

Chapter 220

ZONING

**[HISTORY: Adopted by the Township Board of the Charter Township of Rutland
12-11-1996 by Ord. No. 48, as amended]**

**Chapter 220
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EXECUTIVE SUMMARY AND USER GUIDE FOR CHAPTER 220 OF RUTLAND CHARTER TOWNSHIP CODE (ZONING)

This Executive Summary and User Guide is intended to provide a general orientation to the format and organization of Chapter 220 of the Rutland Charter Township Code (Zoning), to make the document easier to understand and use. For convenience we will refer herein to Chapter 220 as the "Zoning Ordinance".

Like every municipal zoning ordinance, the Zoning Ordinance of Rutland Charter Township regulates the development and use of land by dividing the Township into "zoning districts", sometimes commonly referred to as "zones". This Zoning Ordinance establishes ten such zoning districts as noted in § 220-3-1, and as shown on the Zoning Map made part of Chapter 220 by § 220-3-2.

This Zoning Ordinance is based on what is sometimes called a "permissive" zoning concept; that is, land in each zoning district can be used only for the land uses and activities that are specifically designated in the Zoning Ordinance as permissible in that district. The permissible land uses within each zoning district are further divided into either "permitted uses" or "special land uses". A land use designated as a "permitted use" in a zoning district is recognized as being harmonious with other such uses within the same district, and may therefore require no prior land use approval; but even some permitted uses are subject to "site plan review" or other prior land use approval. A land use designated as a "special land use" in a zoning district always requires prior land use approval by the Township Planning Commission, pursuant to standards specified in the Zoning Ordinance, to make sure the particular location proposed for the land use will not adversely impact other property, or the general health, safety and welfare of the community. Articles IV-XIII of this Zoning Ordinance indicate the permitted uses and special land uses for each of the ten zoning districts.

Article XV specifies other requirements applicable in each zoning district, such as the minimum requirements for property ("lot") in each zoning district, and "setback" and other location requirements for buildings and other structures in each zoning district.

Some provisions of the Zoning Ordinance are intended to apply generally throughout the Township, such as the "General Provisions" in Article XVI. Other parts of Chapter 220 regulate specific matters that may also apply in one or more zoning districts, or throughout the Township, as indicated to be applicable. Examples of such provisions include the following sections/articles and subject matters:

- § 220-17-1---Accessory Uses
- § 220-17-2---Accessory Buildings
- § 220-17-3---Permits for Various Temporary Uses or Structures
- § 220-17-5---General Lighting and Screening Requirements
- § 220-17-10---Waterfront Property Development Regulations
- § 220-17-11---Building Design and Architectural Standards

- § 220-17-13---Private Roads
- Article XVIII---Signs
- Article XIX---Parking and Loading Areas

So, to determine whether property can be used for a particular land use or activity, and what regulations may apply to that property/land use, a person using this Zoning Ordinance will generally go through the following steps:

- ❖ Step 1: find the property on the official Zoning Map and determine the “zoning district” in which the property is located.
- ❖ Step 2: make sure the property meets the minimum “lot” requirements for that zoning district, and is therefore “buildable” pursuant to the Schedule in Article XV; or is otherwise a legal buildable “nonconforming lot” pursuant to § 220-22-9 (Article XXII also includes special provisions pertaining to “nonconforming” uses and building/structures lawfully established before the enactment of the Zoning Ordinance).
- ❖ Step 3: refer to the pertinent Article covering that zoning district from Articles IV-XIII; and determine whether the intended land use is listed there as either a “permitted use” or a “special land use”.
- ❖ Step 4a: if the intended land use is listed as a “permitted use” in the zoning district in which the property is located, check § 220-21-1 to see whether that use is subject to a “site plan review” requirement. If so, other provisions of Article XXI will apply.

Step 4b: if the intended land use is listed as a “special land use” in the zoning district in which the property is located, review Article XX for information about applying for special land use approval and the “standards” that must be shown to be complied with before the Planning Commission can grant such approval, after a public hearing. § 220-20-3 specifies the approval standards that apply to all special land uses; but § 220-20-7 includes additional specific standards that are required of certain special land uses. Note: the “site plan review” requirements of Article XXI apply to all special land uses.

- ❖ Step 5: for every permitted use or special land use check whether additional regulations are applicable from either Article XVI (General Provisions), Article XVII (Supplementary Provisions), or other articles/sections dealing with specific subjects, such as the examples listed above in the bullet points.

User hint: many words and terms used in this Zoning Ordinance are given a specific definition in § 220-2-2. It is therefore important to refer to that section to determine whether a particular word or term has a specific definition for purposes of this

Ordinance. Any word or term not specifically defined in that section or elsewhere in this Ordinance (such as in § 220-18-3 with respect to various terms relating to signage) is defined in accordance with its customary or common meaning.

Finally, other parts of this Zoning Ordinance address what may be called “administrative” matters, including the following articles on the indicated subjects:

- Article XXIII---Administration and Enforcement
- Article XXIV---Zoning Board of Appeals
- Article XXV---Zoning Text/Map Amendment

These articles are not generally relevant to determining how a particular land use is regulated by the Zoning Ordinance, but may apply in certain circumstances. For example, a potential applicant for a “variance” should review Article XXIV, as that Article has provisions addressing the authority of the Zoning Board of Appeals to grant variance relief and generally covers the authority and functions of that board.

Disclaimer: this Executive Summary and User Guide is intended to provide a general orientation to the format and organization of the Zoning Ordinance to help persons better understand how to use the Ordinance, generally. Many zoning questions can be answered upon simple reference to the appropriate parts of this Zoning Ordinance; but some questions will require knowledgeable assistance from someone such as the Zoning Administrator, and sometimes from legal counsel with special expertise in zoning matters. In short, although this Executive Summary and User Guide is not intended to substitute for knowledgeable assistance to address a particular zoning question or issue where required; it will hopefully make this Zoning Ordinance less of a mystery to township officials and residents alike, and more accessible to all.

Chapter 220 Format Note

In the 2009 codification of the ordinances of Rutland Charter Township the Zoning Ordinance was codified as Chapter 220 of the Code, and organized with a consecutive section numbering system. The initial Code also used a consecutive page numbering system for all of the pages in Chapter 220.

When parts of Chapter 220 were updated in 2014-2015 (Ordinance Nos. 2014-150 and 2015-152), the Township also significantly reorganized the content of Chapter 220 and implemented an article-based section numbering system, and a related article-based page numbering system.

The article-based section numbering system chronologically numbers each section within each article, with the number for each section beginning with a prefix for the Code chapter number (220), followed by the article number within Chapter 220, and then the consecutive number of each section as it appears within the article.

Thus, for example, the first section of Article I of Chapter 220 is § 220-1-1, and the fourth section of that same article is § 220-1-4. The first section of Article II is § 220-2-1, and so on.

In coordination with this article-based numbering system, all of Chapter 220 is also now repaginated using a unique article-based page numbering system that enables the user to immediately discern from each page number the article of the content on each page, and the consecutive number of each page within that article.

For example, the fourth page of Article II is numbered 220:2:4 at the bottom of the page. This page number tells the user the content of that page pertains to Article II of Chapter 220, and is the fourth page of content within that article.

ARTICLE I
Title, Purpose, Scope and Legal Basis

§ 220-1-1. Title.

This chapter shall be known as the "Zoning Ordinance of Rutland Charter Township." It includes the ordinance and the Zoning Map.

§ 220-1-2. Purpose.

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

§ 220-1-3. Scope and interpretation.

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

§ 220-1-4. Legal basis.

This chapter is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and its predecessor, the Township Zoning Act, Public Act 184 of 1943, as amended, that was in effect until July 1, 2006.

ARTICLE II
Rules of Text Interpretation, and Definitions of Terms

§ 220-2-1. Rules of text interpretation.

The following rules of interpretation apply to the text of this chapter:

- A. The particular shall control the general.
- B. With the exception of this section, the headings which title a section or subsection are for convenience only and are not to be considered in any construction or interpretation of this chapter or as enlarging or restricting the terms and provisions of this chapter in any respect.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Unless the context clearly indicates to the contrary:
 - 1. Words used in the present tense include the future tense;
 - 2. Words used in the singular number shall include the plural number; and
 - 3. Words used in the plural number shall include the singular number.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended," "arranged," or "designed to be used," or "occupied".
- H. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.
- I. Any term or word defined in this chapter is defined for the purpose of its use in this chapter; such definitions shall apply in the interpretation and enforcement of this chapter unless otherwise specifically stated.

§ 220-2-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE, BUILDING OR STRUCTURE — A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

AGRICULTURAL DISTRICT (OR ZONE) — The AG/OS Agricultural/Open Space Preservation District, and any other subsequently established zoning district which includes AG in its title code or “Agricultural” in its name.

ALTER (or ALTERED or ALTERATIONS) — Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building. Also see “structural changes or alterations”.

ANIMAL UNIT (or ANIMALS PER ANIMAL UNIT) — For purposes of this Chapter, the number of animals per animal unit shall be determined pursuant to the following equivalents:

- | | | |
|----|--------------------------------|-----------------------------------|
| A. | Slaughter and Feeder Cattle: | 1 animal equals 1.00 animal unit |
| B. | Mature Dairy Cattle: | 1 animal equals 1.42 animal units |
| C. | Horses: | 1 animal equals 2.00 animal units |
| D. | Swine (weighing over 55 lbs.): | 1 animal equals 0.40 animal unit |
| E. | Sheep and Lambs | 1 animal equals 0.10 animal unit |
| F. | Laying Hens or Broilers: | 1 animal equals 0.01 animal unit |
| G. | Turkeys: | 1 animal equals 0.018 animal unit |

All other animal classes, types or sizes (eg. Nursery pigs) not listed, but defined in the Michigan Right to Farm Act or described in Michigan Commission of Agriculture and Rural Development policy, are to be calculated as one thousand pounds live weight equals one animal unit.

BASEMENT — A portion of a building, or a portion of a room, located wholly or partially below grade.

BED-AND-BREAKFAST FACILITY — A use which is subordinate to the principal use of a single-family dwelling in which not more than six transient guests are provided a sleeping room and board in return for compensation.

BIOFUEL — Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and that meets applicable quality standards, including, but not limited to, ethanol and biodiesel; but not including methane or any other fuel product from an anaerobic digester. For purposes of this term “ethanol” means a substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

BUILDING — An edifice configured or constructed and designed to stand more or less permanently and covering a space of land for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose.

BUILDING HEIGHT — The vertical distance from the average elevation of the adjoining grade paralleling the front, or if on a street corner, the front and side, of the building to its highest point of the roof surface if the roof is flat; to the deckline, if the roof is mansard type; or the average height between the eaves and the ridge if the roof is gable, hip or gambrel type.

BUILDING LINE — The line adjacent to a principal building and parallel to the front lot line, formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjacent ground.

BUILDING/STRUCTURE SETBACK — The minimum horizontal distance required to exist between a building or structure or any portion thereof (including eaves, steps, and porches) and the front, side or rear lot line, or some other place, such as a waterway, as required by this Chapter.

CHILD CARE CENTER or DAY CARE CENTER — A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parent or guardians are not immediately available to the child. Child care center or day care center includes a facility which provides care for not less than two 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 center or day care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a twelve-month period.
- B. A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

CHURCH/WORSHIP FACILITY — A building whose primary purpose is to provide a place where persons regularly assemble for religious worship which is maintained and controlled by a religious body organized to sustain worship for a local congregation.

COMMON OPEN SPACE — Land within an open space preservation development which is not individually owned and which may not be subdivided. Such land shall be permanently protected from development and preserved in an undeveloped state. Areas not considered common open space shall include areas devoted to public or private road rights-of-way or any land that has been or is to be conveyed to a public agency for utilities, areas devoted to county drain easements, existing surface water bodies and regulated wetlands.

COMMUNITY FACILITY — A building or structure owned and operated by a governmental agency to provide service to the public.

CONDOMINIUM UNIT — That portion of a condominium subdivision designed and

intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use approved by the Michigan Department of Commerce.

CONSTRUCTION — The building, erection, alteration, repair, renovation (or demolition, relocation or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot, other than normal maintenance.

CONVALESCENT 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.

DENSITY — The total number of dwelling units divided by the area of land under consideration.

DUPLEX — See "dwelling, two-family."

DWELLING, MULTIPLE-FAMILY — A building or portion thereof, used or designed for occupancy by more than two families living independently of each other.

DWELLING, SINGLE-FAMILY DETACHED — A dwelling unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot.

DWELLING, TWO-FAMILY — A detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in said building. It may also be termed a "duplex."

DWELLING or DWELLING UNIT — Any building or portion thereof, mobile home, premanufactured or pre-cut structure which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families (but not including motels, hotels, tourist rooms or cabins) complying with the following standards:

- A. A minimum living area of 960 square feet for one- or two-bedroom dwelling plus 150 square feet of additional living area for each additional bedroom beyond two. See Article XV for the minimum dwelling unit size applicable in the HDR District.
- B. A minimum width throughout the entire length of the dwelling of 20 feet measured between the exterior part of the walls having the greatest length, except in the AG/OS District the minimum width shall be 16 feet.
- C. Firm attachment to a permanent foundation constructed on the site in accordance with the Township Building Code and co-extensive with the perimeter of the building, which attachment also meets all applicable building codes and other state and federal regulations.
- D. No exposed wheels, towing mechanism, undercarriage or chassis.
- E. Approved connection to a public sewer and water supply or to such private facilities approved by local health department.

- F. A storage area either in a basement located under the dwelling, an attic area, in closet areas or in a separate structure being of standard construction similar to or of better quality than the principal dwelling, equal to not less than 15% of the minimum dwelling unit square footage requirement of this chapter for the zone in which the dwelling is located.
- G. Aesthetic compatibility in design and appearance to dwellings in the surrounding area; provided this provision shall not be construed to prohibit innovative design concepts in such matters as solar energy, view, unique land contours or relief from the common or standard designed home.
- H. Permanently attached steps connected to exterior door areas or to porches connected to exterior door areas where a difference in elevation requires the same.
- I. Mobile homes shall comply with the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards" (24 CFR 3208), and as from time to time amended.

The foregoing standards A, B, and C shall not apply to a mobile home occupied as a lawful temporary dwelling in a state-licensed and zoning-approved campground.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance of public utilities by municipal departments or by utilities regulated by the Michigan Public Service Commission and holding a franchise from the Township, of underground or overhead gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply, or disposal systems (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electric substations, gas regulators, stations, and other similar equipment).

EXOTIC ANIMAL — Any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo or which would ordinarily be found in the wilderness of this or any other country.

FAMILY

- A. An individual or group of two or more persons related by blood, marriage or adoption, including those related as foster children and servants, together with not more than one additional unrelated person, who are domiciled together as a single, domestic, nonprofit housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FAMILY BUSINESS – An occupation or business activity conducted as an accessory use to the principal residential use of the same property, but which does not qualify as a home occupation as defined in this chapter.

FAMILY DAY CARE HOME — A private home where not more than six minor children (or such other increased capacity number of minor children permissible under state law) are received for care and supervision for periods of less than 24 hours per day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

FARM — The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products, including the commercial raising of livestock and poultry, dairying, horticulture, sod, farm forestry, truck gardening, and other similarly bona fide agricultural enterprises or uses of land and structures for commercial agriculture purposes; but not including farms operated wholly or in part for the disposal of garbage, sewage, rubbish, offal or wastes from rendering plants or slaughterhouses.

FARM MARKET — An area and/or permanent or temporary building/structure where transactions between a farm market operator and customers take place as a seasonal or year round operation, and where at least 50% of the products marketed for sale (as measured by retail space used to display products) are produced on and by a farm under the same ownership or control as the farm market. A farm product or commodity sold at a farm market may be unprocessed, or processed to convert it into a value-added product that is more marketable for direct sales (such as by washing, sorting, packaging, canning, drying, freezing, or otherwise preparing the product for sale). A farm market may include other activities and services directly related to the farm products sold at the farm market (such as a cider mill accessory to an apple producer's farm market), but shall not otherwise include indirectly related or unrelated activities and services to attract and entertain customers and/or facilitate retail trade transactions unless such activity or service is otherwise permissible in the zoning district at issue and has been granted all required zoning approvals.

FARMERS MARKET — A commercial marketing facility where farm products are sold by multiple vendors whose operations/activities are not necessarily otherwise affiliated with each other. A farmers market may include unprocessed farm products (fruits, vegetables, and other farm commodities) and processed farm products (for example, apple cider, jams, pies, breads). Non-edible goods may be sold at a farmers market if they are directly related to or derived from farm products; but a farmers market is not intended to include such land uses/activities as flea markets, yard sales, or any other similar sales event where farm products are not predominant. Note: a farmers market may also include a facility that would otherwise qualify as a "farm market" as herein defined except for the percentage of products offered for sale that are not produced on and by a farm under the same ownership and control as the farm market (e.g., less than 50%).

FARM OPERATION: The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

- marketing produce at roadside stands or farm markets.
- the generation of noise, odors, dust, fumes, and other associated conditions.
- the operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by law.
- field preparation and ground and aerial seeding and spraying.
- the application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- use of alternative pest management techniques.
- the fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- the management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- the conversion from a farm operation activity to other farm operation activities.
- the employment and use of labor.

FARM PRODUCT: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, and any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture and Rural Development.

FENCE – A structural barrier constructed of wood, metal, stone, brick or masonry, or other durable materials, of either solid or open-style construction, erected or otherwise serving to enclose an area of land, or as a property boundary demarcation or dividing device, or as a visual screening device, or performing a similar function. This definition is not intended to include growing trees, shrubs, or other similar live vegetative material.

FLOOR AREA (or GROSS FLOOR AREA) — The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The "floor area" of a building, which is what this normally is referred to as, shall include the basement floor area when more than 1/2 of

the basement height is above the established curb level or finished lot grade, whichever is higher (see "basement" definition).

FOSTER CARE (LARGE GROUP) HOME — A private residence constructed and used for residential purposes that is licensed by the state pursuant to 1979 Public Act 218, as amended (*MCL 400.701 et. seq.*) or 1973 Public Act 116, as amended (*MCL 722.111 et. seq.*) which provides supervision, personal care and protection, in addition to room and board, for 7-13 adults and/or children for compensation, 24 hours a day, five or more days a week, for two or more consecutive weeks; except for persons released from or assigned to adult correctional institutions. This term shall also include, solely for purposes of this Ordinance, a private residence in which 7-13 adults are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian.

FOSTER CARE (SMALL GROUP) HOME — A private residence constructed and used for residential purposes that is licensed by the state pursuant to 1979 Public Act 218, as amended (*MCL 400.701 et. seq.*) or 1973 Public Act 116, as amended (*MCL 722.111 et. seq.*) which provides supervision, personal care and protection, in addition to room and board, for 1-6 adults and/or children for compensation, 24 hours a day, five or more days a week, for two or more consecutive weeks; except for persons released from or assigned to adult correctional institutions. This term shall also include, solely for purposes of this Ordinance, a private residence in which 1-6 adults are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian.

FRONTAGE (OR LOT FRONTAGE) — The length of the front lot line of a lot. This term generally relates to the minimum required length of a front lot line/lot width for property to be buildable; but may refer to road frontage in other contexts in this Chapter.

GARAGE — A building accessory to a principal use designed to house not more than three automobiles.

GRADE — The grade of a road, street or sidewalk shall be the elevation of the curb at the midpoint of the front of the lot, as established by the Zoning Administrator.

GROUP DAY CARE HOME — A private home where more than six but less than 12 minor children (or such other increased capacity number of minor children permissible under state law) are given care and supervision for periods of less than 24 hours a day untended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

HOME OCCUPATION — An occupation or business activity (including instruction in a craft or fine art) conducted as an accessory use within a dwelling by the resident(s) of the dwelling, in compliance with all of the following characteristics and limitations:

- A. Is operated only after having received a zoning compliance permit from the Zoning Administrator pursuant to § 220-16-2.
- B. Is operated in its entirety within the dwelling and not within a garage or accessory building located on the premises.

- C. Is only conducted by the person or persons living within the dwelling and by no others.
- D. The dwelling has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
- E. The occupation conducted therein is clearly incidental to the residential use of the building.
- F. No goods or services are sold from the premises which are not strictly incidental to the principal home occupation conducted therein, and there is no outdoor display of products.
- G. No services are sold or conducted upon or from the premises which would constitute a nuisance or unreasonable annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night-lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.
- H. The occupation does not utilize more than 25% of the interior gross floor area of the dwelling.

HOTEL/MOTEL — A building or a series of attached, semidetached, or detached rental units providing long-term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided without the approval by the Planning Commission with the exception of units for use of the manager and/or caretaker.

JUNK — See "trash."

JUNKYARD — Any place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including paper, rags, wrecked vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete. This term includes salvage yard, dismantling yard, and any other similar land use.

KENNEL — Any land, building or structure where four or more adult dogs and/or six or more adult cats are boarded, housed, or bred.

LIMITED COMMON ELEMENTS — A portion of the common elements reserved in the master deed of a condominium subdivision for the exclusive use of less than all of the co-owners.

LIVESTOCK — Domestic animals raised or kept for any purpose, including but not limited to, cattle, sheep, hogs, horses, chickens, rabbits, ducks, goats, turkeys and geese, but excluding dogs and cats.

LOT — A parcel of land (including a “unit” within a site condominium development) adjoining a public street, or where allowed by this Chapter a private road or shared driveway, and separated from other parcels by legal description, deed, or subdivision plot; provided that the owner of contiguous lots or portions of lots in the same ownership may have as many of the contiguous lots considered as a single lot for the purpose of this Chapter as the owner chooses, or as may otherwise be lawfully required to render the property buildable in conformance with this Chapter [see “Lot, Zoning (Zoning Lot)”].

LOT AREA — The total horizontal area included within the lot lines. Where the front lot line is the center line of a street, or where a portion of a lot lies within a street right-of-way, the lot area calculated to meet the requirements of this chapter shall not include the area of the street right-of-way. For purposes of this definition a “street” includes a lawful private road/shared driveway.

LOT, CORNER — A lot whose lot lines form an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°. For purposes of this definition a “street” includes a lawful private road/shared driveway.

LOT COVERAGE — The amount of a lot, stated in terms of percentage of lot area, that is covered by all roofed buildings and/or structures located thereon, including all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or not fully roofed; but not including structural fences or hedges used as fences, walls, or swimming pools.

LOT LINE — A boundary line of a lot; or, where applicable, a street right-of-way line. For purposes of this definition a “street” includes a lawful private road/shared driveway.

LOT LINE, FRONT —

- A. Where a lot abuts only one public street, or lawful private road/shared driveway, the front lot line shall be the line separating the lot from the right-of-way of the street or lawful private road/shared driveway; except where a lot has frontage on a lake, river, or other navigable waterway, the front lot line shall be the boundary line abutting the water.
- B. In the case of a corner lot, or a lot that otherwise has frontage on more than one public street, the front lot line shall be the right-of-way line of the street from which primary access to the principal building is provided or is proposed to be provided, or the right-of-way of the street with which the principal building is most directly associated/facing or is proposed to be most directly associated/facing; except where a lot has frontage on a lake, river, or other navigable waterway, the front lot line shall be the boundary line abutting the water.

LOT LINE, REAR — Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

LOT LINE, SIDE — Any lot line not a front or rear lot line.

LOT OF RECORD — A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT WIDTH — The horizontal distance between side lot lines measured at both the front lot line and the building line, on a line parallel to the street (or, where applicable, a lawful private road/shared driveway).

LOT, ZONING (ZONING LOT) — Two or more contiguous lots or portions of lots in the same ownership, where the grouping of such lots for zoning purposes is allowed or required by this Chapter. In such instances the outside perimeter of the group of lots/portions of lots shall constitute the lot lines of the resulting 'zoning lot'.

MARIHUANA — That term as defined in the Michigan Regulation and Taxation of Marihuana Act (MRTMA).

MARIHUANA BUSINESS — Any of the following terms as further defined herein: marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, medical marihuana grower, medical marihuana safety compliance facility, medical marihuana processor, medical marihuana provisioning center, and medical marihuana secure transporter. This term is synonymous with the term "marihuana establishment", except this term does not include any type of marihuana business under the MRTMA or MMFLA that is not specifically included in this definition; and is also not intended to include any land use or activity that is subject to a "special license" issued by the State pursuant to R 420.21 of the Michigan Administrative Code. Further, no provision of Chapter 220 pertaining to a "temporary event" (such as §220-17-3.E.) is intended to apply to any type of marihuana business/marihuana establishment or related event.

MARIHUANA GROWER — A location where a licensee under the MRTMA lawfully cultivates marihuana and sells or otherwise transfers marihuana to marihuana establishments, where the licensee is authorized to grow not more than the following number of marihuana plants under the indicated license class for each marihuana grower license the marihuana grower holds in that class:

- Class A---100 marihuana plants.
- Class B---500 marihuana plants.
- Class C---2,000 marihuana plants.

Note: for the purpose of this definition only mature marihuana plants are included in the plant count.

MARIHUANA MICROBUSINESS — A location where a licensee under the MRTMA lawfully cultivates not more than 150 marihuana plants; processes and packages marihuana; and sells or otherwise transfers marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.

MARIHUANA PROCESSOR — A location where a licensee under the MRTMA lawfully obtains marihuana from marihuana establishments; processes and packages marihuana; and sells or otherwise transfers marihuana to marihuana establishments.

MARIHUANA RETAILER — A location where a licensee under the MRTMA lawfully obtains marihuana from marihuana establishments and sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older.

MARIHUANA SAFETY COMPLIANCE FACILITY — A location where a licensee under the MRTMA lawfully tests marihuana, including certification for potency and the presence of contaminants.

MARIHUANA SECURE TRANSPORTER — A location of the primary place of business for a licensee under the MRTMA to lawfully obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.

