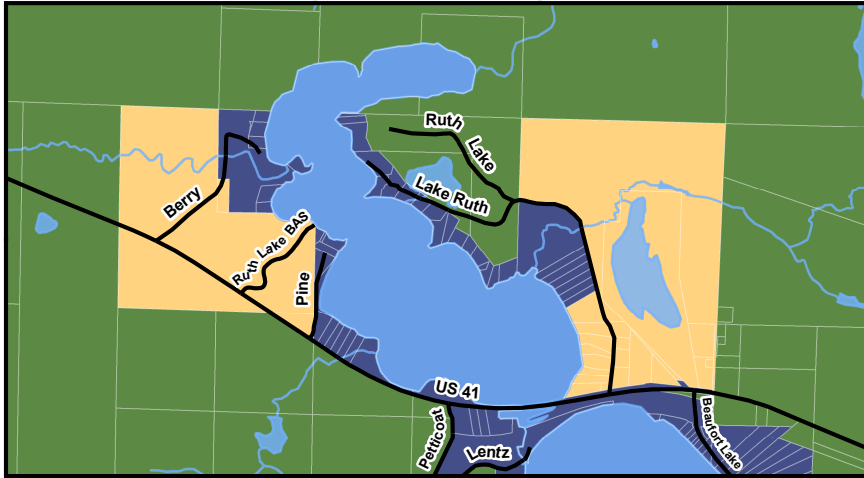
- C. Spurr Township may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per Section 410.

**Base Features**

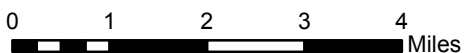
-  Roads
-  Rivers | Creeks
-  Lakes | Ponds

**Proposed Zoning Districts**

-  Waterfront
-  Rural Residential
-  Resource and Production



1 in = 5/8 mile



Data Sources: State of MI

**SPURR TOWNSHIP  
ZONING DISTRICTS**