MEDICAL MARIHUANA GROWER — A location where a licensee under the MMLFA lawfully cultivates, dries, trims, or cures and packages marihuana for sale to a medical marihuana processor, medical marihuana provisioning center, or another medical marihuana grower, where the licensee is authorized to grow not more than the following number of marihuana plants under the indicated license class for each medical marihuana grower license the medical marihuana grower holds in that class:

- Class A--- 500 marihuana plants.
- Class B---1,000 marihuana plants.
- Class C---1,500 marihuana plants.

Note: for the purpose of this definition only mature marihuana plants are included in the plant count.

MEDICAL MARIHUANA PROCESSOR — A location where a licensee under the MMFLA lawfully purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a medical marihuana provisioning center or another medical marihuana processor.

MEDICAL MARIHUANA PROVISIONING CENTER — A location where a licensee under the MMFLA lawfully purchases marihuana from a medical marihuana grower or medical marihuana processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers, and includes any commercial property where marihuana is lawfully sold at retail to registered qualifying patients or registered primary caregivers.

MEDICAL MARIHUANA SAFETY COMPLIANCE FACILITY — A location where a licensee under the MMFLA lawfully takes marihuana from a medical marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.

MEDICAL MARIHUANA SECURE TRANSPORTER — A location where a licensee under the MMFLA lawfully stores marihuana and transports marihuana between medical marihuana facilities for a fee.

MMFLA — The Medical Marihuana Facilities Licensing Act, MCL 333.26421-333.26430, including such amendments of same as may be made from time-to-time.

MOBILE HOME — A movable or portable non-motorized dwelling constructed to be towed on its own chassis to a development site and connected to utilities and a permanent foundation for occupancy as a single-family dwelling. A mobile home may contain parts that may be combined, folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity.

MOBILE HOME PARK — A parcel or tract of land upon which three or more mobile homes are located on a continual nonrecreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended or used incidental to the occupancy of a mobile home, and which is not intended for use as recreation vehicle park.

MRTMA — The Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951-333.27967, including such amendments of same as may be made from time-to-time.

NATURAL FEATURES — Existing land forms, indigenous vegetation, water bodies, wetlands, wildlife habitat and vistas.

NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT) — A lot lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum frontage or area requirements of the zoning district in which it is located.

NONCONFORMING STRUCTURE — A structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum yard setback requirements or other applicable regulations of the zoning district in which it is located.

NONCONFORMING USE — A use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE I) — A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.

- D. The facility meets all otherwise applicable setback requirements.
- E. At least 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. At least 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE II) — A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.
- E. Less than 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. Less than 75% of the biofuel or other product/byproduct of the facility is used on the farm where the facility is located, on an annual basis.

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE III) — A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of at least 100,000 gallons but not more than 500,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.

OPEN-AIR BUSINESS — Any of the following types of land uses, or where sales or storage of goods or equipment incidental thereto occurs in whole or in part outside a fully enclosed building:

- A. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

- B. Retail sale of fruits and vegetables (not including a Roadside Stand as defined and otherwise allowed by this chapter).
- C. Tennis courts, archery courts, shuffleboard courts, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- D. Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sales, rental or repair services.
- E. Sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.
- F. Any other similar business.

OPEN SPACE PRESERVATION DEVELOPMENT — A residential development of land arranged and developed so as to preserve not less than 50% of the adjusted parcel area in permanent open space.

PARCEL — A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory building(s), condominium units, or by any other use or activity permitted thereon and including open spaces and setbacks required under this chapter, and having its frontage on a public or private street.

PARK — Land owned by a unit of government, open to the public, for traditional active and passive outdoor recreational uses, including nature trails, picnic facilities with or without shelters, playgrounds, rest room facilities, soccer fields, and baseball diamonds. Public parks are not intended to include activities, facilities or structures for which admission is charged, although admission may be charged to the park itself. However, this term does not include linear recreation areas such as "rails to trails" or similar land uses.

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

PERMITTED USE — A use which by virtue of being designated as a "permitted use" in a zoning district is recognized as a use of land and buildings which is sufficiently harmonious with other uses allowed within the same district as to not require special or extraordinary controls or conditions.

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

RECREATIONAL USES — For the purposes of an open space preservation development, "recreational uses" shall mean walking and hiking trails, picnic areas, wildlife preserves, children's play areas, greenways and linear parks.

RECREATION VEHICLE — A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. This term includes folding campers, truck-mounted campers, and motor homes, but does not include mobile homes.

RESIDENTIAL DISTRICT (OR ZONE) — The CR Country Residential District, MDR Medium Density Residential District, HDR High Density Residential District, MHC Mobile Home Community District, and any other subsequently established zoning district which includes R in its title code or “Residential” in its name.

ROAD FRONTAGE — The length of the lot line which borders a public street, or where applicable, a lawful private road/shared driveway.

ROAD OR STREET, PRIVATE — See § 220-17-13.

ROAD OR STREET, PUBLIC — See definition of “Street” in this section.

ROADSIDE STAND — A temporary or permanent building or structure used by the owners/occupants of the property for the purpose of selling produce grown on the premises.

RURAL AND SCENIC EASEMENT — A common area within a condominium subdivision or a permanent easement granted to the Township or an approved conservancy for the perpetual preservation of a natural area along a public street.

SHOPPING CENTER — A group of establishments engaging exclusively in retail business or service, arranged as a functionally coherent unit, together with appurtenant features, such as parking area and storage facilities.

SIGN — See § 220-18-3 for defined terms relating to signage.

SITE CONDOMINIUM PROJECT OR SUBDIVISION — A place or project consisting of not less than two units established in conformance with the Michigan Condominium Act, PA 59 of 1978, as amended. (Editor’s Note: See MCL § 559.101 et seq.)

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS) — Equipment that converts energy from the wind into useable forms of electrical power primarily intended to reduce consumption of utility-generated power by the occupants of the premises on which the system is located (rather than being primarily intended to generate power for the utility grid serving other premises), and includes any base, blade, foundation, generator nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

SPECIAL LAND USE — A use which by virtue of being designated as a “special land use” in a zoning district is recognized as possessing characteristics sufficient to require prior Planning Commission review and approval pursuant to specified standards to determine whether the use can be sited on specific property in a manner consistent with the public health, safety, and general welfare, and without adversely affecting other existing land uses.

STREET — A public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley, and constructed according to the standards and specifications of the Barry County Road Commission or MDOT.

STRUCTURE — Anything constructed or erected and having a permanent location on the ground or attachment to something having a permanent location on/in the ground.

STRUCTURAL CHANGES OR ALTERATIONS — 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.

SWIMMING POOL — Any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than 24 inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

TEMPORARY BUILDING OR USE — A structure or use permitted to exist during periods of construction of the main use or for special events, and otherwise subject to applicable provisions of this Code, including § 220-17-3.

TEMPORARY EVENT — A use of land and/or a building/structure for a commercial or non-commercial activity or event of a temporary nature, incidental to a permissible principal use of the subject property, but not necessarily customarily associated with such principal use, and otherwise subject to § 220-17-3 E. of this Code.

TOWNHOUSE — A building consisting of five or more attached single-family dwellings.

TRASH — The terms "trash," "litter," and "junk" are used synonymously and include the following: used articles or used pieces of: iron, scrap metal, vehicle bodies or parts of machinery or junked or discarded machinery, abandoned watercraft, used lumber which may be used as a harborage for rats, ashes, garbage, industrial by-products or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels, pallets, tires, abandoned or unused swimming pools and all other articles customarily considered trash or junk and which are not housed in a building.

UNDEVELOPED STATE — A natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state shall not include a golf course, but may include a recreation trail, picnic area, children's play area, greenway, or linear park.

UTILITY-SCALE SOLAR ENERGY ELECTRICITY GENERATING FACILITY — A facility comprised of multiple ground-mounted photovoltaic energy collector panels and associated structures/equipment designed and intended to generate electrical energy exclusively for a public utility power grid (and for the facility itself).

VARIANCE — A varying or relaxation of a dimensional or other non-use requirement of this chapter by the Zoning Board of Appeals.

WETLAND, REGULATED — Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river or stream.
- B. Not contiguous to an inland lake or pond, or river or stream, but more than five acres in area.
- C. Not contiguous to an inland lake or pond, or a river or stream, but five acres or less in area, if the State of Michigan has determined that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction, and has so notified the owner of the subject property.

WIRELESS COMMUNICATIONS SUPPORT STRUCTURE — A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-support lattice tower, guyed tower, water tower, utility pole, or building; provided that for purposes of this chapter this term shall not include any tower or other support structure under 50' in height that is owned and operated by a federally-licensed amateur radio station operator or that is used exclusively for receive-only antennas. A tower or other structure within the scope of this definition shall not be considered to be "Essential Services" for purposes of this chapter, as that term is defined in this section.

YARD — A general term applied to the space on a lot, which contains a building or structure or group of buildings/structures, lying between the building/structure or group of buildings/structures and the nearest respective lot line facing each building/structure:

- A. **Front Yard:** An open space extending across the full width of a lot between the front lot line and the building setback line. The depth of such yard shall be the shortest horizontal distance between the front lot line and the building setback line, measured at right angles.
- B. **Rear Yard:** An open space extending across the full width of a lot between the rear lot line and the nearest line of a building, porch or other projection thereof. The depth of such yard shall be the shortest horizontal distance between the rear lot line and the nearest point of the building or projection thereof.
- C. **Side Yard:** An open space extending on each side of the lot from the required front yard to the required rear yard. The width of such yard shall be the shortest distance between the side lot lines and the nearest point of a building, porch or other projection thereof.

YARD, REQUIRED SIDE-REAR-FRONT: An open space adjacent to a lot line, on the same land with a building or structure or group of buildings/structures, lying in the area between the building/structure or group of buildings/structures and the nearest lot line, and which is unoccupied and unobstructed from the ground upward for the minimum distance and depth/width prescribed in this Chapter, except as otherwise provided in this Chapter.

ZONING ACT — The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, or its predecessor, the Township Zoning Act, Public Act 184 of 1943, as amended. (Editor's Note: amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The Township Zoning Act was in effect in 1996 when the Zoning Ordinance was originally adopted, but was repealed and replaced by the Michigan Zoning Enabling Act, effective July 1, 2006. The new act is found at MCL § 125.3101 et. seq.)

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ARTICLE III
Zoning Districts

§ 220-3-1. Zoning districts enumerated.

For purposes of this Chapter the Township is divided into zoning districts (sometimes referred to as “zones”) derived from the Rutland Charter Township Master Plan, as listed below, and within which no lands shall be used and no buildings/structures shall be erected, altered, or located except for the uses designated herein for each separate zoning district as a “permitted use”, or as a “special land use” (subject to prior Planning Commission approval of any such special land use pursuant to all applicable standards and requirements as specified herein):

AG/OS	Agricultural/Open Space Preservation District
CR	Country Residential District
MDR	Medium Density Residential District
HDR	High Density Residential District
MHCR	Mobile Home Community Residential District
MU	Mixed Use District
LC	Lake Commercial District
ACLI	Airport Commercial/Light Industrial District
LI	Light Industrial District
PRC	Parks/Recreation/Camps District

Note: the Zoning Map also designates some areas of the Township as “SGA State/Federal Land”. This designation is intended to refer to lands in the Barry State Game Area, or otherwise owned by the State of Michigan or the federal government and used for public purposes. This is not a zoning district, as the Township does not have zoning authority over federal or state-owned land used for public purposes. If any such lands revert to private ownership and/or a non-public use in the future, the zoning district and regulations applicable to such lands will be determined pursuant to Section 220-3-3.E of this Code.

§ 220-3-2. Zoning Map.

The location and boundaries of the zones established in the Township shall be shown on a map entitled "Zoning Map of Rutland Charter Township," and said map, section or portion thereof with all notations, dimensions and other data shown thereon are hereby made a part of this chapter by incorporation herein to the same extent as if the information set forth on said map were fully described and incorporated herein.

§ 220-3-3. Official Zoning Map. The official Zoning Map, properly attested, shall be in the custody of the Township Clerk.

§ 220-3-4. Map amendments.

The Zoning Map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this chapter. Such changes shall be recorded to scale on duplicate copies of the official Zoning Map and shall be accompanied by written legal descriptions in appropriate amending ordinances.

§ 220-3-5. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of any of the districts or zones shown on the Zoning Map, the following rules shall apply:

- A. Zoning boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said Zoning Map.
- B. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- C. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
- D. In subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- E. If land presently exempt from Township zoning regulation due to federal or state ownership (whether shown on the zoning map as "SGA State/Federal Land", or otherwise) subsequently becomes subject to Township zoning regulation due to private ownership or otherwise, such land shall be recognized on the Zoning Map as being in the CR Country Residential District and subject to all applicable zoning regulations.
- F. If all or any portion of a public street, public alley, public right-of-way, public easement, or other public way not included any zone shall ever be vacated or otherwise revert to or come into private ownership or be used for any purpose other than a public purpose, said land shall be recognized on the Zoning Map as being in the zone immediately adjacent thereto and subject to all applicable zoning regulations thereof, or if there is more than one zone immediately adjacent thereto, then the most restrictive shall apply.
- G. The Zoning Board of Appeals shall have the power to interpret the map in conformity with the purpose and intentions of this chapter where any controversy arises, and its determination shall be final.

ARTICLE IV
AG/OS Agricultural/Open Space Preservation District

§ 220-4-1. Purpose of District.

This zoning district is derived from the Open Space/Agricultural Preserve future land use classification in the Master Plan. The primary purpose of this District is to maintain, preserve and enhance prime agricultural lands which have historically exhibited high crop yields, while allowing maximum freedom of operations for agricultural activities from encroachment of non-agricultural uses; and to promote the conservation of open space by preserving large tracts of land which are contiguous to other large areas of agricultural or preserved land.

§ 220-4-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Farm and agricultural activities, including the sale of farm or agricultural products raised on the premises; provided the keeping or raising of livestock for commercial production or non-commercial purposes is subject to §220-16-13.B.
- B. Single-family dwelling.
- C. Home occupation, in a lawful single-family dwelling.
- D. Family day care home, in a lawful single-family dwelling.
- E. Foster care (small group) home.
- F. Essential services.
- G. On-farm biofuel production facility (Type I).
- H. Roadside stand.
- I. Accessory uses/buildings/structures.
- J. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-4-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Aggregate processing/quarrying/commercial excavations.
- B. Bed and breakfast facility, in a lawful single-family dwelling
- C. Cemetery.

- D. Church/worship facility.
- E. Family business, on the premises of a lawful single-family dwelling.
- F. Farm market.
- G. Farmers market.
- H. Feed mill.
- I. Foster care (large group) home.
- J. Group day care home, in a lawful single-family dwelling.
- K. Kennel.
- L. On-farm biofuel production facility (Type II or Type II).
- M. Open space preservation development.
- N. Park/recreation area/campground.
- O. Small wind energy conversion system.
- P. Storage (for a fee) in an agricultural building, including barns.
- Q. Two-family dwelling for on-farm labor housing.
- R. Veterinarian office/animal hospital.
- S. Wholesale/retail stores or service establishments primarily providing commodities, goods, equipment or services for farm/agricultural uses.
- T. Winery, including tasting and retail sales room accessory to an on-premises vineyard.
- U. Wireless communications support structure.
- V. Utility-Scale Solar Energy Electricity Generating Facility.
- W. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-4-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-4-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE V
CR Country Residential District

§ 220-5-1. Purpose of District.

This zoning district is derived from the Country Residential future land use classification in the Master Plan. This District is designed for large lot single-family residential use, and associated recreational, agricultural, religious and educational facilities. The purpose of this District is to provide for low density development of such uses in areas not served by public utilities, while protecting the natural features of those areas with as little disturbance as possible. This District may also serve as a transitional district between agricultural areas and areas platted or otherwise intended for residential development with greater density.

§ 220-5-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Single-family dwelling.
- B. Home occupation, in a lawful single-family dwelling.
- C. Family day care home, in a lawful single-family dwelling.
- D. Foster care (small group) home.
- E. Farm and agricultural activities, including the sale of farm or agricultural products raised on the premises; provided the keeping of livestock on a non-commercial basis is only allowed as a special land use pursuant §220-5-3.H., and the keeping or raising of livestock for commercial production or non-commercial purposes is also subject to §220-16-13.B.
- F. Essential services.
- G. Library, museum, and similar use owned and operated by a governmental agency or non-profit organization.
- H. On-farm biofuel production facility (Type I).
- I. Roadside stand.
- J. Accessory uses/buildings/structures (except the non-commercial keeping of livestock as an accessory use is designated herein as a special land use pursuant to §220-5-3.H).
- K. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-5-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Cemetery.
- B. Church/worship facility.
- C. Family business, on the premises of a lawful single-family dwelling.
- D. Farm market.
- E. Foster care (large group) home.
- F. Golf course and country club.
- G. Group day care home, in a lawful single-family dwelling.
- H. Keeping of livestock on a non-commercial basis is allowable accessory to an existing dwelling on the premises, subject to all applicable provisions of this Chapter, including the generally applicable special land use approval standards specified in § 220-20-3, and also the following density, setback, and other requirements:
 - 1. The minimum lot area for the keeping of any such animals is five acres.
 - 2. There shall be at least two acres of lot area per animal unit kept on the premises. (See definition of "Animal Unit" in § 220-2-2)
 - 3. All areas in which the animals are confined shall be located at least 100 feet from all existing residences on adjacent properties.
 - 4. All areas in which the animals are confined shall be located at least 200 feet from any wellhead, and shall not include any drain field.
- I. Kennel, on a lot with an area of at least five acres.
- J. On-farm biofuel production facility (Type II or Type II).
- K. Open space preservation development.
- L. Park/playground, and recreation area.
- M. Public or private school.
- N. Small wind energy conversion system.
- O. Veterinarian office/animal hospital, on a lot with an area of at least five acres.
- P. Winery, including tasting and retail sales room accessory to an on-premises vineyard, subject to the following limitation on tasting and retail sales rooms:

1. On parcels with a lot area of at least 2.3 acres but less than 5 acres, the building in which the tasting and retail sales room is located shall not exceed a building area of 1,500 square feet.
2. On parcels with a lot area of at least 5 acres but less than 10 acres, the building in which the tasting and retail sales room is located shall not exceed a building area of 5,000 square feet.
3. On parcels with a lot area of 10 acres or more, the building in which the tasting and retail sales room is located shall not exceed a building area of 10,000 square feet.

Q. Utility-Scale Solar Energy Electricity Generating Facility.

R. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-5-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-5-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE VI
MDR Medium Density Residential District

§ 220-6-1. Purpose of District.

This zoning district is derived from the Medium Density Residential future land use classification in the Master Plan. This primary purpose of this District is to provide for single-family development and associated residential amenities, such as neighborhood parks, typically in plats and other residential developments where a relatively greater density of development is already existing or otherwise appropriate for the area.

§ 220-6-2. Permitted uses.

The following uses are designated as permitted uses this District:

- A. Single-family dwelling.
- B. Family day care home, in a lawful single-family dwelling.
- C. Foster care (small group) home.
- D. Home occupation, in a lawful single-family dwelling.
- E. Essential services.
- F. Library, museum, and similar use owned and operated by a governmental agency or non-profit organization.
- G. Roadside stand.
- H. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise, except such small animals, such as rabbits, as can be kept inside the single-family dwelling unit itself on a purely non-commercial basis, and without causing any detriment to any adjoining property. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- I. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-6-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Church/worship facility.
- B. Family business, on the premises of a lawful single-family dwelling.

- C. Foster care (large group) home.
- D. Golf course and country club.
- E. Group day care home, in a lawful single-family dwelling.
- F. Open space preservation development.
- G. Park/playground.
- H. Public or private school.
- I. Small wind energy conversion system.
- J. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-6-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-6-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE VII
HDR High Density Residential District

§ 220-7-1. Purpose of District.

This zoning district is derived from the High Density Residential future land use classification in the Master Plan. This primary purpose of this District is to provide for a higher-density single-family development, and also two-family and multiple-family development, in limited areas of the Township where such development is existing or otherwise appropriate.

§ 220-7-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Single-family dwelling.
- B. Two-family dwelling.
- C. Multiple-family dwelling.
- D. Family day care home, in a lawful dwelling.
- E. Foster care (small group) home.
- F. Home occupation, in a lawful dwelling.
- G. Essential services.
- H. Library, museum, and similar use owned and operated by a governmental agency or non-profit organization.
- I. Roadside stand.
- J. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- K. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-7-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Church/worship facility.
- B. Convalescent or nursing home.

- C. Family business, on the premises of a lawful single-family dwelling.
- D. Foster care (large group) home.
- E. Golf course and country club.
- F. Group day care home, in a lawful dwelling.
- G. Open space preservation development.
- H. Park/playground.
- I. Public or private school.
- J. Small wind energy conversion system.
- K. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-7-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-7-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE VIII
MHCR Mobile Home Community Residential District

§ 220-8-1. Purpose of District.

This zoning district is derived from the Mobile Home Community future land use classification in the Master Plan. This primary purpose of this District is to provide for a medium to high density mobile home park, where required public utilities are available or may be available in the future.

§ 220-8-2. Permitted uses.

The following uses are designated as permitted uses this District:

- A. Mobile Home Park, including a residence for the mobile home park owner or operator and family, but excluding any retail sales of mobile homes, unless located upon a developed mobile home site; subject, however, to the following conditions and limitations:
 - 1. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987 and any and all amendments thereto and with any and all regulations promulgated thereunder by the State of Michigan.
 - 2. Off-street parking areas shall be provided in accordance with all applicable provisions of Article XIX of this Chapter.
- B. Accessory uses/buildings/structures incidental to a mobile home park, such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities, or incidental to another allowed use in this District; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- C. Child (Family) Day Care Home (within single-family dwelling in a mobile home park).
- D. Foster Care (Small Group) Home (within single-family dwelling in a mobile home park).
- E. Home Occupation (within single-family dwelling in a mobile home park).
- F. Essential Services.
- G. Roadside stand.
- H. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-8-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Foster care (large group) home:
- B. Group day care home, in a lawful single-family dwelling.
- C. Park/playground.
- D. Small wind energy conversion system.
- E. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-8-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-8-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

ARTICLE IX
MU Mixed Use District

§ 220-9-1. Purpose of District.

This zoning district is derived from the Mixed Use Area future land use classification in the Master Plan. The intent of this District is to provide a variety of uses and an appropriate mix of uses on the same lot, including high density residential, office, civic, and limited commercial and light industrial activities. This District is intended to allow land use flexibility to maximize utilization of urban infrastructure, such as water and/or sewer facilities, while creating a unique environment designed to function well with the existing natural features, surrounding neighborhood and overall region.

This District is designed to balance development with natural feature preservation, including wetlands, streams, rivers, woodlands, and topography, and create commercial/industrial land use patterns that focus on local surrounding residential development, to enhance the character of the Township and region.

§ 220-9-2. Permitted Uses.

The following uses are designated as permitted uses in this District:

- A. Attached living units or dwellings including condominiums, townhouses or apartments.
- B. A detached single-family home on an individual lot less than 8,000 square feet.
- C. Banks, savings and loan institutions, and similar financial establishments serving the local community, without a drive-through.
- D. Barber shops and beauty shops.
- E. Coffee shops, without a drive-through.
- F. Community facility.
- G. Essential services.
- H. Florist retail operations not including plant production on premises.
- I. Gift shops and antique shops with associated outdoor display areas limited to an area of 200 square feet.
- J. Laundromats, laundry and dry cleaning establishments (retail outlets only, not including large commercial/industrial laundry operations).
- K. Libraries and museums.
- L. Music/dance schools.

- M. Open space preservation development.
- N. Photography studios.
- O. Professional offices or clinics, including but not limited to medical, law, accounting, architectural, engineering, real estate and insurance offices.
- P. Restaurants, without a drive-through.
- Q. Retail clothing shops.
- R. Retail drug and pharmaceutical stores, without a drive-through.
- S. Retail grocery/party stores, which are integrated with onsite residential development.
- T. Retail sale of books, stationery, newspapers.
- U. Retail sales of bakery and dairy products, without a drive-through.
- V. Roadside stand.
- W. Veterinary clinics with indoor boarding facilities for in-patient care only.
- X. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- Y. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-9-3. Special Land Uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Auto refueling station (for the retail sale of fuel, lubricants, and other operating commodities for motor vehicles, boats or aircraft, and other incidental merchandise, but not including repair facilities).
- B. Auto parts/supplies completely contained within a building.
- C. Auto repair shops completely contained within a building.
- D. Banks, savings and loan institutions, and similar financial establishments serving the local community, with a drive-through, when deriving access from private internal access drive only.
- E. Bar or pub (providing that such use shall not be within 500 feet of a church, school, hospital, or adult or child care facility).

- F. Coffee shops, with a drive-through, when deriving access from a private internal access drive only.
- G. Crating and packing service.
- H. Day-care facility.
- I. Funeral homes.
- J. Greenhouse/nursery/landscaping/garden shops.
- K. Hospitals/emergency medical facilities.
- L. Hotels/motels.
- M. Laboratories—mechanical, medical, or environmental research/testing.
- N. Machine shop.
- O. Multi-Unit shopping centers or plazas.
- P. Open-air business.
- Q. Outdoor sales.
- R. Printing shops.
- S. Restaurants, with a drive-through, deriving access from a private internal access drive.
- T. Retail drug and pharmaceutical stores, with a drive-through, when deriving access from a private internal access drive only.
- U. Retail sales of bakery and dairy products, with a drive-through, when deriving access from a private internal access drive only.
- V. Self-storage rental units.
- W. Small wind energy conversion system.
- X. Warehouses and inside storage, not including self-storage facilities.
- Y. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-9-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-9-5. Setbacks.

A. Commercial, Office, Industrial, and Residential Building Setbacks:

1. Front Yard – 30 feet
2. Side Yard – 20 feet
3. Rear Yard – 20 feet
4. Commercial, office, and industrial buildings and parking lots shall be setback a minimum of 30' from any residentially zoned property or property located outside the Mixed Use District. This setback shall be landscaped as set forth in § 220-19-8.
5. For each story, or for every ten feet of height, a building or structure shall be set back the same distance from the property line and/or adjacent building, regardless of the otherwise generally required setback.
6. All buildings shall be setback a minimum of 30 feet from the M-37 and M-43 right of way.
7. The Planning Commission may relax building setback requirements by up to 50% when the structure is accessed via an internal access road.
8. Internal access roads may be built within the 30-foot building setback along M-37 and M-43.

§ 220-9-6. Lot Coverage.

The intent of the following lot coverage standards is to minimize unnecessary impervious surfaces, protect watershed quality, and to provide open space on each site. Lot coverage shall include the combination of all ground coverage and impervious surfaces including buildings, parking areas, sidewalks and drives.

- ##### **A. Lot coverage shall be limited to a maximum of 50%. The fifty percent maximum may be increased with approval from the Planning Commission by 5% for each of the following completed items:**
1. Significant natural features, including but not limited to, wetlands and forested areas and open space will be permanently preserved. These areas shall be located adjacent to other preserved areas on adjacent parcels to create interconnected open spaces.
 2. Areas with slopes greater than 20% will not be developed or graded. (Note: a 20% slope equals one foot of rise over five feet of run).
 3. Shared parking and/or cross access shall be designed within the development site and with adjacent property.

4. Stormwater best management practices are incorporated into the development. The applicant will be required to provide a detailed report and analysis of the proposed facilities.

§ 220-9-7. Lot Size Requirements.

- A. For parcels located within an official sewer district, the minimum lot size is 21,780 square feet or ½ acre.
- B. For parcels not located within an official sewer district, the minimum lot size is 5 acres.

§ 220-9-8. Residential Density.

- A. The maximum residential density shall be 8 units per acre regardless if developed solely as residential or as part of a mixed-use development.
- B. Densities may be increased if permitted as part of an open space preservation development.

§ 220-9-9. Building Design and Architectural Standards.

- A. Building Height:
 1. The maximum building height in the Mixed Use District is 35 feet or 3½ stories, whichever is less. However, building height may be increased up to 45 feet or 4 stories, whichever is less, if all of the following criteria are met as determined by the Planning Commission:
 - a. The proposed development is designed to provide for shared parking and/or cross access easements with adjacent parcels.
 - b. Access to the proposed development will be derived from a local county road (not a state highway) or internal access road serving multiple lots.
 - c. The height of the building shall be designed to blend with adjacent development and shall not create a dramatic height increase causing detrimental impacts to existing structures.
 - d. The local fire chief has approved the height of any building over 35 feet.
- B. Building Footprint:
 1. Individual building footprints are permitted up to 10,000 square feet.
 2. Building footprints over 10,000 square feet require a special land use permit subject to the following conditions:
 - a. The lot shall contain a minimum of 5 acres.

- b. Buildings containing commercial and office uses may exceed 10,000 square feet footprint if the following condition is met:
 - (1) If residential development is incorporated into the development, it shall use and share the parking facilities that are used for the commercial development. However, the applicant may propose an alternate parking configuration which meets the requirements set forth in this chapter and is acceptable to the Planning Commission pursuant to applicable special land use and site plan approval standards.
- c. Light industrial building footprints may exceed 10,000 square feet if the following conditions are met:
 - (1) Property with existing industrial uses borders the subject property.
 - (2) The proposed use will not be located within 100 feet of any residential use.
 - (3) The proposed use is similar in nature to existing surrounding uses.

Multi-family residential buildings not containing any commercial or office uses shall not exceed 10,000 square feet.

C. Architectural Standards:

- 1. Façade materials. At least 80% of the “façade” of a building with a footprint under 25,000 square feet, which for purposes of this provision is defined as that portion or portions of such a building which either fronts on a public street or which faces an on-site parking lot, shall be constructed of one or more of the following materials:
 - a. traditional hard coat stucco.
 - b. brick.
 - c. natural or cast stone.
 - d. tinted and/or textured masonry block.
 - e. glass.
 - f. architectural pre-cast panels.
 - g. wood, except materials such as T-71, plywood or particle board, or similar processed wood materials.

- h. other materials, as approved by the Planning Commission based on the visual compatibility of such other materials with existing buildings on adjacent properties and within 500 feet in the MU District.

All of the above façade materials requirements (C.1.a.-h.) shall also apply to a building with a footprint of 25,000 square feet or more, and steel is also a permissible façade material for such buildings in this District.

- 2. Façade design devices. All facades shall have a recognizable “top” or upper portion consisting of one or more of the following devices:
 - a. cornice treatments, other than just colored “stripes” or “bands”, with integrally textured materials such as stone or other masonry or differently colored materials.
 - b. sloping roof with overhangs and brackets.
 - c. stepped parapets.

In addition, if the building has more than one story, the façade shall have a horizontal expression line which separates each floor.

- 3. Façade wall design and features. That portion of a building which fronts on a public street shall be designed to eliminate large expanses of blank walls by the application of two or more of the following methods approximately every 50 feet in wall length:
 - a. doors with corniced parapets over the main entry door.
 - b. display windows that orient street-level customers to products.
 - c. arched entryways, canopies or awnings.
 - d. changes in the plane of a wall, such as offsets, or projecting ribs which are at least 12 inches in width.
 - e. change in texture, color or masonry pattern.
 - f. pilasters, piers or columns.
 - g. other applications as approved by the Planning Commission to meet the intent of this provision.
- 4. Façade walls exceeding 100 feet in length. Façade walls more than 100 feet in total length shall also incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade and extending at least 20% of the length of the façade.

5. Customer entrances. Building facades shall exhibit clearly defined, highly visible, and articulated front entrances that feature at least two of the following devices:
- a. canopies or porticos.
 - b. overhangs.
 - c. recesses or projections of at least three percent of wall length.
 - d. arcades.
 - e. raised cornice parapets over the door.
 - f. distinctive roof forms.
 - g. arches.
 - h. outdoor patios.
 - i. display windows.

Rear customer entrances, if provided, shall also be subject to the foregoing standards.

6. Side/rear walls. Side or rear walls that face rear walkways or rear or side service drives may include false windows and door openings defined by frames, sills, and lintels, or similarly proportioned modulations of the wall, but only when actual doors and windows are not feasible.
7. Roofs.
- a. Buildings shall be topped with pitched roofs with overhanging eaves, or with flat roofs with articulated parapets and cornices. Materials for pitched roofs shall include shingles (either wood or asphalt composition), slate, tiles, or other material if such other material is similar to the roof material on buildings within 500 feet in the MU District.
 - b. Parapets shall be used to conceal flat sections of roofs and rooftop equipment, such as HVAC units, from public view. The average height of such parapets shall not exceed 25% of the height of the supporting wall, and such parapets shall not at any point exceed 1/3 of the height of the supporting wall.
8. Refuse containers. All refuse containers shall be located within a four-sided solid fence enclosure not exceeding six feet in height, constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated, and screen the refuse containers from

view on any adjoining premises or public street. Refuse container enclosures shall not be located in a front yard.

Modification of standards. The foregoing building design and architectural standards shall be subject to modification by the Planning Commission during the site plan review process upon finding the following factors are met:

- If the modification is approved the resulting development will still be consistent with the purposes of this District.
- If the modification is approved the resulting new building or alteration of an existing building will still be visually compatible with existing buildings on adjacent properties and within 500 feet in the MU District.
- In instances of the reconstruction or conversion of an existing building, approval of the modification is necessary to alleviate practical physical difficulties resulting from strict compliance with the specified standards and requirements.

§ 220-9-10. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

ARTICLE X
LC Lake Commercial District

§ 220-10-1. Purpose of District.

This zoning district is derived from the Lake Commercial future land use classification in the Master Plan. This District is intended to serve as a limited commercial area at the west end of Algonquin Lake. Development in this area should be sensitive to surrounding existing residential development and blend-in with the nautical atmosphere of the area.

§ 220-10-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Bait shop (including fishing supplies and tackle).
- B. Boutique/gift shop.
- C. Essential services.
- D. General/convenience store.
- E. Ice cream shop.
- F. Neighborhood-scale dine-in restaurant.
- G. Neighborhood-scale watercraft sales, service and storage.
- H. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- I. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-10-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Neighborhood-scale restaurant with outdoor patio/dining areas.
- B. Self-storage rental units.
- C. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-10-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-10-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

§ 220-10-6. Architectural standards.

The following architectural standards shall apply to buildings/structures in this District:

- A. The maximum building/structure height is 35 feet or 2 ½ stories, whichever is less.
- B. Buildings with multiple stories shall be improved with windows that add character to the structure and create a visual delineation between stories.
- C. Building façade shall have bays, storefronts, entrances, columns, and other vertical elements in 20-40 horizontal foot increments to avoid uninterrupted horizontal stretches of exposed facing building and “break-up” the building façade.
- D. Exterior materials shall reflect a sense of permanence and community character. All proposed material shall be subject to Planning Commission approval.
- E. Windows shall have sills and trim.
- F. Architectural features shall be complementary with all aspects of the building elevation. For example, building materials and designs shall complement/coordinate on all sides of the building.
- G. Roof design shall be flat, hipped, or front-gabled. Flat roofs shall incorporate a decorative cornice line that clearly identifies the top of a building.
- H. The form, scale and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- I. Mechanical equipment on the ground or on the roof shall be screened from view.

ARTICLE XI
ACLI Airport Commercial/Light Industrial District

§ 220-11-1. Purpose of District.

This zoning district is derived from the Airport Commercial/Light Industrial future land use classification in the Master Plan. This District is intended to provide a mix of commercial and light industrial land uses primarily related to and designed to be compatible with the Hastings City/Barry County Airport and surrounding land uses, including residential developments in the immediate area.

§ 220-11-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Air and surface freight delivery surfaces.
- B. Essential services.
- C. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- D. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-11-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Auto repair and collision service.
- B. Community/recreation center.
- C. Convenience stores.
- D. Landscaping sales/services.
- E. Motel/hotel/bed and breakfast.
- F. Professional offices.
- G. Restaurant/bars, including coffee/ice cream/deli shops.
- H. Small wind energy conversion system.
- I. Storage rental units.

- J. Warehousing/inside storage.
- K. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses as determined by the Zoning Administrator.

§ 220-11-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-11-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

§ 220-11-6. Architectural standards.

The architectural standards applicable in the LC Lake Commercial District are also applicable in this District (see § 220-10-6).

ARTICLE XII
LI Light Industrial District

§ 220-12-1. Purpose of District.

This zoning district is derived from the Industrial future land use classification in the Master Plan. The District is intended for light industrial applications that are not likely to require public utilities, and will be designed to be compatible with other land uses in the area. The allowed industrial uses should be developed with appropriate utility and transportation connections, and in harmony with the area's natural features, with minimal impact on the environment or the surrounding community.

§ 220-12-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Essential services.
- B. Industrial establishments involving only the assembly and/or packaging of such products as food products (not including the processing of livestock), candy, musical instruments, optical goods, toys, novelties, electrical equipment, and appliances, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- C. Storage rental units completely within an enclosed building, for items such as household goods, vehicles, and recreational equipment.
- D. Tool and die business, including metal working machine shops involving the use of grinding or metal cutting tools, manufacturing of tool dies/molds/jigs/fixtures (excluding the production of stampings, castings, forging, and similar production run parts), where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- E. Wholesaling and warehousing of goods and products such as automotive equipment, dry goods, apparel, groceries and related products, raw farm products (not including livestock), electrical goods, hardware products, plumbing products, heating equipment and supplies, machinery, alcoholic beverages, paper and paper products, furniture and home furnishings, and any product the manufacture of which is allowed in this District, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- F. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.

G. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-12-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Automobile service stations, where no junk vehicles, parts, or vehicles not containing all of their body parts are stored overnight unless adequately screened as determined by the Planning Commission pursuant to applicable standards in this Chapter.
- B. Broadcast/transmission towers.
- C. Central laundry plants.
- D. Industrial facilities for the assembly, fabrication, manufacture, packaging or treatment of products from the following previously prepared materials: canvas, cellophane, caulk, cork, felt, fiber, glass, leather, paper/cardboard, plastics, precious or semi-precious metals or stones, sheet metal (excluding large stamping such as automobile fenders or body panels or those requiring in excess of 400 tons of manufacture), textiles, wax, wire, wood (excluding saw and planing mills and yards), where all such operations, equipment and storage are completely contained within a fully enclosed building and where all loading/unloading areas and facilities are located at or near the rear of the building
- E. Laboratories (mechanical or environmental research/testing).
- F. Municipal waste treatment or water treatment facilities.
- G. Refueling stations.
- H. Repossession lots/storage, including retail sales of repossessed items.
- I. Salvage and/or recycling centers.
- J. Wireless communications support structure.
- K. Small wind energy conversion system.
- L. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses as determined by the Zoning Administrator.
- M. Marihuana Grower (Class A, B, or C).
- N. Medical Marihuana Grower (Class A, B, or C).
- O. Marihuana Processor.
- P. Medical Marihuana Processor.

- Q. Marihuana Secure Transporter.
- R. Medical Marihuana Secure Transporter.
- S. Marihuana Safety Compliance Facility.
- T. Medical Marihuana Safety Compliance Facility.
- U. Retail sales of building materials and/or light industrial related products contained in an enclosed building, or screened from view from public streets, and where all loading/unloading areas are located at or near the rear of the building.

§ 220-12-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-12-5. Site plan review.

Site plan review is required for all permitted uses and special land uses, and for other uses as specified in § 220-21-1.B.

§ 220-12-6 Architectural standards.

The architectural standards applicable in the LC Lake Commercial District are also applicable in this District (see § 220-10-6).

ARTICLE XIII
PRC Park/Recreation/Camps District

§ 220-13-1. Purpose of District.

This zoning district is derived from the Parks/Recreational future land use classification in the Master Plan. This District is intended to accommodate outdoor recreational activities and parks, playgrounds, and similar outdoor recreational activities. It is not intended for indoor commercial recreational activities.

§ 220-13-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Bed and breakfast facility.
- B. Canoe livery operated in a permanent building and location.
- C. Essential services.
- D. Family day care home, in a lawful single-family dwelling.
- E. Golf course, subject to the following design and use requirements:
 - 1. Pro shop/clubhouse (including for the sale of food and beverages) is allowed, but must be situated at least 250 feet from adjoining residentially developed or residentially zoned land.
 - 2. No overnight accommodations are allowed other than for the owner or manager of the facility, or permanent year-round dwellings.
 - 3. Adequate restroom facilities shall be constructed and properly maintained.
 - 4. Rubbish disposal shall be handled in such a manner as to be adequate for the purpose and avoid any nuisance or annoyance to adjoining property owners.
 - 5. Off-street parking shall be provided to ensure sufficient parking space to meet the reasonably foreseeable demands anticipated for the golf course area.
- F. Home occupation, in a lawful single-family dwelling.
- G. Park/playground, subject to the development and use limitations specified in § 220-20-7 Item 10.
- H. Seasonal tent and travel trailer campground.

- I. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- J. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-13-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Gun club with indoor and/or outdoor range.
- B. Marinas, docking facilities, and boat launch areas for use by the public.
- C. Motel.
- D. Private club/lodge.
- E. Riding stable.
- F. Seasonal retail establishment, with not more than 3,000 square feet of retail floor area.
- G. Summer camp.
- H. Temporary location for seasonally related activities, such as canoe rental.
- I. All uses designated as a permitted use or special land use in the MDR Medium Density Residential District pursuant to Article VI.
- J. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-13-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-13-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

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ARTICLE XIV
(reserved for possible future use)

ARTICLE XV
Schedule of Regulations

§ 220-15-1. Schedule of Regulations

Schedule of Regulations										
District	Minimum Lot Area (square feet or acres)	Minimum Lot Width (feet)	Maximum Lot Coverage	Minimum Yard Requirements (feet) (6)			Maximum Height (5)		Minimum Dwelling Unit Size (square feet)	
				Front (1)	Side (1)	Rear (1)	Stories	Feet		
AG/OS	1 acre	220	5%	50	25	50	2 ½	35	960	
CR	2.3 acres	200	10%	50	15	25	2 ½	35	960	
MDR	15,000 square feet	100	30%	30	10 (2)	25 (4)	2 ½	35	960	
HDR	15,000 square feet for one family	100	30%	30	10	25 (4)	2 ½	35	800	
	20,000 square feet for two family	125	30%	30	10	25 (4)	2 ½	35	800	
	Multiple family	See Table R-4, § 220-15-2								
MHCR	10 acres	See Article VIII						2 ½		
LC	10,000 square feet	80	50%	40	20	20	2 ½	35		
ACLI	40,000 square feet	200	35%	Abutting non-residentially zoned property: 50 Abutting residentially zoned property: 50	Abutting non-residentially zoned property: 20 Abutting residentially zoned property: 30 (3)	Abutting non-residentially zoned property: 20 Abutting residentially zoned property: 30 (3)				
LI	200,000 square feet	300	35%	100	50	50	2 ½	35		
MUD	See Article IX									
PRC	1 acre	125	20%	40 (7)	15	25	2 ½	35	960	

(1) The setback from the Thornapple River shall be a minimum of 100 feet. The setback may be a combination of horizontal distance and vertical elevation. (Example: thirty-foot setback plus a seventy-foot elevation would beat the one-hundred-foot required setback.)

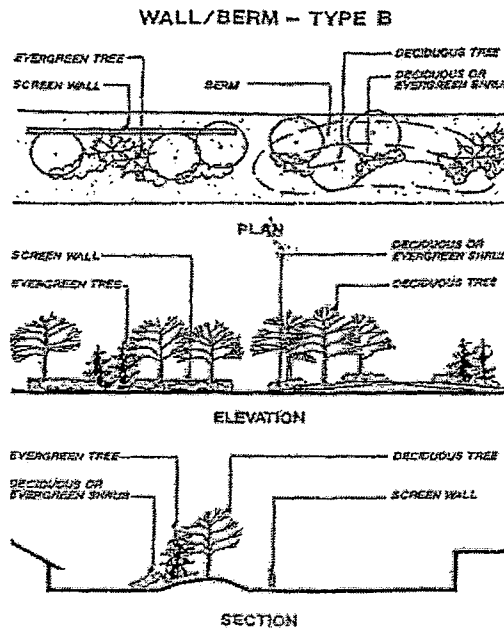
Notwithstanding the generally applicable minimum front yard requirements as specified in this Schedule or elsewhere in this Chapter, all buildings and structures constructed, erected, or enlarged

on a lot adjoining a state highway shall have a minimum setback of 75 feet from the highway right-of-way line.

- (2) Existing platted lakefront lots may reduce the side lot line requirement to five feet, provided that the Zoning Administrator, Fire Chief, and/or Building Inspector review the application for any potential safety concerns. If hazards are determined, then the side yard setback shall remain 10 feet.
- (3) When a property in the ACLI District abuts a residentially zoned property, the rear and side yard setbacks shall be 30 feet and shall include a 10-foot buffer zone, as depicted in Figure A, below).
- (4) Detached accessory buildings in the MDR and HDR Districts shall be located at least 15 feet from the rear lot line, and in all other districts shall meet the rear yard requirements in Article XV (Schedule of Regulations).
- (5) The maximum building height limitations in this schedule and in § 220-15-2, Table R-4, are intended to generally apply, unless superseded by another provision of this chapter providing a different maximum height limitation for a specific use or in a particular context. See, for example, § 220-17-11.A, specifying other building height limitations that may be applicable to buildings in the specified circumstances.
- (6) The minimum yard requirements in this Schedule and elsewhere in Chapter 220 shall be applied with reference to lot lines and the right-of-way of a street or lawful private road/shared driveway; provided in all Residential Districts the otherwise applicable minimum required yard (setback) from a shared driveway or existing private road with a right-of-way/easement width of less than 66 feet located within a lot may be reduced to not less than ½ the otherwise applicable requirement, if the Zoning Administrator determines the reduced setback requested by the applicant or as otherwise set by the Zoning Administrator will not be detrimental to the owner/occupants of the subject property and the persons using the shared driveway/existing private road.
- (7) The generally applicable minimum front yard (lake-side) setback requirement for detached accessory buildings/accessory structures on lake lots in the PRC Park/Recreation/Camps District may be reduced to not less than 5'. The exercise of this setback reduction authority shall be made by the Planning Commission pursuant to the standards for special land use approval (§ 220-20-3) and/or the standards for final site plan approval (§ 220-21-5.B) in any circumstances where the proposed accessory building/structure is subject to special land use and/or site plan approval(s). In any other circumstances, where neither special land use nor Planning Commission site plan approval is required, this setback reduction authority shall be exercised by the Zoning Administrator in accordance with the review and approval criteria for the administrative site plan review process as specified in § 220-21-7.B-D.

Figure A

Buffer zone: A wall, wood fencing or combination of plantings of sufficient height, length, and opacity to form a visual barrier which shall include one deciduous tree, one evergreen tree and four shrubs per each 20 linear feet along the property line, rounded upward, and a six-foot-tall wall or three-foot-tall berm.



§ 220-15-2. Table R-4, Minimum Lot Area, Frontage and Yard Requirements.

The following requirements apply to multiple-family buildings in the HDR High Density Residential District:

Table R-4			
Minimum Lot Area, Frontage and Yard Requirements			
Minimum height	3 stories or 45 feet	3 stories or 45 feet	4 stories or 60 feet
Minimum parking	1 to 24 units: 2 spaces per unit	2 spaces per unit	0.75 spaces per unit
	24 or more units: 1.75 spaces per unit		
Minimum landscape area	0.2 x gross site area	0.25 x gross site area	0.3 x gross site area
Maximum density	14 units per acre	8 units per acre	25 units per acre
Minimum front setback (1)	25 feet	25 feet	25 feet
Minimum side setback	20 feet	20 feet	25 feet
	40 feet (total two)	40 feet (total two)	50 feet (total two)
Minimum rear setback	30 feet	30 feet	30 feet
Minimum floor area per unit:			
One bedroom	650 square feet	750 square feet	600 square feet
Two bedroom	800 square feet	900 square feet	750 square feet
Three bedroom	950 square feet	1,200 square feet	
Four bedroom	1,200 square feet	1,500 square feet	

(1) The required front yard shall not be used for off-street parking, loading, or unloading and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping and access drives.

ARTICLE XVI
General Provisions

§ 220-16-1. Effects of zoning; compliance required.

No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this chapter.

§ 220-16-2. Building/occupancy permits; zoning compliance permits.

- A. Building/occupancy permits. See the applicable construction codes for regulations applicable to building permits, occupancy permits, and other regulations applicable to the construction and occupancy of buildings and other structures.
- B. Zoning compliance permits. No building or structure shall be constructed or sited on any premises without prior zoning approval of the location of the building or structure and the intended use thereof; either through the building permit application process, or by a zoning compliance permit issued by the Zoning Administrator where a building or structure is exempt from a building permit requirement pursuant to state law. This zoning compliance permit requirement is also specifically applicable to all signs and fences, even where such a structure is also subject to a building permit requirement. The purpose of this zoning approval requirement, in each instance, is to avoid violations of this chapter arising from the impermissible location of any building or structure, or the intended use thereof or of any premises.

§ 220-16-3. Required lot, yard, area or space.

- A. All lots, yards, and other open spaces shall comply with the lot, yard and area requirements of the zoning district in which they are located (see Article XV), and are also subject to the following:
 - 1. No lot, yard or other open space shall be divided, altered or reduced so as to make it less than the minimum required under this chapter, and if already less than the minimum required it shall not be further divided, altered or reduced.
 - 2. No yard or other open space provided about any building for the purpose of complying with the requirements of this chapter shall be considered as a yard or open space for any other building.
 - 3. Where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be grouped together for zoning purposes sufficient to create a single conforming buildable "zoning lot" (or, as applicable, a single less nonconforming zoning lot).

4. Where two or more contiguous lots or portions of lots are in single ownership, but are not required by the preceding paragraph to be grouped together for zoning purposes, the owner of such lots/portions of lots may nevertheless choose to group such lots/portions of lots together to create a larger "zoning lot".

§ 220-16-4. Essential services.

- A. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district, provided the Township Board has granted any applicable municipal consent/franchise.
- B. Notwithstanding subsection A, the following requirements shall apply to such facilities, as applicable:
 1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall at least six feet high and otherwise adequate to obstruct passage of persons or materials.
 2. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding area or neighborhood.
 3. Site plan review shall be required for all such development and use of land that involves above ground facilities or parking areas or drives and is to be located outside a dedicated public right-of-way.

§ 220-16-5. Building/structure height exceptions.

The height limitations of all zoning districts may be exceeded by the following structures: flag poles, chimneys, farm structures, non-commercial television and radio antennas (not exceeding 50 feet in height), wireless communications support structures/wireless communications equipment (except as otherwise specifically regulated in this chapter), monuments, cupolas; belfries, steeples, spires or other ornamental projections, water towers, fire towers, and small wind energy conversion systems (except as otherwise specifically regulated in this chapter). In the zones where industrial uses are allowed, smokestacks, chimneys, cooling and fire towers, parapet walls, elevator buildings and bulkheads, roof storage tanks, and roof structures for other necessary appurtenances for such uses are also permitted above the height limitations provided they are located at least the same distance as their height from any adjoining property lines.

§ 220-16-6. Control of heat, glare, fumes, dust, noise, vibration and odors.

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise, vibration or vision obstruction beyond the lot or parcel on which the use is located.

§ 220-16-7. Principal building on a lot or parcel.

In the Agricultural and Residential Districts, no more than one principal building shall be placed on a lot; provided that groups of multiple-family dwelling buildings under single ownership shall be deemed a principal use collectively.

§ 220-16-8. Double frontage lots.

Buildings on lots having frontage on two intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

§ 220-16-9. Garages occupied as dwelling units.

Any building erected as a garage, or in which the main portion is a garage, shall not be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premises and complies with all the provisions of this chapter relating to buildings for residence purposes.

§ 220-16-10. Trash, litter or junk in yards.

No trash, litter or junk shall be accumulated, placed, stored, or allowed on any premises in the Township, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed eight days storage in watertight/covered storage receptacles designed for the temporary accumulation of trash.

§ 220-16-11. Classification of moved buildings.

Any building moved within a district, or any building moved into a district from without, shall be considered a new building and be subject to all the limitations and requirements set forth herein relating to uses, construction, permits and certificates.

§ 220-16-12. Fill regulations.

- A. Statement of Purpose. The purpose of these regulations is to assure that filling activities on any property in the Township for building site preparation, or otherwise, comply with applicable state laws, utilize appropriate fill materials, and are undertaken and completed in such a manner as to reduce hazards to life and property, and generally protect the public health, safety and welfare. Nothing herein is intended to allow the establishment of a disposal area regulated by 1978 Public Act 641, as amended, or otherwise affect the provisions of that Act, which require certain waste materials to be disposed of in a solid waste disposal area constructed and licensed pursuant to that Act.

B. Regulations Applicable in all Zoning Districts. Only inert soil, sand, clay, gravel, stone, and other inert/non-organic material may be used as fill materials in any zoning district, subject to the following regulations:

1. State Wetland Permit Requirement. No filling activities shall take place in a wetland subject to regulation by the State without a permit first being obtained as required by applicable law.
2. State Soil Erosion and Sedimentation Permit Requirement. No filling activities which may result in or contribute to soil erosion or sedimentation of surface waters shall take place without a permit first being obtained from the appropriate state or county agency as required pursuant to applicable law.
3. Fill Material Content. Fill material shall have sufficient porous materials (such as soil, sand or gravel) to bed non-porous materials (such as rock, or pieces of concrete or brick).
4. Maximum Size of Non-porous Materials. Allowable non-porous materials (such as rock, or pieces of concrete or brick) shall be no greater in size than a standard concrete construction block. If larger pieces of material are encountered they shall be broken up to a conforming size or removed and lawfully disposed of.
5. Compaction of Fill Material. All fill material shall be compacted to at least a 90% density.
6. Leveling and Finishing of Filled Areas. Within 30 days or as soon thereafter as is practicable all filled areas shall be graded and leveled, completely covered with clean top soil at a depth of at least six inches, and seeded with a grass or other appropriate form of vegetation sufficient to control erosion.
7. Final Grade and Runoff Control. The final grade of all filled areas shall be such as to either contain precipitation run-off within the subject property, or restore a natural flow to abutting property or a public roadway or other public right-of-way.

C. When Fill Permit Required; Review of Application for Fill Permit by Zoning Administrator or Planning Commission.

1. No Fill Permit Required. No fill permit is required where the volume of fill associated with a particular filling activity or project will not exceed 500 cubic yards of material.
2. Fill Permit Required; Review by Zoning Administrator. Where the volume of fill associated with a particular filling activity or project will be more than 500 cubic yards of material but less than 1,000 cubic yards of material, no filling activity shall take place except upon approval of an application for a fill permit by the Zoning Administrator pursuant to the application requirements and review criteria specified in subsection 3 below (administered by the Zoning Administrator as a zoning compliance permit, rather than by the Planning Commission as a special land use).

3. Where the volume of fill associated with a particular filling activity or project will exceed 1,000 cubic yards of material, or where the Zoning Administrator determines that by reason of the nature of the subject property, the location of that property, or other circumstances of the proposed fill activity, a particular filling activity or project is likely to cause a substantial impact on adjoining or nearby properties which may not be temporary in duration, no filling activities shall take place without Planning Commission approval of the filling activities, as a special land use, in accordance with all applicable provisions of this chapter, including the following:

a. Application for Fill Permit. An application for a Fill Permit shall be filed with the Township Clerk in accordance with § 220-20-2 of this chapter and shall in addition include the following information:

- (1) Name and address of applicant.
- (2) Common address and legal description of property to be filled.
- (3) Owner of property to be filled.
- (4) Type(s) of fill material to be deposited.
- (5) Source(s) of fill material to be deposited.
- (6) Route(s) of travel from source(s) of fill material to subject property.
- (7) Volume of fill material requested to be permitted (in cubic yards).
- (8) Location of portion of subject property where filling activities will take place.
- (9) Final grade of filled area.
- (10) The number and type of vehicles and equipment to be used in filling activities, including transporting, dumping and leveling fill materials.

The Planning Commission may require one or more of the above application items and other pertinent information to be supplied in the form of a site plan in accordance with Article XXI of this chapter.

b. Fill Permit Review Criteria. The Planning Commission shall process and review a Fill Permit application in the same manner as a special land use request is processed and reviewed pursuant to law and applicable provisions of Article XX. The Planning Commission shall approve, approve with conditions, or disapprove the application based on the general special land use approval standards in § 220-20-3 of this chapter, and upon a finding that:

- (1) The requested filling activities can be conducted in compliance with all applicable Township ordinance requirements; and
- (2) All applicable state and/or county permits have been obtained; and
- (3) The requested fill activities will not have a harmful affect on abutting or nearby properties, except to the extent that any such affects are unavoidably inherent in the filling process, but will be temporary in duration, lasting only so long as the filling activities are taking place.

§ 220-16-13. Exotic animals, and livestock.

A. Exotic Animals. Exotic animals are not permitted on any premises in Rutland Charter Township without a determination by the Zoning Administrator that the subject animal(s) will pose no threat to the health, safety and welfare of persons or property, after submission of a site plan pursuant to §220-21-3 and site plan approval pursuant to the standards specified in §220-21-5.B; provided that the Zoning Administrator may instead refer the site plan submission to the Planning Commission for review pursuant to the applicable provisions of Article XXI of this chapter if the Zoning Administrator determines such review by the Planning Commission instead of the Zoning Administrator is in the public interest.

B. Livestock. The keeping or raising of livestock is subject to the following:

1. Commercial Production Purposes. The keeping or raising of livestock for commercial production purposes is a "farm" permitted use in the AG/OS Agricultural/Open Space Preservation District and the CR Country Residential District; provided the siting of a new or expanding commercial livestock production facility in these districts is controlled by the State of Michigan pursuant to the Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Facilities issued by the Michigan Commission of Agriculture & Rural Development under authority of the Michigan Right To Farm Act. This Zoning Ordinance does not provide for commercial production livestock land uses in any other zoning district, but certain premises in other zoning districts may be determined by the State of Michigan to be permissible for the siting of a new or expanding commercial livestock facility pursuant to the preceding referenced Generally Accepted Agricultural and Management Practices issued by the Michigan Commission of Agriculture & Rural Development.
2. Non-Commercial Production Purposes. The keeping or raising of livestock for non-commercial purposes is a "farm" permitted use in the AG/OS Agricultural/Open Space Preservation District, as specified above for commercial production livestock facilities. The raising or keeping of livestock on a non-commercial basis is allowed as a special land use in the CR Country Residential District, as specified in §220-5-3.H. The keeping or raising of livestock for non-

commercial purposes is not allowed in the MDR Medium Density Residential District, except as provided by §220-6-2.H. with respect to small animals. The keeping or raising of livestock on a non-commercial basis is not allowed in any of the following districts as an accessory use or otherwise: HDR High Density Residential District, MHCR Mobile Home Community Residential District, MU Mixed Use District, LC Lake Commercial District, ACLI Airport Commercial/Light Industrial District, LI Light Industrial District, PRC Park/Recreation/Camps District.

3. For purposes of the provisions of Chapter 220 pertaining to the keeping or raising of livestock for "commercial" purposes, or referring to a livestock "production" facility or similar term, these terms shall mean the act of producing an item intended to be sold at a profit.

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ARTICLE XVII
Supplementary Provisions

§ 220-17-1. Accessory uses.

In any zoning district accessory uses incidental to a principal permitted use or approved special land use are allowed on the same lot as the principal use, or on a contiguous lot under the same ownership. Accessory uses shall not involve the conduct of any business, trade, or industry except where such type of use is otherwise permissible pursuant to this chapter.

§ 220-17-2. Accessory buildings.

- A. In any zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this chapter applicable to the permitted principal building.
- B. Detached accessory buildings in the MDR and HDR Districts shall be located at least 15 feet from the rear lot line, and in all other districts shall meet the rear yard requirements in Article XV (Schedule of Regulations).
- C. The distance between a detached accessory building and any principal building shall be at least 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar permanent architectural device.
- D. A garage may be placed in the front yard of any lawful waterfront lot, if it is an accessory building and is located at least 30 feet from the edge of the lake or river and does not obstruct the water view of adjacent properties.
- E. No accessory building or structure shall include residential or living quarters for human beings.

§ 220-17-3. Temporary uses or structures requiring Zoning Administrator authorization.

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

Each permit shall specify the location of the office and area and shall be valid for a period of not more than six calendar months and may be renewed by the Zoning Administrator for up to four additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project, and if same has been developed and used in compliance with the permit.

- C. Temporary occupancy of recreation vehicle as a dwelling. Upon application on such form as the Township may prescribe the Zoning Administrator may issue a zoning compliance permit for one recreation vehicle to be temporarily occupied as a dwelling on a lot in any district where single family dwelling is a designated permitted use, in the circumstances of subsection 1 and subsection 2 herein:
1. Where the recreation vehicle is proposed to be occupied for temporary non-commercial purposes associated with recreational activities on the subject property, or for personal visitation by the occupants with the occupant of the permanent dwelling on the subject property, subject to the following terms and conditions:
 - a. The recreation vehicle shall not be leased or rented to the occupants for any form of monetary compensation or other non-monetary consideration.
 - b. The recreation vehicle shall be sited on the lot in compliance with all setback requirements that would apply to a principle building or structure, as shown on a site diagram submitted with the zoning compliance permit application.
 - c. The recreation vehicle shall be connected to a water supply and have sewage facilities for the duration of the temporary occupancy that comply with all applicable County and State health regulations, as specified with the zoning compliance permit application.
 - d. The temporary occupancy of the recreation vehicle shall be limited to a total of not more than 14 days, cumulatively, in any six month period.
 2. Where the recreation vehicle is proposed to be temporarily occupied during construction of a permanent dwelling on the same lot, subject to the following terms and conditions:
 - a. Occupancy of the recreation unit shall be limited to the intended occupants of the permanent dwelling to be constructed on the same lot.
 - b. All permits required for the construction of the permanent dwelling have been obtained.
 - c. The recreation vehicle shall be sited on the lot in compliance with all setback requirements that would apply to a principle building or structure, as shown on a site diagram submitted with the zoning compliance permit application.

- d. The recreation vehicle shall be connected to a water supply and have sewage facilities for the duration of the temporary occupancy that comply with all applicable County and State health regulations, as specified with the zoning compliance permit application.
 - e. The temporary occupancy shall be limited to a total of not more than 180 days; provided the Zoning Administrator may approve one extension of the permit for not more than 90 additional days if the Zoning Administrator determines substantial progress has been made on the construction of the permanent dwelling and the construction should be completed with due diligence by the end of the extension period.
 - f. The temporary occupancy of the recreation vehicle shall cease no later than 7 days after the Building Official has issued a certificate of use and occupancy for the new permanent dwelling.
- D. Temporary occupancy of dwelling while new dwelling on same site is constructed. Upon application, the Zoning Administrator may issue a permit for occupancy of an existing permanent dwelling while another permanent principal dwelling is under construction or retrofitted to the site, as a temporary exception to § 220-16-7 generally prohibiting more than one principal dwelling per lot. The permit may be issued for not more than 12 consecutive months, after which the original principal dwelling shall be removed or demolished within a thirty-day period. The applicant shall submit a scale sketch plan showing the dimensions of the lot and where both dwellings will be located. The applicant must post a security in an amount equal to a bona fide bid by a company for the demolition and/or removal of the original principal dwelling. Failure to comply with the conditions of the permit may result in the forfeiture of the security and removal/demolition of the original principal building by the Township.
- E. Temporary event. Upon application, the Zoning Administrator may issue a permit for a temporary event in the LC, ACLI, LI, and MU districts, subject to the following regulations applicable to any such temporary event:
- 1. The application shall specify the temporary event for which the permit is requested; the day(s) the event is proposed to be held; the proposed hours during which any aspect of the proposed event will be operating; and emergency contact information for the person or persons who will supervise the proposed event and be responsible for the health, safety, and well-being of all persons participating or assisting in the event.
 - 2. The event shall be incidental to another permissible use of the subject property that has previously obtained all applicable zoning approvals.
 - 3. The event shall be compatible with adjacent properties.
 - 4. The applicant or other party responsible for the event shall make adequate provisions for all of the following with respect to the event, as applicable:

parking, traffic circulation, lighting, security and other safety services, garbage/rubbish containment and removal, drinking water, and sanitary facilities.

5. The event shall not exceed seven consecutive days. No such event shall be held on the subject property more than four times per calendar year, and at least 30 days shall lapse between such events.
 6. The Zoning Administrator may issue a permit for signage for the temporary event pursuant to applicable provisions of Article XVIII, subject to the following requirements and limitations:
 - a. The signage shall be limited to 400 square feet, inclusive of all signs, banners and/or flags relating to the event.
 - b. The number, type, and size of all signs shall be provided with the temporary event permit application.
 - c. The permitted signage shall not be in place more than three days prior to the day on which the event begins, and shall be removed not later than the day following the last day of the permitted event.
 7. An applicant may propose a temporary event exceeding the seven day limitation specified in subsection E.(5); provided that any such application shall not be approvable by the Zoning Administrator, but may be approved by the Planning Commission as an overlay special land use in the zoning districts specified above, subject to the following provisions of this Code:
 - a. All of the preceding requirements and limitations of sub-parts 1-6 of subsection E., except the seven consecutive day limitation on the duration of the temporary event.
 - b. All applicable provisions of chapter 220 pertaining to consideration of special land use permits, including Article XX.
 - c. All other applicable provisions of this Code.
- F. Temporary use of mobile home as dwelling. The Zoning Administrator may grant a permit for the temporary use of a mobile home for dwelling purposes that does not satisfy all the requirements for a "dwelling unit" as defined in § 220-6, provided the mobile home is located upon the premises of the applicant and has running water and sewage facilities of not less than septic-tank quality available for the occupants. The permit shall only be issued in the event of an emergency situation where the applicant has sustained damage or injury to his or her permanent dwelling which makes it impossible to reside in that dwelling. The permit may be issued for a period not exceeding 30 days, but the Zoning Administrator may grant one or more extensions for good cause; provided, the total period of occupancy shall not exceed six months. As a condition of granting the permit, the applicant shall agree to immediately remove the mobile home from the premises upon completion of repairs

to/replacement of the permanent dwelling. The Zoning Administrator may require the posting of a performance bond in an amount not to exceed \$5,000 to assure compliance with the conditions contained herein. In addition, public utilities may have mobile homes upon their improved business or industrial park property regardless of zone during emergency situations as determined by the Township Supervisor when necessary to perform services for the public, provided that running water and toilet facilities are available upon the property for persons using said mobile homes.

§ 220-17-4. Additional setbacks for structures adjacent to state highways.

See Article XV (Schedule of Regulations), footnote 1, second paragraph.

§ 220-17-5. General lighting and screening requirements.

- A. Lighting. All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or hazard to vehicles on public or private roadways. The following standards shall be met with respect to outdoor lighting:
1. Direct or directly reflected light shall be confined to the site.
 2. Lamps and luminaries shall be shielded, hooded, and/or louvered to provide a glare-free area beyond the property line and beyond any public right-of-way, or the light source shall not be otherwise directly visible from beyond the boundary of the site.
 3. The light from any illuminated source shall be designed so that light intensity or brightness at any property line shall not exceed four lux/lumen or 0.4 footcandle.
 4. Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source and light rays shall not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 20 feet above the average grade of the site, or 15 feet when the subject site abuts a residential district.
 5. Building-mounted fixtures shall be directed downward, away from adjacent lots, and shall be no higher than the first story eave or, where no eave exists, no higher than eight feet above the finished grade.
 6. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
 7. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color, except for temporary decorative or seasonal lighting. Beacon and search lights are not permitted.

8. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
9. A photometric grid shall be submitted with any site plan where lighting is proposed on the site.

B. Screening. Except as otherwise provided in this chapter, all premises used for commercial or industrial purposes shall be screened from adjoining premises located in any residential district by either of the following:

1. A natural compact planting area of evergreens or shrubbery which retain their density and screening effect throughout the calendar year, not less than five feet in height at the time of planting, and maintained in a neat and attractive manner, compatible with the adjoining residential district.
2. An artificial wall or fence of sufficient density or compactness to screen the activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, compatible with the adjoining residential district.

No such planting area, wall or fence shall be closer than 10 feet from any adjoining street right-of-way line.

C. Zoning Administrator determination on adequacy of lighting and screening. In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Administrator shall determine whether the same is in violation of these screening and lighting provisions and the purpose herein sought to be accomplished of the screening of abutting business and residential properties and the prevention of nuisance from artificial lighting.

D. Planning Commission modification of lighting requirements. The Planning Commission may modify the general lighting requirements specified in subsection A above, upon a site-specific determination that compliance with the generally applicable requirements will not be necessary or effective to satisfy the intent of the requirements as applied to the specific site. In making this determination, and determining the resulting modified requirements applicable to the lighting for a specific development on a specific site, the Planning Commission shall consider the following standards:

1. Whether parking, vehicular circulation, or existing or planned land uses are such that compliance with the generally applicable requirements will not achieve the desired effect, or such effect will be better achieved by a lighting plan that includes modifications from the generally applicable requirements.
2. Whether the public benefit intended by the generally applicable requirements can be better achieved by a lighting plan that includes modifications from the generally applicable requirements.

3. Whether greater efficiency of the site design will be accomplished by a lighting plan that includes modifications from the generally applicable requirements.
4. Whether the modified requirements will facilitate compliance with the standards for approval of a site plan specified in § 220-21-3.

§ 220-17-6. Minimum landscape requirements.

- A. Intent of requirements. The intent of this section is to promote the public health, safety and welfare by establishing minimum requirements for the design, installation and maintenance of landscaping within the Township. Landscaping is necessary for the continued protection and enhancement of all land uses. Landscaping enhances the visual image of the Township, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction. These regulations are further intended to maintain and enhance the natural, rural character of Rutland Charter Township.
- B. Scope of development requirements.
 1. The requirements in this section apply to all lots and uses, and additional requirements may apply to specific uses or specific types of areas (see, for example, § 220-19-8 pertaining to landscaping of off-street parking areas in certain districts). No site plan, subdivision plat or site condominium plan shall be approved unless the landscaping therein is consistent with all applicable requirements of this chapter.
 2. These requirements are minimum requirements, and nothing herein shall preclude the applicant and the Township from agreeing to more extensive landscaping.
 3. Creativity in landscape design is encouraged. The requirements are intentionally flexible to encourage adaptability and creative design. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and the intent of the Township to preserve the natural, rural character of the Township.
- C. General requirements.
 1. Coverage. Unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material. Areas to be preserved in a natural state may be planted with native groundcover and maintained in an unimproved state.
 2. Compliance. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy, or prior to any actual occupancy where such a certificate is not required, and all landscaping shall thereafter be continuously maintained in a healthy and vigorous growing condition.

3. Landscaping of rights-of-way. Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.
4. Screening utility structures. Utility structures such as electrical transformers or sewer pump stations shall be screened from view by landscaping. A minimum of three evergreen trees shall be planted adjacent to the utility structure to screen it from view. All landscape plantings shall be spaced a minimum of 15 feet from any fire hydrant.
5. Maintenance of unobstructed visibility for drivers. Where a driveway intersects a public right-of-way or private road or where a site abuts the intersection of public rights-of-way or private roads, landscaping within the clear sight area shall not exceed a height of 36 inches above the pavement grade at the edge of the pavement.
6. Berms. Where required or provided, berms shall conform to the following standards:
 - a. Berms shall be at least three feet above grade elevation, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal, with at least a two-foot flat area on the top. The Planning Commission may modify the height requirement in cases where sufficient room does not exist to construct a three-foot-high berm.
 - b. Berms shall be planted with grass, ground cover, or other suitable live plant material to prevent erosion and retain its height and shape.
 - c. Berms shall be designed to meander to provide visual interest and to allow for adequate drainage.
7. Modification of landscape requirements. The Planning Commission may reduce or modify the landscape requirements in this section based upon a determination that the landscaping required will not be necessary or effective in meeting the intent of this section. In making this determination, the following shall be considered:
 - a. Whether existing natural vegetation that meets the requirements of this section will be preserved as part of the site plan.
 - b. Whether parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.

- c. Whether the public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this section.
- d. Whether the intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
- e. Whether greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of this section.

D. Standards for landscape materials. Unless otherwise specified, all landscape material shall comply with the following standards:

- 1. Plant quality. Plant materials used in compliance with the provisions of this chapter shall be nursery grown, free of pests and diseases, hardy in Barry County, in conformance with the standards of the American Nursery and Landscape Association or ANSI American Nursery Stock Index, and shall have passed inspections required under state regulations. Landscaping shall be native to the State of Michigan. Growth stunted or dwarf trees shall not be permitted.
- 2. Plant material specifications. The following minimum specifications shall apply to all plant material at the time of planting proposed in accordance with the landscaping requirements of this chapter:

Minimum Plant Material Size

Plant Type	Minimum Caliper (inches)	Minimum Height (feet)	Minimum Spread
Deciduous shade trees	3	4 feet first branch	—
Ornamental trees	2	6	—
Evergreen trees	—	6	2 feet
Shrubs	—	2	15 inches
Hedges	—	4	

- 3. Turf areas. Turf area(s) shall be planted using species normally grown as permanent lawns in Barry County. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and diseases. Straw, mulch, or biodegradable seed stabilizing mesh/netting shall be used to protect newly seeded areas.
- 4. Suggested plant material. The following table lists recommended plant materials for required landscaping. Plant materials of equal or better quality may be substituted for suggested plant materials.

Recommended Plant Materials

Common Name	Genus
Deciduous Canopy Trees	
• Oaks	Quercus
• Hard Maples (except Japanese)	Acer
• Hackberry	Celtis
• Planetree (Sycamore)	Platanus
• Birch	Betula
• Beech	Fagus
• Ginkgo (male)	Ginkgo
• Honeylocust (Thornless Cultivars only)	Gleditsia
• Hophornbeam (Ironwood)	Ostrya
• Linden	Tilia
• Hickory	Carya
• Hornbeam (Blue Beech)	Carpinus
Deciduous Ornamental Trees	
• Amelanchier	Amelanchier
• Redbud	Cercis
• Dogwood (Tree Form)	Cornus
• Hawthorn	Crataegus
• Flowering Crabapple (disease resistant cultivars)	Malus
• Flowering Plum (tree form)	Prunus
• Flowering Pear	Pyrus
• Magnolia	Magnolia
• Hornbeam	Carpinus
• Rose of Sharon	Hibiscus
Evergreen Trees*	
• Fir	Abies
• Hemlock	Tsuga

- Spruce Picea
- Pine Pinus
- Douglas Fir Pseudotsuga

*Dwarf, Globe, Pendulous species/Cultivars are not permitted.

Narrow Evergreens*

- Juniper Juniperus
- Arborvitae Thuja

*Dwarf, Globe, Spreading Species/Cultivars are not permitted.

Large Shrubs

Deciduous

- Dogwood (shrub form) Cornus
- Cotoneaster Cotoneaster
- Forsythia Forsythia
- Mock-Orange Philadelphus
- Lilac Syringa
- Viburnum Viburnum
- Witchhazel Hamamelis
- Euonymus Euonymus
- Privet Ligustrum
- j. Ninebark Physocarpus

Evergreens

- Juniper (Hetz, Pfitzer, Savin) Juniperus
- Yew (Pyramidal Japanese) Taxus

Small Shrubs

Deciduous

- Barberry Berberis
- Boxwood Buxus
- Quince Chaenomeles
- Cotoneaster Cotoneaster
- Euonymus Euonymus
- Forsythia Forsythia

Administrator.

This zoning compliance permit requirement shall not apply to any types of fencing exempted from this section as listed in subsection H below, or otherwise specifically exempted herein from a permit requirement.

In reviewing and acting upon a zoning compliance permit application for a fence, the Zoning Administrator is entitled to rely on the depiction of the subject premises on the diagram submitted by the applicant, including the depiction of lot lines relative to the location of the proposed fence. However, if the Zoning Administrator has tangible evidence sufficient to reasonably question the accuracy of the site diagram, or the placement of the proposed fence relative to a lot line, the Zoning Administrator may decline to take action on the permit application unless and until the applicant supplements the application with a professional survey establishing the exact location of any relevant lot line, and the surveyor has installed appropriate field markers sufficient to visually delineate any such lot line.

- B. Location Requirements. All types of fences in all districts are subject to and shall comply with the following location requirements:
1. No fence shall be placed on property owned by another person, unless the owner of that property has consented to such placement of the fence in a written and legally enforceable document. Note: in placing a fence on or in the immediate proximity of a lot line it is the responsibility of the party erecting the fence, not the Township, to allow sufficient space for maintenance without trespassing, or make appropriate arrangements with the adjoining property owner with respect to maintenance access.
 2. No fence shall be placed within any part of a public street right-of-way, or any other public way; except for the type of temporary fencing erected by a governmental authority as specified in subsection H.1, or other fencing erected by a governmental authority with jurisdiction over such public area.
 3. No fence shall be placed in or over any lake or other public waterway.
 4. Minimum setback requirements do not apply to fences, except as otherwise specified in this section or elsewhere in this Chapter; including, for example, the setback requirements applicable to lake lots as specified in subsection C below, and the street right-of-way setback requirement for fences and other types of screening on premises used for commercial or industrial purposes as specified in § 220-17-5.B.
 5. Fencing shall not be located on any lot within 15 feet of a public street right-of-way; except for open-style fencing not exceeding four feet in height.
 6. Fencing shall not be located on any corner lot within 25' of a public street right-of-way; except for open-style fencing not exceeding four feet in height, or fencing that is at least 50% open/transparent and not exceeding three feet in height.

- C. Additional Location Requirements Applicable to Fencing on Lake Lots. The following location requirements shall apply to fencing on lake lots, in addition to the location requirements otherwise applicable to all premises as specified in subsection B above:
1. On a lake lot no fence shall be located within the minimum required front yard (lake side) setback area applicable to the zoning district within which the lot is situated (see § 220-15-1 Schedule of Regulations); except for open-style fencing not exceeding four feet in height from grade at any point, or fencing that is at least 50% open/transparent and not exceeding three feet in height from grade at any point.
 2. On a lake lot no fence shall be located within the minimum required rear yard (street side) setback area applicable to the zoning district within which the lot is situated (see § 220-15-1 Schedule of Regulations); except for open-style fencing not exceeding four feet in height from grade at any point, or fencing that is at least 50% open/transparent and not exceeding three feet in height from grade at any point.
- D. Height Limits. The following requirements relating to the permissible height of fences shall apply as stated:
1. In any Residential District no fence shall exceed a height of six feet, or such lesser height limit as may be specified in this Chapter for specific circumstances, such as lake lots, and corner lots.
 2. In any district a fence associated with a land use for which a fence height limit is specified elsewhere in this Code shall not exceed such specified height limit. Example: see § 220-17-9 pertaining to junk yards and similar businesses.
- E. Permissible/Prohibited Types of Fencing. The following fence regulations apply in all districts, except as otherwise indicated:
1. Otherwise permissible fencing shall be constructed of a solid material, such as wire, wrought iron, wood, vinyl, or other similar material designed to retain its shape and configuration upon proper installation.
 2. Barbed wire fencing is prohibited in all districts, except in conjunction with the lawful keeping of livestock in the Agricultural/Open Space Preservation District or such other district where the keeping of livestock is a lawful use.
 3. Electrified fencing is prohibited in all districts, except in conjunction with the lawful keeping of livestock in the Agricultural/Open Space Preservation District or such other district where the keeping of livestock is a lawful use.
 4. Fencing consisting of tarps or fabric material is prohibited in all districts.

5. Sharp projections on fences are prohibited in all districts. Picket-style fences, where otherwise permissible, shall have blunt-end or ball-type finials, or an angle at the top of not less than 90 degrees, or a top rail.
- F. Maintenance/Repair and Removal Requirements. The following requirements apply to all types of otherwise permissible fencing, in all districts:
1. All fences shall be kept in a well-maintained condition at all times, which shall include keeping the fence straight/upright, staining/painting as appropriate, repairing or replacing sagging or damaged parts and loose components, so as to cause the fence to not be unsightly or dilapidated.
 2. Unmaintained and/or abandoned fences shall be repaired or removed within 14 days of written notice given by the Zoning Administrator.
- G. Limitations on Changes to Existing Fencing. Existing fencing that does not comply with one or more requirements of this section, but which was existing and lawful on the effective date of this section (as amended by Ordinance No. 2019-167), may be continued as a lawful nonconforming structure in accordance with applicable provisions in Article XXII of this Chapter governing lawfully established nonconforming structures. Accordingly, as provided by § 220-22-3, ordinary repair and maintenance work may be undertaken as is necessary to keep a nonconforming fence in sound condition, but no such work shall include structural alterations which are likely to extend the otherwise reasonably anticipated useful life of the fence; and any such nonconforming fence shall not be expanded, extended, enlarged, or otherwise altered except as specified in § 220-22-5. When a nonconforming fence has been removed or otherwise discontinued, it shall not be reestablished except in full conformance with all applicable requirements of this section and Chapter.
- H. Exemptions. The following types of fencing are exempt from any requirements of this section, including the zoning compliance permit requirement:
1. Fencing and fence-like barriers installed in a public street construction zone by or with the authorization of the governmental entity with jurisdiction over that public street.
 2. Temporary fencing surrounding or otherwise protecting an otherwise permissible construction or excavation site, not exceeding the duration of the construction/excavation project.
 3. Temporary wood or plastic/vinyl snow fences not exceeding four feet in height erected to limit snow drifting and/or protect vegetation, and in place not earlier than November 1 or later than April 1.
- I. Definitions. For purposes of this section, or elsewhere in this Chapter, the following terms shall have the specified meaning.

1. “fence” means as generally defined in § 220-2-2 (A structural barrier constructed of wood, metal, stone, brick or masonry, or other durable materials, of either solid or open-style construction, erected or otherwise serving to enclose an area of land, or as a property boundary demarcation or dividing device, or as a visual screening device, or performing a similar function. This definition is not intended to include growing trees, shrubs, or other similar live vegetative material; except as specified in subsection J below with respect to hedges).
 2. “open style fencing” means fencing of a type such as chain link, or woven/welded wire, which is fully open/transparent except for the wire components of the fencing.
 3. “at least 50% open/transparent” means the style/design of the fence is such that solid vertical or horizontal components are sized and/or alternately spaced so as to achieve a see-through effect structure with uniform spacing of the vertical or horizontal components. Examples of this type of fencing include split-rail fencing, and picket fencing where the pickets are alternately spaced as specified above.
- J. Hedges. All the provisions of § 220-17-7.A-I shall also apply to any vegetative hedge intended to serve as a fence, or otherwise having that effect, based on the definition of “fence” in subsection I.1 above.
- K. Walls. All the provisions of § 220-17-7.A-I shall also apply to any wall intended to serve as a fence, or otherwise having that effect, based on the definition of “fence” in subsection I.1 above.

§ 220-17-8. Swimming pools.

- A. Pool licensed by state. Any swimming pool licensed by the state shall abide by all applicable regulations.
- B. Pool not licensed by state. Any pool not subject to a state licensing requirement is subject to the following regulations before any use of the pool:
 1. Permit required. A private or public swimming pool shall be considered a structure for purposes of this chapter, and therefore requires issuance of a building permit and/or zoning compliance permit, as applicable.
 2. Fence/wall required. All ground level swimming pools shall be enclosed by a fence, wall, or other structure at least four feet in height as measured from the outside that impedes climbing by small children. Any opening in the fence or wall shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. The entrance way shall lead to the shallow end of the pool. If the entire premises is enclosed by an approved fence or wall, this requirement may be waived by the Zoning Administrator. Above ground swimming pools are not subject to the enclosure requirements of this section, if the steps and pool entrance are secured by a self-closing and latching gate with the latch on the pool side of the gate.

3. Setback and yard requirements. The pool location, including fencing (except otherwise permissible fencing enclosing the entire premises on which the pool is located), shall comply with the applicable minimum setback requirements of the district in which the pool is located.
4. Electrical installations. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before the construction of a swimming pool.

§ 220-17-9. Junkyards and similar businesses.

Any junkyard, salvage yard, dismantling yard, or business dealing in same, including scrap dealers, shall operate only as authorized by this chapter and shall meet the following conditions and regulations:

- A. Any such activity or business shall be carried on entirely within a building or buildings or fully enclosed structure, or within a fenced-in area entirely surrounded by a solid fence or natural screen at least eight feet in height, constructed of new materials or of natural shrubbery or trees, and sufficient to at all times effectively screen the activities conducted within same from view from surrounding properties or adjoining roads.
- B. Such business or activity shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. daily.
- C. The premises shall be kept and maintained in a clean, sanitary, and neat condition, and so that rats, vermin, and fire hazards are kept to a minimum, and rubbish or garbage is not present on the premises other than in normal containers pending periodic removal.
- D. No materials shall be stock-piled above the height of the fence or solid screen.
- E. There shall be no burning of any items upon the premises other than the normal burning of trash made of paper products or wood.
- F. The setback requirements for industrial uses shall apply. Where a fence or a solid screen is used, same shall not be located within any required setback area.
- G. All such activities shall be currently licensed by the State of Michigan.

§220-17-10. Waterfront property development regulations.

- A. Intended scope and applicability of regulations. The regulations in this section are intended to apply when property in any zoning district with frontage on a navigable waterway, such as a lake or river, is proposed to be developed for a new subdivision, condominium/site condominium development, open space preservation development, multiple-family dwelling unit development (apartment building), or any other multi-

lot/unit development, in such a manner as to provide a right of use or access to the waterfront portion of the property to the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, whether such right of use/access is by single-fee ownership, common-fee ownership, condominium document, easement, lease, license, or other arrangement. This type of use of waterfront property to provide waterfront access to non-waterfront lots/units in a development is often known as developmental “funneling” or “keyholing”.

The regulations in this section are not intended to apply, and such regulations shall therefore not be applied, so as to restrict any owner/occupant of a single-family dwelling on an existing waterfront single-family lot/condominium unit in any zoning district from allowing other persons access to the waterfront and waterway for non-commercial recreational use, including such activities as swimming, fishing, boating, and seasonal boat moorage at any dock that is otherwise permissible pursuant to any other applicable provisions of this chapter (which does not include this section), in the same manner as the owner/occupant of the waterfront lot/unit could use such lot/unit themselves. Such use and access is explicitly not intended to constitute developmental keyholing or funneling regulated by this section.

- B. Developmental anti-funneling/anti-keyholing minimum frontage and depth requirement. In all zoning districts a new subdivision, condominium/site condominium development, open space preservation development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, that proposes to provide a right of use or access to the waterfront portion of the property to the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, shall provide an amount of lineal frontage (using a traverse line, not a meandering line) at the normal high water line of the waterway equal to at least the minimum lot frontage requirement applicable to the zoning district in which the property is located pursuant to the Schedule of Regulations in Article XV for each lot/condominium unit or dwelling unit intended to have a right to use or access the waterway through such waterfront property either individually or in common with others. Any such waterway access lot shall also have a depth of at least 150 feet for the entire width of the access lot.
- C. Waterway access lot use limitations. A waterway access lot created in a new subdivision, condominium/site condominium development, open space preservation development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, to which the developmental anti-funneling/anti-keyholing minimum frontage and depth requirement applies pursuant to subsection B above, shall also be subject to the following use limitations:
 - 1. Not more than one dock shall be allowed for each lot/condominium unit or dwelling unit with a right to use/access the waterway as determined pursuant to subsection B. All such permissible docks and associated dockage or mooring of boats in such a development shall be subject to all provisions of this chapter (if any) generally regulating docks/dockage, and to all other applicable ordinances of the Township.

2. Buildings and structures are not permissible on any portion of a waterway access lot created pursuant to subsection B above, except for the following structures to the extent they are otherwise permissible and in accordance with all applicable provisions of this chapter: fencing; trash receptacles; boat ramp; swings, slides, volleyball courts, and similar outdoor recreational facilities; picnic tables; and otherwise permissible docks as provided above.
 3. Overnight vehicle parking is not permissible on any portion of a waterway access lot created pursuant to subsection B above. Any area of such a waterway access lot otherwise permissibly used for the non-overnight parking of motor vehicles shall not be required to be paved, but shall otherwise be subject to all applicable provisions of this chapter regulating parking standards and requirements.
- D. Shoreline alteration and new channelization prohibited. In all zoning districts a new development subject to this section shall not alter the existing shoreline of any waterway in such a manner as to intend to create or have the effect of creating new channels, canals, or additional shoreline for additional development lots/units or a waterfront access lot pursuant to subsection B above. Otherwise permissible shoreline alteration pursuant to this subsection D shall also conform with all laws and regulations of the State of Michigan applicable to such matters.

§ 220-17-11. Building design and architectural standards.

The following building design and architectural standards shall apply to buildings in all districts, with the exception of the following: agricultural uses in the AG/OS District; and single-family and two-family dwellings and their related accessory structures in the AG/OS, Residential, and Mixed Use Districts; and all uses in the Mixed Use District other than single-family and two-family dwellings, which are instead subject to the building design and architectural standards specified in § 220-9-9.

- A. Building height.
1. The maximum building height is 35 feet or 2.5 stories, whichever is less, except as provided herein.
 2. Building height may be increased if all of the following criteria are met as determined by the Planning Commission:
 - a. The proposed development is designed to provide for shared parking and/or cross access easements with adjacent parcels.
 - b. The height of the building is designed to blend with adjacent development and will not create a dramatic height differential causing detrimental impacts to existing structures.
 - c. The height of the building has been approved by the local fire chief, upon determining the building height does not exceed the effective fire-suppression capabilities of the Fire Department.

B. Building footprint.

1. Individual building footprints are permitted up to 25,000 square feet, subject to compliance with any otherwise applicable maximum lot coverage requirement specified in Article XV (Schedule of Regulations) or elsewhere in this chapter.
2. The building footprint for an otherwise permissible residential development incorporated into a commercial development may exceed 25,000 square feet only upon Planning Commission approval of an overlay special land use permit for such footprint pursuant to the following standards:

- a. The special land use standards specified in § 220-20-3.
- b. The residential development shall use and share the parking facilities for the commercial development; unless the Planning Commission approves an alternate parking configuration meeting all applicable requirements of this chapter and consistent with the standards specified pursuant to preceding Subsection B(2)(a).

Note: This provision shall not be interpreted to authorize approval of a multifamily residential building with a footprint exceeding 25,000 square feet where the development does not include any commercial uses.

3. The building footprint for an otherwise permissible light industrial use may exceed 25,000 square feet only upon Planning Commission approval of an overlay special land use permit for such footprint pursuant to the following standards:

- a. The special land use standards specified in § 220-20-3.
- b. The subject property shall be adjacent to property with an existing industrial use on at least one side.
- c. The building footprint shall not be located within 1,000 feet of any conforming residential use.
- d. The proposed use shall be similar in nature to existing uses on adjacent properties.

4. The building footprint for another otherwise permissible use may exceed 25,000 square feet only upon Planning Commission approval of an overlay special land use permit for such footprint pursuant to the special land use standards specified in § 220-20-3.

C. Architectural standards.

1. Buildings with multiple stories shall be improved with windows that add character to the structure and create a visual delineation between stories.

2. Building facade shall incorporate bays, storefronts, entrances, columns, and other vertical elements in not less than thirty-foot horizontal increments.
3. Exterior materials shall reflect a sense of permanence and community character and shall be subject to Planning Commission approval.
4. Windows shall have sills and trim.
5. The building materials and design on all sides of the building shall be coordinated; and architectural features shall be complementary of the building materials and design.
6. Roof design shall be flat, hipped, or front-gabled. Flat roofs shall incorporate a decorative cornice line that clearly identifies the top of a building.
7. The form, scale and proportion of buildings shall be consistent or compatible with the form, scale and proportion of existing development within 500 feet.
8. Mechanical equipment on the ground or on the roof shall be screened from public view.
9. Each multifamily dwelling unit shall have a minimum of 75 square feet of private outdoor space in the form of a deck, patio, balcony, porch, or yard.
10. All refuse containers shall be located within a four-sided solid fence enclosure not exceeding six feet in height, constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated, and screen the refuse containers from view on any adjoining premises or public street. Refuse container enclosures shall not be located in a front yard.

§ 220-17-12. Media Productions on Public Property.

Any media production on public property in the Township shall be subject to the following regulations:

- A. Definition. For purposes of this section “media production” shall mean any of the following or a combination thereof, whether for commercial, non-profit, artistic, or any other purpose:
 1. Photographing, producing, videotaping, or other filming of movies, television programs, commercials, print advertising, or other media.
 2. Still photo shoots.
- B. Permit required. No person, firm, association, or other entity shall operate or engage in any media production on public property within the Township without first obtaining a permit from the Zoning Administrator as required herein; provided the provisions of this

section shall not apply to current news productions and local cable public television access productions, including reporters, photographers, and camera persons in the employment of a newspaper, news service, broadcasting agency, or to college or other educational facility productions, or any similar entity. Permit applications shall be filed with the Township Clerk at least seven days before the intended beginning date for any production activity involving public property within the Township, including any pre-production activities. The Clerk shall promptly refer a permit application to the Zoning Administrator for review and action as provided herein.

- C. Permit application. An application for a media production permit shall include all of the following information:
1. Applicant's name, primary business address, temporary local address, telephone number, and any other pertinent local contact information, including the name and direct telephone number of the applicant's designated local liaison with the Zoning Administrator.
 2. A description of the proposed production, generally, and a specific description of the portion of the production involving public property within the Township.
 3. A description of the proposed location(s) for the production, including the dates and times for the portion involving public property within the Township from set-up through conclusion of the production.
 4. A copy of the certificate of insurance and hold harmless agreement form required by subsection D.3 herein.
 5. The permit fee established by the Township Board.
- D. Standards for permit issuance. Within five days after receipt of an administratively complete application the Zoning Administrator shall issue a permit upon finding all the following standards to be met:
1. All permits required by any applicable construction code have been issued by the appropriate Building Official.
 2. Any permits or other approvals required by any other unit of government have been issued.
 3. Proof of general liability insurance of at least one million dollars (\$1,000,000) covering all aspects of the media production on public property within the Township and naming the Township and its officials, employees and agents as additional insureds in effect at all times during the media production in the Township; and a standard hold harmless agreement executed by the applicant and the Township holding the Township and its officials, employees and agents harmless from any liability of any kind claimed to be caused by any act or omission relating in any manner to the permitted media production, and further

obligating the applicant to provide a legal defense against any such liability claim brought against the Township or its officials, employees or agents.

4. The media production will not be detrimental to the public health, safety, or general welfare, either generally or with specific regard to the particular dates and times for the intended use of the specific locations of public property within the Township.
5. The media production will not be unreasonably detrimental to the use or occupancy of any private property adjacent to the intended public property production location(s) or any other private property in the vicinity of same.
6. The media production will not involve any obscene matter or performance in violation of law, or otherwise violate any local ordinance or state or federal law.
7. The applicant has the ability and intention to at all times comply with the foregoing standards and all conditions attached to the permit.

E. Permit conditions. The permittee shall comply with the following conditions imposed on a permit issued pursuant to this section:

1. All public property used for a media production shall be kept in a safe and clean condition for all participants in the production and the general public.
2. The permittee shall provide on-site security if and to the extent deemed necessary by the Zoning Administrator to insure the public health, safety, and general welfare.
3. The permittee shall be responsible for all costs of security, and for the costs of all damage and clean-up to public property and any incidental damage and clean-up to private property resulting from the production.
4. The following conditions shall apply to that portion of any media production involving a public street:
 - a. Base camps shall not be located on a public street.
 - b. A public street shall not be closed or otherwise obstructed for longer than reasonably necessary pursuant to the issued permit, and any such closure or obstruction shall be subject to immediate termination by the Zoning Administrator or any law enforcement authority with jurisdiction over the street to facilitate immediate access to and use of the street by emergency vehicles.
 - c. Only necessary production vehicles may be parked on a public street; all other vehicles and equipment shall be parked at a predetermined approved location.

5. The permittee shall allow the Zoning Administrator and Building Official (or their designees) a right of access at any time to any production location involving public property within the Township for the purpose of verifying continuing compliance with all permit approval standards and conditions.
 6. Such additional reasonable conditions as the Zoning Administrator may determine to impose at the time of issuance of the permit or at any time during the use of the permit; provided any such conditions shall meet the requirements for conditions specified in § 220-21-5.D and be otherwise lawful.
- F. Suspension or revocation of permit. The Zoning Administrator may temporarily suspend any permit issued under this section in the event of noncompliance with any provision of this section or any applicable Township ordinance or state or federal law, where the Zoning Administrator determines the permittee can and likely will abate the noncompliance within a reasonable period of time; and the permit shall be reinstated when the Zoning Administrator determines such noncompliance has been abated. The Zoning Administrator may revoke a permit issued under this section in the event of any ongoing or otherwise non-abated noncompliance with any provision of this section or any other applicable Township ordinance or state or federal law. The Zoning Administrator shall promptly give to the permittee notice of any such permit suspension, permit reinstatement, or permit revocation. Such notice may initially be given orally, but any such oral notice shall be followed by written notice at the earliest feasible opportunity.

§ 220-17-13. Private roads.

- A. Purpose and Applicability. The Township has determined the Michigan Land Division Act may allow property to be divided in such a manner as to create new parcels that are “accessible” to a public road as required by that Act, but without the minimum frontage on a public street or sometimes a private road as required by the Township’s zoning regulations to be “buildable”. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure they are designed and constructed with a sufficient width, surface, and grade to provide safe passage and maneuverability of private vehicles and emergency services vehicles, and to protect against or minimize soil erosion and prevent damage to the natural environment of the Township, including lakes, streams, and wetlands; and to require such private roads to be sufficiently repaired and maintained to facilitate continued safe and convenient use. This section includes provisions pertinent to the continuation of existing private roads, the extension of existing private roads to serve additional lots or building sites, and the construction and use of new private roads where such roads are allowed by this section or other sections within Chapter 220. This section also distinguishes between private roads and “shared driveways”.

The provisions of this section are not intended to apply to any of the following:

1. access roads and driveways internal to any individual lot which has direct public street frontage access and is under the control of one person or entity, where the access road does not provide access to any abutting lot.

2. a shared driveway, as defined herein.
3. access roads that are subject to site plan review and formal approval by the Planning Commission pursuant to other provisions of this chapter (pertaining to commercial developments, for example).

B. Definitions. For purposes of this section, and elsewhere in this chapter where the usage of the term is consistent with the usage of that term in this section, the following terms are defined as follows:

- EXISTING DWELLING UNIT — A dwelling unit lawfully existing before December 11, 1996.
- EXISTING LOT — A lot existing before December 11, 1996 which meets at least one of the following conditions:
 1. The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Barry County Register of Deeds, or a parcel described by a land contract or memorandum of land contract which has been recorded with the Barry County Register of Deeds;
 2. The lot has been assigned its own parcel number by the Township Assessor and is individually assessed and taxed on that basis; or
 3. The lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the Barry County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCL § 559.101 et seq.) and other applicable laws and ordinances.
- EXISTING PRIVATE ROAD — A private road, as defined herein, which was actually and physically existing before December 11, 1996.
- EXISTING SHARED DRIVEWAY --- A shared driveway, as defined herein, which was actually and physically existing before December 11, 1996.
- PRIVATE ROAD --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to four or more lots, or four or more separate dwelling buildings.
- SHARED DRIVEWAY --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to two or three lots, or two or three separate dwelling buildings.

C. Continuation of existing private roads and shared driveways.

1. Any lawful existing private road, and lawful existing shared driveway, as defined in this section, may continue to exist as it actually and physically existed before December 11, 1996, without being subject to the other requirements of this section, but shall not be changed except in compliance with this section.

D. Changes to an existing private road or existing shared driveway.

1. An existing shared driveway shall not be extended or otherwise changed so as to provide access to more than three lots or more than three separate dwelling buildings without complying with all the provisions of this section pertaining to new private roads.
2. An existing private road shall not be extended or otherwise changed so as to serve more lots or more separate dwelling buildings than the existing private road served before December 11, 1996 without complying with all the provisions of this section pertaining to new private roads.

E. New private roads.

1. After December 11, 1996 no new private road shall be constructed, and no existing private road shall be extended, relocated, or otherwise changed, except in accordance with the standards and requirements and review procedures specified in this section.
2. A private road is allowable in any zoning district, as an overlay special land use.

F. Procedure for review of private roads.

1. Construction permit application and content. An application to construct, extend, or relocate a private road shall be filed with the Zoning Administrator on a form provided by the Township with the application fee as set by the Township Board (which shall be sufficient to cover all costs and expenses incurred by the Township to review and administer the application, and administer an issued private road construction permit, and a final private road permit, including legal and engineering fees). The application shall contain or be accompanied by the following information:
 - a. the name(s) of the owner(s) and any other parties having any legal interest in the private road and the property across which it is to be constructed.
 - b. the property tax parcel number and legal description of the property over which the private road is to be constructed.
 - c. a site location map showing the location of the property containing the road and surrounding properties and roadways (public and private) within 1/2 mile of the site.

- d. a scaled drawing showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts, and the location and distance to any public street which the private road is to intersect.
 - e. a scaled drawing illustrating the existing and proposed lots accessed by the private road, including the dimensions of all such lots.
 - f. a proposed maintenance/access agreement, and any applicable deed restrictions, as addressed in subsection I herein.
 - g. a driveway permit from the Barry County Road Commission or Michigan Department of Transportation, as applicable.
 - h. the proposed private road name, and a letter from the Barry County Planning Department indicating there is no known duplication of the proposed name.
 - i. an approved soil erosion permit from Barry County.
 - j. a letter from a professional engineer licensed in Michigan certifying the proposed private road meets all applicable design and construction specifications in this section.
2. Review of construction permit application.
- a. The Zoning Administrator shall review the application for completeness, and for apparent compliance with the requirements of this section, and shall forward an administratively complete application to the Planning Commission for review pursuant to this subsection.
 - b. The Planning Commission shall review the application pursuant to the standards and requirements of this section, assisted by such consultation with the location Fire Chief and the Township Attorney, Engineer, and Planner as the Commission deems necessary.
 - c. If the Planning Commission determines the application meets the standards and requirements of this section, it shall approve the application and direct the Zoning Administrator to issue a construction permit for the approved private road. The construction permit is not a final private road permit and does not authorize the construction of any dwelling units or other buildings to be accessed by the private road. The construction permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date the construction permit is deemed expired and abandoned, and a new permit application must be submitted and approved before any construction can

begin. The approved private road must be completed within one year from the beginning of construction.

G. Standards for Planning Commission review and approval of private road construction permit application.

1. The Planning Commission shall review a private road application for compliance with the standards generally applicable to all special land uses as specified in § 220-20-3, and for compliance with the additional standards and requirements as specified herein. In applying these standards to an application the Planning Commission shall also give consideration to the following factors:
 - a. the impact of the proposed private road and resulting development on nearby properties.
 - b. the impact of the proposed private road and resulting development on the long-range planning goals of Rutland Township.
 - c. the potential for conflicts between the proposed land uses and existing land uses (i.e., residential development in an agricultural area).
 - d. the health, safety and general welfare of the surrounding community.
 - e. the potential for traffic congestion or intersection interference or other similar or related problems created by the private road.
 - f. the potential for soil erosion, or other damage to the natural environment of the Township, including lakes, streams, and wetlands.

H. General private road requirements and construction requirements.

1. The private road shall be designed and constructed to accommodate vehicle speeds of 35 mph.
2. The private road shall intersect with a public road.
3. A building lot shall have sufficient frontage on the private road to comply with the applicable minimum frontage requirement of the zoning district as specified in Article XV (Schedule of Regulations).
4. The private road shall be centered within a sixty-six foot-wide easement or right-of-way.
5. The private road shall be constructed with sufficient slopes and grades as to provide adequate stormwater and road drainage; provided no part of the private road shall exceed a finished grade of more than 6% unless the Planning Commission approves a greater slope after consulting with the Township Engineer.

6. The private road shall provide adequate culverts and ditches at all drainage courses and waterways. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a professional engineer licensed in Michigan as complying with all applicable Barry County Drain Commissioner and State of Michigan structural and other requirements.
7. The private road shall have a surface layer of not less than six inches of 22A aggregate base gravel.
8. A private road serving seven or fewer dwelling units shall have a finished road surface of at least 18 feet in width. A private road serving more than seven dwelling units, or serving a commercial or industrial use, shall have a paved road surface of at least 22 feet in width, with six inches of 22A aggregate base gravel, two inches or 220#/syd of 20A bituminous base and 1.5 inches or 165#/syd of 36A bituminous surface. All paved road specifications shall be provided and certified by a professional engineer licensed in Michigan, and by the Township Engineer, as complying with all applicable requirements.
9. A cul-de-sac shall have a minimum radius of 35 feet.
10. An intersection of the private road with a public street shall meet Barry County Road Commission standards (or MDOT standards, where applicable).
11. The private road shall have horizontal and vertical clear zones sufficient to accommodate local delivery and emergency vehicles as determined by the Planning Commission upon consultation with the local Fire Chief.
12. Each phase of construction of the private road shall be inspected by a professional engineer licensed in Michigan, and a written report of such inspection shall be promptly filed with the Zoning Administrator. After consultation with the Township Engineer, the Zoning Administrator may require additional inspections at other times during construction of the private road.
13. The name of a private road and the assigning of numbers to all properties/buildings on the private road shall be in accordance with the Barry County Address Ordinance (as administered by the Barry County Planning Office).
14. Upon completion of construction a professional engineer licensed in Michigan shall certify to the Township in writing that the private road was constructed to all the applicable standards and requirements of this section.

I. Maintenance/access agreements and deed restrictions.

1. The proposed maintenance/access agreement/deed restrictions required to be submitted with a private road construction permit application, and the executed version of such document(s) required to be recorded prior to issuance of a final

private road permit by the Zoning Administrator, shall have provisions determined by the Township Attorney to adequately address all of the following:

- a. a method of initiating and financing repairs and maintenance of the private road to keep the road in a safe and usable condition (such as a property owner's association).
- b. a workable method of apportioning the costs of maintenance to one or more of the lots benefited by the private road.
- c. an explicit declaration that, if repairs and maintenance are not made by the private party responsible for same, the Township Board may establish a special assessment district without petition to finance the required repairs/maintenance and assess the owners of property on the private road for such costs, plus all administrative and legal expenses incurred by the Township to create and administer the special assessment district.
- d. an explicit declaration that no public funds of Rutland Charter Township or Barry County are to be used to build, repair, or maintain the private road, at any time.
- e. the granting of easements to the public for purposes of utilities, and for emergency services vehicles and other public vehicles for whatever public services are necessary.
- f. a provision obligating the owners of any property using the road to refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners or other parties with a legal right to use the road. Normal ingress, egress, and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
- g. an explicit declaration obligating the owner(s) of the private road and the owners of all property benefited by the private road to indemnify and save and hold the Township, and its boards, commissions, officers and employees, harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair or replace the private road, or in any other manner claimed to be associated with the private road in any respect, including all legal fees and expenses incurred in defending such claims.

J. Final compliance requirements. Upon completion of construction of the private road the applicant shall provide to the Zoning Administrator:

1. A letter from a professional engineer licensed in Michigan certifying the road has been constructed in compliance with the approved private road plans and all applicable requirements.
 2. Documentation that the executed road maintenance agreement/access easement/deed restrictions have been recorded with the Barry County Register of Deeds office.
- K. Final private road permit issuance. Upon approval of all items required for final compliance, the Zoning Administrator shall issue a final private road permit. This final private road permit constitutes Township zoning approval of the use of the private road, and authorization to apply for building/zoning permits for development on lots dependent on the private road in order to qualify as a buildable lot.
- L. Permits for buildings dependent on private road.
1. A building permit/zoning compliance permit shall not be issued for any property which derives its primary access or minimum required frontage from a new private road unless a private road construction permit has been issued by the Township and either of the following applies:
 - a. the Zoning Administrator has issued a final private road permit for the completed road; or
 - b. the applicant for the building permit/zoning compliance permit or owner(s) of the private road have provided the Township with cash, bond or irrevocable letter of credit in an amount determined by the Township sufficient to insure completion of construction of the private road in accordance with the approved private road construction permit within one year from the issuance of the building permit/zoning compliance permit. A bond or letter of credit shall contain a provision giving the Township the right to access the letter of credit or bond if such letter of credit/bond is not renewed 30 days before its expiration date, and the final private road permit is not yet issuable.

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Article XVIII
Signs

§ 220-18-1. Intent.

It is the intent of this article to regulate the size, number, location and manner of construction and display of all types of signage in Rutland Charter Township, except as otherwise provided in this article or elsewhere in this chapter.

§ 220-18-2. Purpose.

The purpose of these regulations is to:

- A. Protect the public health, safety and welfare of residents and visitors and to protect the natural beauty and distinctive character of Rutland Charter Township.
- B. Protect all zoning districts from visual chaos and clutter.
- C. Eliminate distractions hazardous to vehicular traffic.
- D. Protect appropriately identified usages from too many and too large signs.
- E. Provide ability for the public to identify premises and establishments.
- F. Encourage creativity of sign design.
- G. Enhance the aesthetics of the community.

§ 220-18-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABANDONED SIGN - A sign which no longer identifies or advertises a currently operating business, service, owner, product or activity and/or for which no legal owner can be found.

AREA (SIGN AREA) - The entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of one side of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. If a sign is designed to have matter displayed on more than one side, and the surface area of all sides is not equal, the side with the greatest surface area shall be used to calculate the surface area of the sign for purposes of this article. Where the parallel faces of any double-sided sign are more than 12 inches apart the square footage of each face shall be considered a separate sign and included in the calculation of total sign area.

AWNING SIGN - A sign that is either attached to, affixed to, or painted on an awning or canopy.

BILLBOARD - A sign directing attention to a use, activity or product not located, sold, manufactured or processed on the premises on which the sign is located.

BUSINESS CENTER - An area designated for multiple businesses that are located within the same principal building, or on the same lot or parcel, such as a mall or plaza. These areas may utilize one main entrance/exit.

CHANGEABLE-COPY SIGN - A portion of a sign on which copy is changed manually.

CLEAR SIGHT AREA - An unoccupied space extending along the full width of the front lot line between side lot lines and extending 10 feet from the abutting street right-of-way. Such space shall remain clear of obstructions between three and 12 feet above grade.

DIRECTIONAL SIGN - A sign giving directions or instructions for vehicular or pedestrian circulation. A directional sign shall not contain advertising display copy.

DIRECTORY SIGN - A sign which displays names and/or location of occupants or users of the premises.

ELECTRONIC MESSAGE BOARD - A sign or sign structure that uses electronic means to display a fixed or changing display/message or series of messages by electronic means.

GROUND-MOUNTED SIGN - A sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.

HEIGHT - The height of any sign shall be measured in the same manner as "building height" in § 220-2-2.

ILLEGAL SIGN - A sign which does not meet the requirements of this chapter and which does not have a legal nonconforming status.

ILLUMINATION (OR ILLUMINATED) - The lighting of the surface of a sign so as to allow the sign to be seen and read by one or more exterior beams of light. This term is not intended to apply to a type of sign where the sign message is itself internally illuminated, such as an electronic message board type of sign.

NONCONFORMING SIGN - A sign which was legally erected prior to the effective date of this chapter.

POLE SIGN - A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

PORTABLE SIGN - A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other mobile structure with or without wheels.

SIGN - Any device, structure, fixture, billboard or placard using graphics, symbols and/or written copy, which is designed, intended or used to advertise or inform.

SIGN OWNER - The owner of a premises upon which a sign is located is presumed to be the owner of the sign unless facts are submitted to the Township showing other ownership.

TEMPORARY SIGN - A sign designed for use for a limited period of time to announce special events, sales, or sale/lease or rental of property; or a sign political in nature and advocating action on a public issue or indicating a candidate for public office. Portable signs may be allowed as temporary signs, to the extent otherwise permissible as specified in this chapter.

VISIBLE - A sign message that is capable of being seen by an individual of normal visual acuity when traveling in a motor vehicle, where the context of the usage of the term applies to sight from a roadway; or a sign message that is capable of being seen by an individual of normal visual acuity when standing on premises, when the context of the usage of the term applies to sight from a stationary position.

WALL SIGN - A sign attached to a wall and not projecting away from the wall more than 12 inches.

§ 220-18-4. Signs allowed/prohibited.

Signs are allowed to be located according to the zoning district in which they are situated pursuant to the provisions of this article pertinent to the particular zoning district; pursuant to § 220-18-5 governing signs allowed in all zoning districts, and further pursuant to the General Standards and Requirements provisions of this article governing certain aspects of signs in various zoning districts. A sign not expressly allowed in a specific zoning district, or generally allowed in all zoning districts pursuant to this article, is prohibited.

§ 220-18-5. Signs allowed in all districts.

The following types of signs are allowed in all zoning districts where the use to which the sign pertains is otherwise allowed, without a permit, but subject to the lighting, maintenance and locational requirements in § 220-18-8, and other applicable laws:

- A. Building address numbers; and one dwelling nameplate sign per dwelling, not exceeding two square feet in area, either freestanding or attached to the building.
- B. One sign not exceeding four square feet in area and six feet in height giving the name and/or occupation of a lawful home occupation or family business.
- C. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- D. Legal notices posted by any governmental body.

- E. Identification, informational or directional signs, or other types of signs lawfully erected or required by any governmental body including, but not limited to, the State of Michigan, Barry County or Rutland Charter Township.
- F. Governmental use signs erected by governmental bodies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, governmental buildings, or other public places.
- G. Signs directing and guiding traffic and parking on private property, including private off-street parking areas open to the public, provided any such sign does not exceed four square feet in area, and is limited to traffic control functions, and bears no advertising matter.
- H. Historic signs designating sites recognized by the State of Michigan as Centennial Farms or Historic Landmarks, provided any such sign does not exceed 16 square feet in area.
- I. Signs posted to control or prohibit trespassing, hunting or fishing upon private property or public property.
- J. Essential service signs designating utility lines, railroad lines, hazards, or precautions, properly erected and placed by a public or private utility company or railroad, or a governmental entity.
- K. Headstones and monuments in public or lawfully established private cemeteries, and memorial signs or tablets which are either (1) cut into the face of a masonry surface, or (2) constructed of bronze or other incombustible materials and located flat on the face of a building.
- L. Banners and similar devices erected by a governmental entity to advertise a public event or civic function sponsored by a governmental entity.
- M. Temporary Election/Campaign signs.
- N. One Real Estate Sign per lot, located on-premises only while the premises are actually on the market for sale, rent or lease, and not exceeding eight square feet in area (or 24 square feet in area in the MU Mixed Use District, only); provided, however, that on a corner lot or lot with more than 330 feet of road frontage, more than one Real Estate Sign is allowed so long as the aggregate total of all such signs does not exceed eight square feet in area.
- O. Temporary construction signs designating architects, engineers, or contractors in conjunction with construction work under construction, not exceeding one per project of no more than eight square feet for single family dwelling and two-family dwelling construction projects, and not exceeding 32 square feet in area for all other types of construction projects.

- P. Signs or other special decorative displays used for holidays, public demonstrations, or promotion of civic welfare or charitable purposes, only when authorized by the Zoning Administrator, based upon the following standards:
1. The size, character and nature of the sign or display shall be compatible with the nature of the matter being promoted.
 2. The duration or time period during which the sign or display will be utilized shall be reasonably related to the nature of the matter being promoted and the proper promotion of same. Arrangement shall be made for the prompt removal of the sign or display after the conclusion of the matter being promoted.
 3. The sign or display shall not affect light or air circulation for lots which are either adjoining or in the surrounding neighborhood of the proposed sign or display.
 4. The sign or display shall not constitute a traffic hazard.
 5. The sign or display shall not have an adverse or detrimental impact on adjoining lots or the surrounding neighborhood.
- Q. One temporary auction or garage sale/yard sale sign located on the premises where such a sale is lawfully being conducted, only while the sale is in progress, and not exceeding 8 square feet in area.
- R. One temporary event sign, not to exceed 32 square feet, such as for special events and sales as defined in this Article. The display of any such temporary event sign shall be limited to 45 days in advance and the day of the event. No such sign shall be redisplayed on the same premises within 90 days of a previous temporary event sign display.

§ 220-18-6. Permitted signs in the AG/OS, CR, MDR, HDR, and PRC districts.

In these districts the following signs are allowed, upon issuance of a sign permit pursuant to § 220-18-10:

- A. Signs allowed in all zoning districts pursuant to § 220-18-5.
- B. Signs for churches, schools, and public facilities: one ground-mounted sign not exceeding four feet in height, and one wall sign (only one of which may be illuminated, but with the aggregate area of all such signage not exceeding 50 square feet).
- C. Signs for campgrounds, golf courses, stables, nurseries, and similar open space activities:
1. One wall sign not exceeding an area of 50 square feet.
 2. One ground-mounted sign not exceeding an area of 32 square feet and six feet in height.

3. Two directional signs not exceeding an area of three square feet and three feet in height.

D. Signs for subdivisions or other forms of concentrated residential development: one ground-mounted identification sign per entrance, not exceeding an area of 32 square feet and six feet in height.

E. Signs for farm markets (in the AG/OS and CR districts only): one sign not more than eight square feet in area and six feet in height.

F. Signs for a lawful commercial use for which no other provision of this Article specifically authorizes signage: one sign not more than eight square feet in area and six feet in height.

Notwithstanding the foregoing, an otherwise permissible sign in any of these districts shall not include any electronic message board.

§ 220-18-7. Permitted signs in the LC, ACLI, LI and MU districts.

In these districts the following signs are allowed, for each principal use occupying one lot, upon issuance of a sign permit pursuant to § 220-18-10 (see § 220-18-7 subsection D for additional permitted signage for business centers):

A. Signs allowed in all zoning districts pursuant to § 220-18-5 (including as specified in subsection N therein, one Real Estate Sign per lot not exceeding 24 square feet in area in the MU Mixed Use District).

B. Wall signs on building walls facing a public right-of-way or parking area, with a sign area not exceeding 20% of the building wall area upon which affixed, or 90% of the width of the wall, but subject to a total area limit of 200 square feet; except for buildings over 150,000 square feet in area the total area limit is 550 square feet.

C. One pole sign or one ground-mounted sign in accordance with Option 1 or Option 2 in the table below; provided a permissible business use on a corner lot shall be permitted one ground-mounted sign on each street frontage in accordance with Option 1 or Option 2 in the table below:

(see next page)

	Minimum Setback (feet)	Sign Type	Area (square feet)	Height (feet)
Option 1	10	Pole	32	10
		OR		
		Ground-mounted	50	6
Option 2	20	Pole	75	20
		OR		
		Ground-mounted	100	6

D. Business centers:

1. One pole sign or one ground-mounted sign identifying the name of the business center; provided a business center located on a corner lot is permitted one such sign on each street frontage. For type, area, height, and setback, either Option 1 or Option 2 from the above table applies.
2. Individual establishments within the business center are permitted one wall or one awning sign with an area not exceeding 20% of the wall area or 50% of the awning area, but in either instance not exceeding 200 square feet in area.

E. Billboards are allowed on otherwise lawful lots within business, commercial or industrial areas as defined in the Highway Advertising Act of 1972 (*MCL 252.301 et. seq.*) bordering interstate highways, freeways or primary highways as defined in that Act, in accordance with the following regulations.

1. Not more than three billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the same street or highway. The linear mile measurement shall not be limited to the boundaries of Rutland Charter Township where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side-by-side to one another) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection B. below. Stacked billboard faces (i.e., two parallel billboard faces facing the same direction with one face being directly above the other) are not permissible at any location in Rutland Charter Township.

2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway; provided the spacing requirement for an electronic message board from another electronic message board on either side of the same street or highway facing the same direction of oncoming traffic shall be increased to 1,750 feet (where such an electronic message board is an otherwise permissible type of sign, in the MU District, only).
3. No billboard shall be located within 200 feet of a residential zone and/or existing residence, church, or school. If the billboard is illuminated, this required distance shall instead be 300 feet.
4. No billboard shall be located closer than 5 feet from a property line adjoining a public right-of-way or 3 feet from any interior boundary lines of the premises on which the billboard is located.
5. The surface display area of any side of a billboard shall not exceed 200 sq. feet. In the case of billboard structures with tandem billboard faces, the combined surface display area of both faces shall not exceed 200 sq. feet.
6. The height of a billboard shall not exceed 25 feet above (1) the grade of the ground on which the billboard sits or (2) the grade of the abutting roadway, whichever is higher.
7. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
8. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
9. The billboard shall, in addition to complying with the above regulations, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended. In the event of a conflict between the applicable provisions of said Act and the applicable provisions of this chapter, the provisions of this chapter shall be controlling.

Notwithstanding the foregoing, an otherwise permissible sign in any of these districts shall not include an electronic message board, except in the MU District where any such electronic message board shall be subject to the design standards and use limitations specified § 220-18-8.H.

§ 220-18-8. General standards and requirements.

All otherwise permissible signs shall comply with the following standards and requirements, unless a more specific standard or requirement is specified in this article for a specific type of sign or in a particular circumstance:

- A. Other codes. All signs shall comply with applicable provisions of the building and electrical codes of Rutland Charter Township. *Editor's note: see Ch. 95, Construction Regulations.*
- B. Setbacks/location. All signs shall be setback at least 10 feet from all lot lines and any public street or private road right-of-way; and shall otherwise not be located so as to obstruct the clear sight area, or otherwise prevent the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, and merging traffic.
- C. Illumination. Where signage is otherwise allowed to be illuminated, the illumination:
1. shall not be flashing;
 2. shall be arranged so that light is deflected away from adjacent properties and so no direct source of light is visible to any driver or pedestrian located in a public street or private road right-of-way or from any premises in a residential district or used for residential purposes;
 3. shall not be so illuminated that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal.

In addition, all exterior lighting of signs shall be downward facing.

- D. Stationary, on-premises signage. All signs shall be stationary, and shall pertain only to the business or activity conducted on the premises; except non-commercial signs and billboards as allowed in this article.
- E. All otherwise permissible pole signs and ground-mounted signs may include changeable-copy signs or electronic message boards, subject to the design standards and use limitations specified in § 220-18-8.H.
- F. Design standards for wall signs. A wall sign shall not extend beyond the vertical edge of the wall to which it is affixed, and shall not extend more than three feet above the roof line of a building for more than 40% of the sign width.
- G. Design standards for ground-mounted signs. Ground-mounted signs shall be constructed of wood, brick, concrete, stone (or equivalent imitation stone) or other similar material as approved by the Zoning Administrator in the sign permit process. The base of any ground-mounted sign shall be landscaped with drought-tolerant plant materials that do not obscure the visibility of the sign itself, or encroach into the clear sight area.
- H. Design standards and use limitations for electronic message boards. Any otherwise permissible electronic message board (permissible in the MU District, only) is subject to the following design standards and use limitations:
1. An electronic message board may change messages and/or background images/color if the rate of change between two static messages and/or images/background color is not more frequent than one change per eight seconds,

- and each change is complete in one second or less, and all such changes are otherwise compliant with subsections 2 and 3 herein. In addition, animation and flashing features are prohibited, but frame effects are permitted, subject to compliance with subsections 2 and 3 herein.
2. An electronic message board shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.
 3. An electronic message board shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance, and using the following brightness measurement process:
 - a. At least 30 minutes past sunset, use a foot candle meter to record the ambient light reading for the area, with the digital sign off or displaying all black copy.
 - b. The reading shall be taken with the meter aimed directly at the digital sign at the appropriate pre-set distance. (100 feet from source).
 - c. Turn on the digital display to full white copy and take another reading.
 - d. If the difference between readings is 0.3 foot candles or less, the brightness is properly adjusted.
 4. An electronic message board billboard shall not be located within 500 feet of any street intersection controlled by a traffic signal light. The Zoning Administrator may reduce this intersection setback distance to not less than 300 feet where the sign permit applicant requests such reduction, and presents evidence upon which the Zoning Administrator can rely to reasonably determine a reduced setback distance from the specific intersection at issue will not adversely affect public safety due to the configuration of the specific intersection and the proposed orientation of the billboard relative to the intersection in such a manner as to minimize the visibility of the electronic message board billboard from the intersection, or due to other conditions specific to that intersection sufficient to avoid the unsafe distraction of drivers at or approaching that intersection by the periodic changing of messages on the electronic message board billboard. The Zoning Administrator shall consult with the Barry County Road Commission and/or Michigan Department of Transportation, as applicable, before making any determination on a reduced intersection setback request pursuant to this provision.
 5. An electronic message board billboard shall not be located within 500 feet of any residential dwelling. The Zoning Administrator may reduce this dwelling setback distance to not less than 300 feet where the sign permit applicant requests such reduction, and presents evidence upon which the Zoning Administrator can reasonably rely to determine a reduced setback distance from the specific dwelling at issue will not adversely affect the health and welfare of occupants of the dwelling due to the location of the specific dwelling and the proposed

orientation of the billboard relative to the dwelling in such a manner as to minimize the visibility of the electronic message board billboard from the dwelling, or due to other conditions specific to that electronic message board and/or dwelling sufficient to avoid unreasonable detriment to occupants of the dwelling by the periodic changing of messages on the electronic message board billboard.

- I. Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation, and be subject to periodic inspection by the Zoning Administrator. In addition, all signs including sign surfaces shall be maintained so as to not have a dilapidated appearance due to leaning, peeling, missing pieces, or other visually distracting or blighting condition. A sign which is not maintained in accordance with these requirements, or which otherwise no longer serves the purpose for which it was intended, or is abandoned, shall be removed by the owner within 30 days of written notice by the Zoning Administrator.

§ 220-18-9. Prohibited signs.

The following types of signs and/or signage features or devices are considered inappropriate in every zoning district of the Township, and are therefore prohibited:

- A. Private use signs located on public land or in a public street or private road right-of-way; except otherwise permissible traffic control signage for such public land or street/road, and otherwise permissible temporary real estate signs and temporary political signs as specified in § 220-18-5.
- B. Abandoned signs.
- C. Signs imitating or resembling official traffic or governmental signs or signals.
- D. Flashing or intermittently illuminated signs.
- E. Trailers, vehicles, or other mobile objects that are clearly used primarily for advertising purposes.
- F. Portable signs, except where otherwise allowed by this Article as a temporary sign, only.

§ 220-18-10. Sign permits.

- A. Permit/zoning approval required. Except for the signs allowed in all zoning districts pursuant to § 220-18-5, or signs otherwise exempted from a permit pursuant to this article, no sign shall be erected or otherwise located in any district without a sign permit/zoning compliance permit issued by the Zoning Administrator.
- B. Application for sign permit. An applicant for a sign permit shall file with the Zoning Administrator such application form as may be prescribed by the Township, accompanied by the following:

1. A sketch plan with the sign plans drawn to scale, showing the proposed location and type of each sign for which a permit is requested.
 2. Sufficient other details to demonstrate the proposed sign, including structural and electronic components, complies with all applicable requirements of this Article.
 3. The written consent of the owner of record of the property on which the sign is proposed to be located (where the permit applicant is not the property owner of record).
 4. The application fee.
- C. Sign permit standards. The Zoning Administrator shall approve or deny a sign permit application pursuant to the following standards:
1. The purpose of the regulations in this article, as specified in § 220-18-2.
 2. All applicable requirements and provisions of this article.
 3. The sign is of a shape, material, style, letter types and color appropriate for the use, enhancing to the premises, and harmonious with the neighborhood.
- D. Sign permit expiration. A sign permit expires one year from the date of issuance, unless the permitted sign has been installed within the one year period, or unless the Zoning Administrator has granted an extension of not more than one year upon good cause shown. The Zoning Administrator shall deny a permit extension request if the sign for which the permit was issued would no longer be approvable pursuant to this article.

Article XIX
Parking and Loading Areas

§ 220-19-1. Parking standards.

In all zoning districts off-street parking and loading areas shall be in accordance with the standards and requirements in this Article; except where a different requirement is specified for a particular land use or development by another applicable provision of this chapter or by an authorized decision of the Planning Commission as part of the special land use or site plan approval process.

§ 220-19-2. Location of facilities.

Off-street parking facilities shall be located as hereafter specified:

- A. For all residential buildings, and for all nonresidential buildings and uses in residential zoning districts, required parking shall be provided on the lot with the building or use it is required to serve.
- B. For commercial/industrial buildings, and all nonresidential buildings and uses in commercial/industrial districts, required parking shall be provided on site or within 300 feet of the building or use it is required to serve, measured by the pedestrian distance from the nearest point of the parking area to the nearest normal entrance to the building or use.

§ 220-19-3. Joint use of facilities.

Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the minimum individual requirements.

§ 220-19-4. Requirements for parking areas.

Every area hereafter established as an off-street public or private area for more than four vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, seasonal uses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- A. The parking area and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any Residential or Agricultural District by a greenbelt 10 feet in width landscaped with lawn and low shrubbery clumps backed up by a solid planting of evergreen trees which are a minimum of five feet in height, or other suitable screen device. A berm may be required to achieve the screening objectives of this provision. Additional or different landscaping and screening requirements may apply to off-street parking areas in specified districts pursuant to §220-17-6 and §220-19-8, or other provisions pertaining to specific uses.

- B. The parking area and its driveways shall be designed to provide adequate drainage; surfaced with concrete or asphalt pavement; and maintained in good condition, free of dust, trash, and debris. The Planning Commission may, however, approve a gravel parking area when it determines on a site-specific basis that a gravel surface would be more beneficial to the environment, compatible with the use to be served, and not detrimental to adjoining properties.
- C. The parking area and its driveways shall not be used for repair, dismantling, or servicing of any vehicles.
- D. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.
- E. Lighting of the parking area and its driveways shall be so arranged as to reflect the light away from adjoining properties, and shall otherwise comply with § 220-17-5.
- F. No part of any required public or private parking area regardless of the number of spaces provided shall be closer than 10 feet to the street right-of-way or adjacent residentially zoned or used property.
- G. All new or expanded parking areas shall be located to the rear or side of the building or use the parking area is intended to serve (with the “rear” defined for purposes of this provision as the area closest to the rear lot line). The Planning Commission may consider and approve a parking area in front of the building or use the parking area is intended to serve, where a rear-side parking area location is not feasible due to existing conditions on the site, or where a front parking area may be better suited for the site and the intended use.
- H. On corner lots the parking area shall be located in the interior of the lot to the greatest extent feasible, unless such a location is precluded by the location of existing buildings or structural obstacles.
- I. New or expanded parking structures (but not parking lots) may be approved with a zero setback from abutting street intersection rights-of-way where the ground floor of the structure contains floor area devoted to a permissible principal use (other than parking) along the street frontage.

§ 220-19-5. Table of Parking Requirements.

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings, shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit or for a zoning approval (such as special land use or site plan approval) and shall be irrevocably reserved for such use. For any use not specifically listed, permanent off-street parking facilities shall be provided sufficient to handle peak parking requirements.

Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
1. Residential	
a. Residential, one-family and two- family	2 spaces for each dwelling unit
b. Residential, multiple-family	2 spaces for each dwelling unit for developments of 1 to 24 units; 1.75 spaces for each dwelling unit for developments of more than 24 units
c. Mobile home park	2 spaces for each trailer or mobile home site and 1 for each employee of the mobile home park
d. Boarding and rooming house, and bed-and-breakfast facility	1 space for each sleeping room
2. Institutional	
a. Community colleges	1 space for every 3 students plus 1 for every faculty/administrator
b. Worship facilities	1 space for each 3 seats, maximum seating capacity in the main unit of worship
c. Hospitals	1 space per 600 square feet of gross floor area
d. Sanitariums, convents, homes for the aged, convalescent homes, or children's homes	1 space per 600 square feet of gross floor area
e. Adult foster care facilities	1/2 space per bed plus 1 space for each employee
f. Public or private elementary and junior high schools	1 space for each classroom plus 1 space for each 5 fixed seats of any area used for auditorium purposes or for each 35 square feet of seating area where there are no fixed seats
g. Senior high school	1 space for each classroom and each other room used by students plus 1 space for each 10 full-time students in addition to the requirements for auditorium (see item k, "Stadium, sport arena or similar place of outdoor assembly," below)
h. Private clubs or lodge halls	1 space for each 3 members allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes
i. Private golf clubs, swimming pool clubs, tennis clubs, or racquetball clubs	1 space for each 3 member families or individuals
j. Golf course open to the general public,	6 spaces for each 1 golf hole and 1 space for each

Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
except miniature or "par 3" courses	1 employee
k. Stadium, sport arena or similar place of outdoor assembly	1 space for each 3 seats or 10 feet of bench
l. Theaters and auditoriums (indoors)	1 space for each 4 seats plus 1 space for each 2 employees
m. Libraries, museums, and noncommercial art galleries	1 space for each 250 square feet of gross floor area
n. Day-care, preschool and nursery schools	1 space for each staff member plus 1 space for every 5 children or 1 space for every 10 children if adequate off-street dropoff facilities are provided
3. Business and commercial	
1. Automobile service stations, gasoline stations, convenience stores in conjunction with service or gas stations	2.5 spaces for each lubrication stall, rack, pit or pump, plus 1 space for every 75 square feet of gross floor area devoted to retail sales; plus 1 space for each employee
2. Auto wash, auto reconditioning, auto cleaning (interior/exterior)	1 space for each 1 employee, plus 1 space for each 250 square feet of gross floor area devoted to reconditioning or cleaning
3. Beauty parlor or barber shop	2 spaces for each chair, plus 1 space for each employee
4. Bowling alleys	5 spaces for each 1 bowling lane, plus employees
5. Dance halls, pool or billiard parlors, roller or ice rinks, exhibition halls and assembly halls without fixed seats	1 space for each 3 seats or 1 space for each 100 square feet of gross floor area, whichever is greater
6. Drive-in establishments	1 space for each 60 feet of gross floor area, with a minimum of 25 parking spaces
7. Establishments for sale and consumption on the premises of beverages, food or refreshments, including cocktail lounges and taverns	1 space for every three persons allowed within the maximum occupancy load as determined by code, plus 1 space for each three employees
8. Furniture and appliance, household equipment, repair shop, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	1 space for each 800 square feet of floor area, occupied in processing or manufacturing

Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
9. Laundromats and coin-operated dry cleaners	1 space for each 2 washing machines
10. Miniature golf courses	3 spaces for each 1 hole plus 1 space for each employee
11. Mortuary establishments	1 space for each 50 square feet of assembly/seating area open to the public
12. Motel, hotel or other commercial lodging establishments, ballrooms, or meeting rooms based upon maximum occupancy load	1 space for each 1 occupancy unit plus 1 space for each 1 employee, plus extra spaces for dining rooms
13. Motor vehicles sales and service establishments, trailer sales and boat showrooms	1 space for each 400 square feet of gross floor area of sales room
14. Open-air businesses	1 space for each 600 square feet of lot area, excluding required yards
15. Restaurant, carry-out	1 space for each 60 square feet of gross floor area
16. Retail stores, except as otherwise noted in this section	1 space for each 300 square feet of gross floor area
17. Shopping center or clustered commercial	1 space for each 300 square feet of gross floor area
18. Auto body shop	1 space for each 500 square feet of gross floor area plus 1 space for each employee
19. Auto/truck sales	1 space for each 500 square feet of gross floor area for automobile sales
20. Health spas, gymnasiums, and health clubs	10 spaces for each club or spas plus 1 space for each 200 square feet of gross floor area in excess of 1,000 gross square feet
21. Seasonal tent and recreation vehicle campgrounds	1 space for each campsite plus 1 space for each employee plus an additional 1 space for each 2 campsites
4. Offices	
a. Banks, savings and loan offices	1 space for each 200 square feet of gross floor area

Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
b. Business offices or professional offices except as indicated in the following item but including governmental offices	1 space for each 400 square feet of gross floor area
c. Medical or dental clinics, professional offices of doctors, dentists or similar professions	1 space for each 175 square feet of gross floor area
5. Industrial	
a. General manufacturing establishments	1 space for every 650 square feet of gross floor area, plus 1 space per each 350 square feet of office space
b. Light and limited industrial manufacturing	1 space for every 500 square feet of gross floor area, plus 1 space per each 350 square feet of office, sales or similar space
c. Research and development	1 space for every 350 square feet of gross floor area plus 1 space per each 350 square feet of office, sales, or similar space
d. Warehousing	1 space for every 2,000 square feet of gross floor area

§ 220-19-6. Size of parking space.

The dimensions of off-street parking spaces shall meet or exceed the following minimum dimensions:

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0 (parallel parking)	12	8	23	20	28
30 to 53	13	9	20	33	53
54 to 74	18	9	21	39	60
75 to 90	25	9	19	44	63

§ 220-19-7. Off-street loading spaces.

- A. For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition an area or means adequate for maneuvering and ingress and egress for delivery vehicles; and off-street loading spaces in relation to floor areas, as follows:
 - 1. Up to 20,000 square feet: one space;
 - 2. Twenty thousand or more but less than 50,000 square feet: two spaces; and
 - 3. One additional space for each additional 50,000 square feet or fraction thereof.
- B. Each such space shall be at least 10 feet in width, 35 feet in length and 14 feet in unobstructed height. No such space shall be located closer than 50 feet to any lot in any residential district.

§ 220-19-8. Landscaping of off-street parking spaces in certain districts.

- A. All off-street parking and loading areas in the HDR, LC, ALCI, LI, and MU Districts shall comply with the following landscaping requirements.
 - 1. When off-street parking and loading areas abut a residential district, the parking lot and loading area shall be screened from the residential district by a solid, ornamental masonry wall at least four feet tall that coordinates with and is

complementary to the principal structure, in addition to the following requirements for landscape plant materials:

- a. A greenbelt at least 10 feet in width landscaped with turf, four shrubs and one deciduous tree per each 20 linear feet along the property line (fractions rounded upward).
 - b. In lieu of a wall, the Planning Commission may permit or require one evergreen tree at least five feet in height planted every 10 feet in staggered rows along the adjacent property boundary.
 - c. In lieu of a wall, berming may be installed consistent with § 220-17-6 C.6. Berming shall reduce the amount of required landscaping material by 20%.
2. In addition to required screening around off-street parking and loading areas, all off-street parking areas containing greater than 10 spaces shall provide the following landscaping within the parking lot envelope, described as the area including the parking lot surface and extending 18 feet from the edge of the parking lot:
- a. Two canopy trees shall be required for each 900 square feet of total area of the paved driveway and parking lot surface, provided that in no case shall less than two trees be provided. Utilizing landscape islands in the interior of the parking lot for tree plantings shall be encouraged, but not required.
 - b. Landscaped areas in and around parking lots shall be no less than 10 feet in any dimension and no less than 150 square feet in area per tree. Landscaped areas shall be protected with curbing or other means to prevent overhang encroachment of vehicles.
 - c. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements, and the parking lot landscaping required in the section cannot be credited toward required greenbelts.
 - d. Parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area. Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sight distance for motorists, nor disrupt drainage patterns on the site or adjacent properties.
 - e. Landscaped areas shall be covered by grass or other living ground cover. Wood chips or similar material, a minimum depth of three inches, is permitted for planting beds immediately surrounding plant material. Such material shall be identified on the landscape plan.

- B. The Planning Commission may modify the off-street parking and loading area landscaping requirements specified in subsection A above, upon a site-specific determination that compliance with the generally applicable requirements will not be necessary or effective to satisfy the intent of the requirements as applied to the specific site. In making this determination, and determining the resulting modified requirements applicable to the parking and/or loading area(s) for a specific development on a specific site, the Planning Commission shall consider the following standards:
1. Whether parking, vehicular circulation, or existing or planned land uses are such that compliance with the generally applicable requirements will not achieve the desired effect, or such effect will be achieved by a landscaping plan that includes modifications from the generally applicable requirements.
 2. Whether the public benefit intended by the generally applicable requirements can be better achieved by a landscaping plan that includes modifications from the generally applicable requirements.
 3. Whether greater efficiency of the site design will be accomplished by a landscaping plan that includes modifications from the generally applicable requirements.
 4. Whether the modified requirements will facilitate compliance with the standards for approval of a site plan specified in § 220-21-3 of this chapter.

Article XX
Special Land Uses

§ 220-20-1. Explanation of special land uses.

In order to make this chapter a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as Special Land Uses within the various zoning classifications. Such special land uses have been selected because of the characteristics of the use which, in the particular zone and location involved, might cause the use to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto, without prior review pursuant to approval standards and in appropriate circumstances also approval conditions.

§ 220-20-2. Special land use procedure.

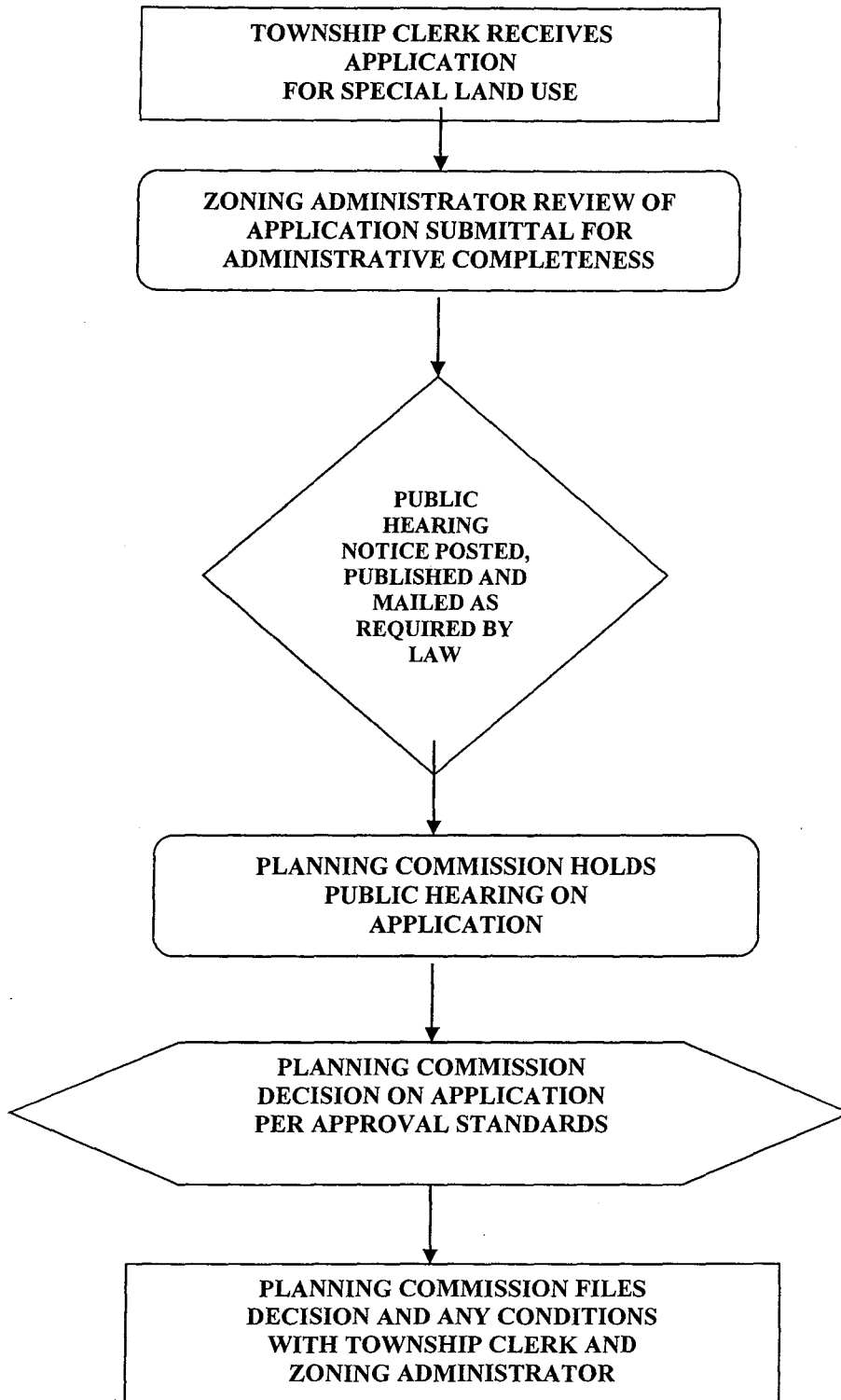
A. All applications for special land use approval shall be submitted and processed under the following procedures:

1. The application shall be filed in duplicate with the Township Clerk, and shall include all of the following:
 - a. A completed application form, using the special land use application form prescribed by the Township.
 - b. A site plan substantially complying with the requirements for the content of a final site plan as specified in § 220-21-2.
 - c. All specifications, data, and other materials on which the applicant intends to rely to show all applicable standards for special land use approval are met.
 - d. Payment of the fee set by the Township Board for special land use applications.
2. The Township Clerk shall promptly refer one copy of the application submittal to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing unless and until it is administratively complete as determined by the Zoning Administrator.
3. When the Zoning Administrator has determined an application submittal to be administratively complete the Zoning Administrator shall notify the applicant of that determination, and request eight copies of the complete application submittal. Upon receipt of such copies the Zoning Administrator shall promptly refer individual copies of the administratively complete application to the members of the Planning Commission, the Township Attorney, and to the Township Clerk to be available for public examination.

4. The Planning Commission shall hold a public hearing on an administratively complete application. The Planning Commission shall review the application subsequent to the public hearing, at the same meeting or at a subsequent meeting, and may require the applicant to provide additional information about the proposed use relevant to any standard for special land use approval specified in this chapter. The applicant has the burden of proving compliance with all special land use approval standards.
5. The Planning Commission shall approve a special land use application if the application is in compliance with all applicable standards, other applicable ordinances, state and federal statutes, and any conditions lawfully imposed under this chapter. The Planning Commission's decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. The decision of the Planning Commission on a special land use application is a final decision, subject to appeal to a court of competent jurisdiction as authorized by law. The Zoning Board of Appeals does not have jurisdiction to hear an appeal from any decision of the Planning Commission on a special land use application.
6. An approved special land use is subject to site plan review pursuant to Article XXI of this chapter.

(see next page for flow diagram for special land use applications)

FLOW DIAGRAM FOR SPECIAL LAND USE APPLICATIONS



§ 220-20-3. Standards for special land use approval.

- A. An application for special land use approval shall not be approved by the Planning Commission (with or without conditions) unless the Planning Commission finds from the evidence that all of the following standards and requirements are met:
1. The size, nature and character of the use will be compatible with the other uses and buildings and structures expressly permitted within the zoning district, especially where the location of the use is adjacent to or in the approximate area of residential dwellings;
 2. The use will be compatible with the natural environment of the area;
 3. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area;
 4. The lot upon which the use is proposed is able to accommodate all off-street parking facilities required by this chapter;
 5. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
 6. The use will not adversely affect the public health, safety, and general welfare of the community;
 7. The use will be in accordance with the character and adaptability of the land at issue;
 8. The standards required in subsections 1-7 above for approval of any special land use can and will, in the Commission's judgment, be met at all times;
 9. The standards specifically applicable to the particular use in § 220-20-7 or elsewhere in this chapter can and will, in the Commission's judgment, be complied with at all times.

§ 220-20-4. Conditions imposed upon approved special land uses.

- A. The Planning Commission is authorized to impose conditions on the approval of a special land use, if the Planning Commission determines it has authority to approve the special land use application. Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The Planning Commission shall have the right to impose a condition limiting the duration of a special land use only where the use is by its nature a temporary use, and may reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.
- C. The Planning Commission is also authorized to require a performance guarantee as a condition on a special land use approval, as follows:
1. To insure compliance with this chapter (and/or conditions imposed at the time of approval), the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Planning Commission, covering 100% of the estimated costs of improvements associated with a project for which the approval is sought, be deposited with the clerk of the township to insure faithful completion of the improvements.
 2. The Planning Commission shall by resolution request the Township Clerk to rebate said security deposit in reasonable proportion to the ratio of work completed on the required improvements as the work progresses. The amount of rebate shall be determined from time to time at regular or special meetings of the Planning Commission based upon evidence presented by the applicant and/or appropriate township officials demonstrating the ratio of work completed on the required improvements.
 3. If any improvements are not constructed within the time limit established as part of the approval or within any extension thereof, then the Planning Commission shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.
 4. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

§ 220-20-5. Compliance with approval.

- A. The site plan submitted with the special land use application, the specifications in the application, and all conditions imposed by the Planning Commission shall be recorded with the Township Clerk and Zoning Administrator, and shall be incorporated as a part of the special land use approval. An approved special land use which at any time fails to comply with the terms of the approval, or any provision of this chapter, shall cease to be a lawful use, and shall be subject to revocation in accordance with § 220-20-6 of this chapter, in addition to the legal penalties and remedies generally applicable to any violation of this chapter.

- B. Every special land use approval shall be subject to an automatically imposed approval condition pursuant to which the approval lapses if the approved use has not substantially begun within one year from the date of approval. Upon request of the applicant, filed prior to the lapse of special land use approval, the Planning Commission may save its prior approval from lapsing where the applicant shows good cause for the delay, and the Planning Commission finds there have been no changed conditions that would potentially affect the prior findings of the Planning Commission with respect to any standard for approval of the use.

§ 220-20-6. Revocation of special land use approval.

- A. All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use:
 - 1. Zoning Administrator Revocation Recommendation. The Zoning Administrator may recommend revocation of a special land use approval upon determining a probable violation of the terms and conditions of a special land use approval or related provisions of this chapter. The Zoning Administrator shall provide written notice of the revocation recommendation to the approval holder/property owner by personal delivery or regular mail, and also to the Township Clerk by personal delivery or regular mail.

 - 2. Planning Commission Review of Revocation Recommendation. The Planning Commission shall review the Zoning Administrator's recommendation to revoke a special land use approval, and shall hold a public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters.

 - 3. Revocation of Special Land Use Approval. After notice and public hearing as provided herein the Planning Commission may vote, by a majority of its membership, to revoke a special land use approval upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured, and are not likely to be cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use approval shall be provided to the approval holder and property owner by personal delivery or regular mail.

4. Appeal of Revocation of Special Land Use Approval: Premises for which a special land use approval has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant sections of this chapter for the applicable use district. A determination of the Planning Commission revoking a special land use approval may be appealed to the circuit court as provided by law.

§ 220-20-7. Specific standards required of particular special land uses.

The following specific standards shall be required of the particular special land uses designated in this section, pursuant to § 220-20-3 A.9, in addition to the standards specified in § 220-20-3 A.1-8. The required standards for each such use are referred to in the following table and included in the subsequent applicable text for the corresponding item number.

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Aggregate processing/quarrying/commercial excavations	AG/OS	1
Bed and breakfast facility	AG/OS, ACLI	2
Day care facility	MU	3
Family business	AG/OS, CR, MDR, HDR, PRC	4
Foster care (large group) home	AG/OS, CR, MDR, HDR, MCHR	5
Group day care home	AG/OS, CR, MDR, HDR, MCHR, PRC	6
Kennel	AG/OS, CR, PRC	7
On-farm biofuel production facility (Type II or Type III)	AG/OS	8
Open space preservation development	AG/OS, CR, MDR, HDR, PRC	9
Parks, playgrounds, recreation areas and summer camps	AG/OS, CR, MDR, HDR, MHCR, PRC	10
Small wind energy conversion system	AG/OS, CR, MDR, HDR, MHCR, MU, ACLI, LI, PRC	11
Utility-Scale Solar Energy Electricity Generating Facility	AG/OS, CR	13
Wireless communications support structure (including equipment compound and wireless communications equipments)	AG/OS, LI	12

Item 1---Aggregate Processing/Quarrying/Commercial Excavations.

A. Location:

1. All such operations shall be located on a primary road, as defined by the Barry County Road Commission, for ingress and egress thereto, or, on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to approval of such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. All excavation operations shall be at least 150 feet from interior boundary lines of the property, and the Planning Commission may increase such setback if required to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support is at all times maintained. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
3. All excavation operations shall be at least 50 feet from adjoining public rights-of-way except for lowering of land adjoining the rights-of-way to the grade level of the rights-of-way. Excavation operations shall not be allowed where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. A processing plant and its accessory structures shall be located at least 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
5. All excavation operations, processing plants, and accessory structures shall be at least 250 feet from the banks of any lake, stream, or other watercourse unless a lesser setback is approved, in writing, by the Michigan Water Resources Commission or such other State agency having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. Where it appears that substantial sediment may be carried into any nearby watercourse, the

Planning Commission may require, as a condition of approval, that the applicant construct an adequate sediment basin.

6. All private drives and private access routes serving excavation or processing operations shall be located at least 250 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.

B. Sight Barriers:

1. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
 - a. Earth berms constructed to a height of 6 feet above the mean elevation of the center line of the adjacent public highway or 6 feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of 1 foot vertical to 3 feet horizontal and shall be planted with grass, trees or shrubs.
 - b. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of planting and which grow to not less than 6 feet in height at maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.
 - c. Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.

C. Nuisance Abatement:

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution potentially injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. and no operations shall be allowed on Sundays or legal holidays.

4. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

D. Environmental Protection:

1. Earth removal operations shall not create erosion problems, or alter the ground-water table of the area.
2. Earth removal operations shall not cause the creation of sand blows, stagnant water pools, or stagnant swampy areas.
3. Earth removal operations shall not cause a permanent adverse affect to the environment, the natural topography, or any natural resource, other than the earth materials involved.

E. Reclamation of Mined Areas:

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected with one year of termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than 5 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:
 - (1) that the excavated area shall not collect stagnant water and not permit the same to remain therein; or
 - (2) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - (3) The banks of all excavations 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 1 foot vertical to 3 feet horizontal.

- (4) Top soil of a quality at least equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of 4 inches and sufficient to support vegetation.
- (5) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (6) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (7) A performance bond or cash shall be furnished to the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$5,000 per acre proposed to be mined or excavated in the following 12-month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this section and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shore line thereof and to the extent of the shore line where the same has been sloped to a grade of not more than one foot vertical to three foot horizontal, for the purpose of this financial guarantee. The Zoning Administrator and/or Planning Commission may review such financial guarantee annually, on or about the anniversary date of the excavation permit, for adjustment and compliance with the foregoing requirements. In no event shall such financial guarantee be less than \$5,000 in amount.

F. Submission of Operational and Reclamation Plans:

1. No earth removal, quarrying, gravel processing, mining, and related mineral extraction shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this chapter or the manner in which compliance will be secured by the

applicant. Such plans shall comply with the final site plan content requirements in Article XXI of this chapter, and shall also include the following:

- a. A contour map of the tract of land involved in the operations, including dimensions of the same, access to abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
- b. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
- c. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
- d. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- e. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

G. Review and Approval Criteria:

1. Planning Commission review and approval of a special land use request and site plan review for an aggregate processing/quarrying/commercial excavation operation shall be in accordance with all applicable provisions of this chapter; and, recognizing the unique land use aspects of earth removal operations, shall also be based on a consideration of the following factors:
 - a. The most advantageous use of the land, resources and property.
 - b. The character of the area in question and its peculiar suitability, if any, for particular uses.
 - c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
 - d. The protection and preservation of the general health, safety and welfare of the Township.
 - e. The scarcity or value of the minerals sought to be mined as compared with the affect of the proposed operations upon the adjacent community.

- f. Whether or not the operations were previously in existence prior to the adoption of the text provisions of this chapter concerning the same, and the extent and character of such previous operations.
- g. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary and within the scope of its authority under Articles XX and XXI of this chapter. It may also limit the length of time the special land use approval is to be effective and may provide for a periodic review of the operations to ascertain compliance with the conditions and limitations imposed upon the same. The Planning Commission shall renew or extend a special land use approval where all standards and conditions are complied with, and may revoke or refuse to renew the same where non-compliance exists, in accordance with this chapter. No revocation or failure to renew or extend a prior approval shall release the applicant from the duty of rehabilitation and reclamation of the mined or disturbed area. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

H. Liability Insurance:

1. All owners/operators of property involved in such operations shall be required to carry personal injury and property damage insurance while any unreclaimed or un-rehabilitated area exists, in the amount of not less than \$100,000 for each person or property injured or damaged and not less than \$300,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions, or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.

Item 2---Bed and Breakfast Facility.

- A. All bed and breakfast facilities shall be subject to and comply with the characteristics of a "home occupation" as set forth in § 220-2-2.
- B. A dwelling in which a bed & breakfast facility is allowed shall be occupied by the owner of the premises as his/her principal residence.
- C. Sufficient off-street parking area shall be available on the premises so as to provide one parking space per sleeping room, not including spaces required for the permanent occupants of the premises.
- D. All bed & breakfast facilities shall have a smoke detector in proper working order in every sleeping room, and a fire extinguisher in proper working order on every floor of the dwelling.

Item 3--- Day Care Facility.

- A. The premises shall be accessed by an all-weather public road, as defined by the Barry County Road Commission for ingress or egress thereto.
- B. [The specific standards in Item 6 of this section for a Group Day Care Home are all hereby incorporated by reference; with the proviso that for purposes of this provision sub-part A.(1) therein shall read "Another state licensed day care facility of any type"].

Item 4---Family business.

- A. The premises shall have a lot area of at least 100,000 square feet (approximately 2.3 acres). Note: this provision is intended to accommodate a "family business" use on a parcel of at least 100,000 square feet in the AG/OS District; it is not intended to change the 1 acre minimum lot area requirement applicable to new lots in that district.
- B. All work in connection with the family business shall be conducted solely within an enclosed building (the dwelling itself, an attached garage, or otherwise permissible garage or other accessory building).
- C. The business shall be located on the same premises as the family's dwelling.
- D. In addition to those family members residing on the premises, no more than four other individuals may work on the premises in connection with the business.
- E. All goods sold from the premises shall either be created on the premises or be incidental to services sold on the premises.
- F. There shall be a minimum distance of 150 feet between any building where the business activity is conducted and any existing dwelling on adjoining property.
- G. Noise, smoke, odor, electrical disturbance, lighting or other objectionable characteristics associated with the business activity shall not be discernable beyond the boundaries of the premises upon which the business is conducted.
- H. No outdoor storage shall be allowed unless same cannot be reasonably stored within a building or structure. Such outdoor storage area shall be located to the rear of the building in which the business is conducted, and shall be screened to effectively block all view from adjoining properties and roads.
- I. There shall be no public display on the premises of articles offered for sale; and no exterior evidence indicating the premises are being used for any non-residential purpose, except a nameplate sign not exceeding four square foot in area containing only the name and occupation or business activity of the occupant of the premises.
- J. Off-street parking shall be provided on the premises sufficient to accommodate all employees and customers of the business, in addition to the residents of the premises.

- K. The Planning Commission may limit the family business to a particular type of business, and may impose additional conditions pursuant to this chapter and applicable law.
- L. There shall be no expansion of the physical area of the business without the further approval of the Planning Commission.

Item 5---Foster Care (Large Group) Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas intended for children, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall meet all applicable sign regulations in this chapter.
- E. It shall meet all applicable off-street parking requirements in this chapter; and in addition shall provide a designated passenger loading/unloading area near a barrier-free entrance to the facility, and a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.
- F. A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking and loading/unloading areas visible from adjacent properties or streets.
- G. All exterior lighting of entryways, parking spaces, and loading/unloading areas shall be directed and/or hooded so as to not reflect onto adjacent properties or streets.

Item 6---Group Day Care Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.
- E. It shall meet all applicable sign regulations set forth in this chapter.
- F. It shall meet all applicable off-street parking requirements set forth in this chapter.

Item 7---Kennel.

- A. All kennel facilities, including animal run areas, shall be located at least 200 feet from all property lines. Each kennel facility shall provide sufficient square footage for each animal kept, boarded, bred or trained on the property, in accordance with applicable state laws, and the recommendations of the American Kennel Association. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
- B. Noise, odor, or other objectionable characteristics incident to the facility shall not be discernible beyond the boundaries of the premises upon which the facility is conducted.

- C. All kennel facilities shall be designed, constructed, operated and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred or trained upon the premises.

Item 8--On-Farm Biofuel Production Facility (Type II or Type III).

- A. The facility has all of the characteristics for the term “On-Farm Biofuel Production Facility (Type II or Type III)” as defined in Section 220-2-2.
- B. The application for special land use approval included, in addition to the content required by any other provision of this chapter, all of the following:
 - 1. A description of the process to be used to produce biofuel.
 - 2. The number of gallons of biofuel anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
 - 3. An emergency access and fire protection plan that has been reviewed and approved by the Barry County Sheriff’s Department and the B.I.R.C.H. Fire Department.
 - 4. For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
 - 5. Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.
 - 6. Any additional information requested by the Planning Commission relevant to compliance with any provision of this chapter pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
- C. (required condition on approval) Before the facility begins operation, all buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable local, state and federal laws.
- D. (required condition on approval) Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environmental Quality (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:

1. Air pollution emissions.
 2. Transportation of biofuel or additional products resulting from biofuel production.
 3. Use or reuse of additional products resulting from biofuel production.
 4. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
- E. (required condition on approval) Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Note: the Planning Commission is required to hold a hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type II or Type III) not more than 60 days after a (complete) application is filed. *MCL 125.3513(4)*.

Item 9---Open space preservation development.

- A. Purpose. The purpose of an open space preservation development is to preserve the rural character of Rutland Township while permitting reasonable use of the land consistent with the Master Land Use Plan. Provisions set forth provide incentives to encourage innovative residential development, which results in an enhanced living environment by preserving natural features and rural landscape. By grouping dwellings together in clusters on a limited portion of a development property, much of the rural land and natural features will be preserved, and construction and maintenance of streets, utilities, and public services will be achieved in a more economical and efficient manner.
- B. Open space preservation development option. Within the AG/OS, CR, MDR, and HDR Districts, a landowner shall have the option to develop land located outside a platted or condominium subdivision in accord with the terms of this section.
- C. Permitted uses. An open space preservation development may include the following land uses:
1. Detached single-family dwellings.
 2. Attached single-family dwellings which shall number no more than 25% of the total number of dwellings and which shall not exceed four dwelling units in one building.
 3. Accessory buildings.
 4. Common open space.

5. Recreational uses, provided such uses are accessory to the residential uses and designed primarily to be used by residents of the open space preservation community.
6. Farming activities conducted in the common open space in such a manner as to not pose a nuisance or hazard to residents.

D. Development requirements.

1. Ownership and control. The proposed open space preservation development shall be under a single ownership, such that one person or legal entity shall be empowered to apply for Township approval and make reliable and binding commitments on behalf of the applicant. The applicant shall provide documentation of ownership or control in a form acceptable to the Township.
2. General approval standards. In addition to specific standards set forth in this section, the Planning Commission shall evaluate all open space preservation development applications based on standards for site plan approval in § 220-21-3.
3. Dimensional standards. The following dimensional standards shall apply to residential parcels and condominium units in open space preservation developments:
 - a. Setbacks.
 - (1) In open space preservation developments, the following minimum yards shall be provided:
 - (a) Front yard setback: 25 feet.
 - (b) Rear yard setback: 30 feet.
 - (c) Side yard setback: 10 feet (25 feet for corner lots).
 - (2) Accessory buildings shall meet the minimum setbacks specified in [1] above, except the rear yard may be reduced to 20 feet.
 - (3) Open space preservation development that include attached units shall be exempted from side yard requirements pertaining to dwelling units attached to one another.
 - b. Lot or parcel width and area. The following minimum parcel area and width standards shall be applied in an open space preservation development:

Zoning District	Detached Units		Attached Units					
			2 Units		3 Units		4 Units	
	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)
AG/OS	30,000	100	40,000	135	60,000	165	80,000	190
CR	30,000	100	40,000	135	60,000	165	80,000	190
MDR	7,500	70	20,000	135	45,000	165	60,000	190
HDR	7,500	70	15,000	110	22,950	140	30,600	160

- c. Cluster size and isolation. A cluster may not exceed 12 dwelling units, and clusters shall be separated from one another and from adjoining developments by a minimum of 150 feet of common open space.
 - d. Common open space area. Common open space may not constitute less than 50% of the adjusted parcel acreage.
 - e. Departures from standards. The Planning Commission may approve departures from the standards in subsection D.3.a-d where the applicant demonstrates the proposed open space preservation development will include features or design techniques that achieve the objectives of such standards.
4. Density standards.
- a. The total number of residential dwelling units permitted in an open space preservation development may be up to 125% of the number provided by the base density as allowed in the underlying zoning district. The base density shall be determined by a comparison plan, which shall illustrate the total area of regulated wetlands, bodies of water with surface area greater than one acre, streams, rivers, and permanent easements that restrict development. These areas shall be subtracted from the gross area of the site to determine adjusted parcel acreage. In the event the parcel includes more than one underlying zoning district, this calculation shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed.
 - b. The comparison plan shall meet the development requirements to illustrate a feasible development pursuant to the underlying zoning. The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of the underlying zoning. The Zoning Administrator shall provide an evaluative report on the feasibility of the comparison plan.
5. Rural and scenic easement. A rural and scenic easement shall be incorporated into an open space preservation development, consisting of a natural area located parallel to and abutting any existing public roads. Such rural and

scenic easement may be included in the required common area and shall be of sufficient depth and/or include sufficient year-round vegetation to preserve the character of the abutting roadway and minimize the visibility of the proposed development from the roadway. For the purposes of this subsection, the rural and scenic easement shall be measured from the edge of the public right-of-way and shall be considered sufficient if it meets the following dimensions, regardless of vegetation:

- a. In the AG/OS Districts: 150 feet.
- b. In the CR District: 100 feet.
- c. In the MDR and HDR Districts: 30 feet.

E. Open space preservation development review process. The following steps shall be completed to implement an open space preservation development:

1. Prior to proposing an open space development project design, the applicant shall conduct a preliminary development review with the Zoning Administrator. The purpose of this review will be to discuss the nature of the site and the development, the potential for use of the site as an open space preservation development, and to advise the Township of the applicant's intent to proceed.
2. The applicant shall then complete a site analysis and prepare a detailed site inventory including a narrative description of the site. The site analysis shall address and locate water features, wetlands, topography, significant wooded areas, wildlife habitat areas, views, easements and rights-of-way, historic or cultural resources, steep slopes and any other features deemed important by the applicant. In a written narrative, the applicant shall discuss each of the features identified on the site and make an evaluation of each relative to the existing rural character of the Township. The site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The Planning Commission may require the site analysis to illustrate the topography of the site with not greater than two-foot contour intervals where dwellings will be located, and not greater than ten-foot intervals where common open space will be located.
3. Based on the site analysis, the applicant shall identify common open space areas in the order of their importance to the protection of the overall natural features of the site and its immediate vicinity. The applicant may use the Rutland Township natural features inventory and community opinion survey as guidance in completing the ranking of natural features. As a general guideline, the following listing of important natural features is presented:
 - a. Preservation of plant and animal habitat.
 - b. Preservation of open fields and vistas.

- c. Protection of wetlands, streams, and lakes.
 - d. Preservation of large woodlots and hunting land.
 - e. Potential recreation and hunting areas.
 - f. Important agricultural land.
 - g. Educational and cultural enrichment.
 - h. Historic and cultural resource protection.
4. Common open space may not constitute less than 50% of the adjusted parcel acreage. The applicant shall calculate the base density for the proposed development in accordance with the provisions of this chapter. A majority (more than 50%) of the common open space shall be contiguous.
 5. Potential building sites shall be identified in areas outside the common open space areas. The number of potential building sites shall not exceed the permitted density determined in accord with this chapter. The Planning Commission may require the potential building sites to be illustrated on a tracing paper or acetate overlay on the site analysis. The clustering requirements shall be met in laying out building sites. The lot or condominium lines may also be required to be illustrated for each building site. These may be reflected on a tracing paper or acetate overlay on the site analysis. The dimensional requirements of this chapter shall be met in the layout of the lot lines.
 6. The road system shall comply with the terms of this chapter, including where applicable § 220-17-13 pertaining to private roads. The road system may be illustrated as an overlay on the site analysis.
 7. A preliminary site plan shall be prepared which illustrates the proposed project layout, including the common open space, scenic easements, trails, building sites, road systems, and lot or condominium lines. If the project will be undertaken in phases, an implementation schedule for each phase shall be provided as a part of the site plan, and failure to comply with the phasing schedule shall require an amendment to the site plan. The preliminary site plan shall meet the standards of above subsection D (development requirements), and shall include a detailed narrative description of the site analysis and the management plan for the perpetual preservation of the proposed common open space. Any clearance, earth changes or recreational uses proposed to be included within the common open space shall be clearly described.
 8. The preliminary site plan and the site analysis with all overlays shall be presented to the Zoning Administrator and the Township Planner for review and comment. Within 30 days of submission of all required information, the Zoning Administrator and the Township Planner shall provide to the applicant written comments on the preliminary site plan. Based on the comments of the

Zoning Administrator and the Township Planner, the applicant may make needed adjustments to the preliminary site plan and prepare a final plan as directed by the Zoning Administrator or seek advisory judgment from the Planning Commission on any issues in dispute prior to preparing a final plan. When the final plan is prepared, it shall be submitted for Planning Commission review and approval.

9. The Planning Commission shall hold a public hearing on the open space preservation development final plan, pursuant to § 220-20-2.

F. Use and preservation of common open space and natural features.

1. Further subdivision of open space lands, or their use for other than recreation, conservation or agricultural use by site owner(s) shall be prohibited.
2. All dwellings and accessory structures shall be located at least 100 feet from any lakes, ponds, rivers, or streams. A roadway may be placed within 100 feet of lakes, ponds, rivers, or stream area only with the approval of the Planning Commission.
3. If the open space lands are common lands owned jointly by an association or group, the applicant and all subsequent owners shall establish, register and maintain a viable legal entity, which may be a homeowners' association, a condominium association or other organization acceptable to the Township which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the Township. All forms of ownership intended to protect common open space within an open space preservation development shall be subject to the review of the Township Attorney.

G. General development standards. The following standards shall be observed in the preparation of an open space preservation development:

1. Siting. Dwelling units shall be carefully sited and designed to screen homes from off-site vantage points whenever possible, away from environmentally sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.
2. Sanitary sewer. If either public sanitary sewer or private sanitary sewers are provided within the development, all provisions for review and approval by the Township must be followed.
3. Stormwater. An open space preservation development shall meet the requirements of the Barry County Drain Commissioner for containing stormwater within the development.

4. Septic system. If not served by public or private sanitary sewer system, the proposed open space preservation development shall fully comply with the requirements of the County Health Department and/or the Michigan Department of Environmental Quality as they apply to siting and development of on-site wastewater treatment and disposal. With the approval of the Planning Commission, the County Health Department, and the homeowners' or condominium association, an approved drainfield may be located within an area dedicated as common open space.
5. Prior to construction. All required approvals shall be completed prior to the start of any construction.
6. Performance guarantees. The Township may require the posting of a performance bond or irrevocable letter of credit to assure the completion of the proposed open space preservation development.
7. Minor amendments. A minor change to a final plan approved by the Planning Commission may be approved by the Zoning Administrator, after notifying the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required by the Commission. Should the Zoning Administrator determine the requested modification to the approved final plan is not minor, the proposed change shall be submitted to the Planning Commission for review pursuant to all applicable provisions of this chapter.
8. Suitable name. The applicant shall give the development a suitable name, subject to Planning Commission approval.

Item 10---Parks, playgrounds, recreation areas and summer camps.

- A. Public, private and municipally owned parks, playgrounds and recreation areas, and summer camps are subject to the following standards and regulations, as applicable:
 1. All park/playground/recreation area facilities shall close a half-hour after sundown and remain closed until sunrise.
 2. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least five feet in height at the time of planting. Further, all parks and recreation areas shall be provided with gates adequate to insure compliance with park closing regulations.
 3. Structures shall not be constructed to a height exceeding 35 feet and must be a minimum distance from adjoining property lines of 250 feet. Concession stands shall sell or dispense only those items designed or intended for use and consumption on the premises.

4. No person shall deposit or abandon in any park, recreation area, playground or adjoining property any garbage, sewage, refuse, trash, waste or other obnoxious material except in receptacles provided for such purpose and the area must be maintained in a clean and orderly manner at all times.
5. All group park activities must be limited to designated areas and adequately supervised by the Park Director or his or her designated agent.
6. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the park or recreation area or playground facilities.
7. Vehicular entrances into and exits from the park, playground or recreation facilities shall be constructed with approach lanes so as to not interfere with moving traffic.
8. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed so as to meet the requirements of the Barry County Health Department.
9. Swimming shall be restricted to those areas specifically designated for said purpose as posted by the Park Director at which facilities a lifeguard must be employed at all times during which swimming is allowed.
10. The park owners shall provide adequate public liability insurance covering all facility activities.
11. Vehicular raceways, trail bike trails, snowmobile trails, runs, etc., shall be limited to designated areas provided for said purpose by the Park Director, which facilities may not be located nearer than 500 feet from any adjoining residentially developed land or residentially zoned land.
12. No overnight camping shall be allowed.
13. In approving plans, the Township Planning Commission shall seek the advice and recommendations of the Barry County Soil Conservation District.
14. Shooting ranges may be allowed if in a safe location and remote from permanent habitation.
15. Dogs and other pets allowed within the park, playground or recreational area shall be kept on a leash not longer than 10 feet in length.
16. Peddling, hawking, soliciting, begging, advertising or carrying on any business or commercial enterprise shall be strictly prohibited.
17. No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, fence, thing or enclosure along or within

any park, playground or recreation area, except for necessary informational signs placed under direction of the Park Director.

18. Fires may be built only in picnic stoves or other equipment or space approved by the Park Director and only in such areas as shall be designated by him or her. It shall be unlawful to start or cause to be started any other fire whatsoever in any park, playground or recreation area.
19. Drunkenness, immorality, gambling or gaming devices shall not be allowed within the limits of any park, recreation area or playground.
20. All vehicular raceways, trail bike trails, roads and other trails of every kind shall be so treated so as to eliminate and prevent dust from said trails from drifting onto adjoining properties.

B. Seasonal tent and recreation vehicle campgrounds are also subject to the following additional conditions and limitations:

1. Seasonal tent and recreation vehicle campgrounds, including recreation areas incidental thereto, must contain at least five acres in area.
2. Areas designated for recreation vehicles, or for cabins, shall comply with the applicable requirements of the Michigan Public Health Code *MCL §333.12501 et. seq.*, as amended, and such rules and regulations as may be promulgated thereunder by the State of Michigan.
3. Any sale of foodstuff or merchandise shall be clearly incidental to the needs of the occupants and users of the property while therein and shall consist of packaged merchandise only.
4. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least three feet in height at the time of planting. In addition, the area must be fenced by a fence constructed in a manner approved by the Planning Commission.
5. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed to meet the requirements of the Barry County Health Department.
6. Fires may be built only in picnic stoves or other equipment or space designated by the park owner. It shall be unlawful to cause any other fire whatsoever in any park, playground or recreation area.
7. No person shall deposit or abandon any garbage, refuse, sewage, trash, waste or other obnoxious material except in receptacles provided for such purpose, and the grounds must be maintained in a clean and orderly manner at all times.

8. The owner or operator shall be responsible to regulate noise and litter so as to not be detrimental to the use and enjoyment of adjoining property, as determined by the Planning Commission.
9. Overnight camping shall be restricted to areas designated and posted for this purpose as authorized in the campground permit, which areas shall be a distance of at least 75 feet from any adjoining property.
10. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the campground or recreation area.
11. Vehicular entrances into and exits from the campground or recreation area shall be constructed with approach lanes approved by the County Road Commission so as not to interfere with moving traffic.
12. Dogs and other pets allowed in the campground and recreation area shall be kept on a leash.

Item 11---Small Wind Energy Conversion System.

- A. The system may be portable, or attached to a building, tower, or other structure, subject in each instance to the following applicable height limitation, measured from grade directly below the supporting base of the system to the uppermost component of the system at its highest vertical position:
 1. For parcels of less than two acres in area---35 feet.
 2. For parcels of two-five acres in area---60 feet.
 3. For parcels greater than five acres in area---not exceeding such height as is permissible to comply with the setback/location requirements in subsection C below.
- B. The minimum vertical blade tip clearance from grade shall be 20 feet.
- C. No part of the system, including guy wire anchors, may extend closer than ten feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the height of the system in its highest vertical position.
- D. The system shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. The system shall be equipped with the following safety-related components: an automatic braking, governing or feathering system to prevent uncontrolled rotation or over-speeding; lightning protection; and a locking safety ladder for a tower installation.

- F. A building/electrical permit application for the system shall be accompanied by standard drawings of all components of the system, including any tower, base, and footings.
- G. The system shall comply with applicable federal and state regulations pertaining to tall structures that may interfere with aircraft, including any necessary approvals for installations in close proximity to an airport.
- H. The system shall not be connected to a utility grid electric system until utility company approval of the connection has been filed with the Zoning Administrator.
- I. The system shall not be operated until the applicant has provided to the Zoning Administrator the statement of a licensed professional engineer certifying the system was installed in compliance with all applicable building and electrical code requirements, and otherwise complies with all the foregoing standards and requirements.

Item 12---Wireless Communications Support Structure (including equipment compound and wireless communications equipment).

- A. Purpose. The purpose of this portion of Chapter 220 is to establish standards for the siting of wireless communication support structures/equipment compounds and wireless communications equipment (for convenience sometimes referred to as "towers" or "communication towers" and "antennas") based on the following goals: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- B. Definitions. The following terms used herein shall be defined as follows:
 - 1. "Alternative tower structure" means man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
 - 2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more wireless telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Colocation" has a corresponding meaning.
5. "Communication Tower" or "Tower" means the same thing as wireless communications support structure, except where the context of the usage of the term is clearly applicable to only a tower type of support structure.
6. "Equipment Compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
7. "Height" means, when referring to a wireless communications support structure, the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.
8. "Wireless Communications Equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables; but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.
9. "Wireless Communications Support Structure" (see definition in § 220-2-2).

C. Information Required with Special Land Use Application.

1. In addition to any information required for applications for special land use permits pursuant to § 220-20-2, applicants for a special land use permit for a communication tower/antenna shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subpart D(3), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator or Planning Commission to be necessary to assess compliance with the standards for approval in this section.

- b. Legal description and ownership of the parent parcel (and leased parcel, if applicable).
- c. The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a Residential zoning district.
- d. An inventory of existing towers, antennas, or sites approved for towers or antennas, that are owned/used by the applicant or any affiliated entity within Barry County, or within any adjoining township/county within 1 mile of Rutland Charter Township. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas, shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned/used by the applicant or any affiliated entity located within Rutland Charter Township or within 1 mile of any boundary thereof, and indicate the owner/operator of such towers if known.
- e. A landscape plan showing fencing and specific landscape materials.
- f. Finished color and, if applicable, the method of camouflage and illumination.
- g. A description of compliance with all applicable federal, state and local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other wireless sites owned or operated by the applicant or any affiliated entity in the Township.
- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- k. A description of the desirable characteristics justifying the suitability of the proposed location.
- l. Point of view renderings of how the proposed tower will appear from the surrounding area.
- m. Any additional information requested by the Planning Commission relevant to compliance with any provision of Chapter 220 pertaining to

special land use application, review, or approval, including any lawful conditions imposed on approval.

All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that 14 day period, or before expiration of that 14 day period notifies the applicant (in writing, or electronically) that the application is not administrative complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land use application for this land use not more than 90 days after the application is considered to be administratively complete.

D. Specific Standards for Approval of Special Land Use Permit for Wireless Communication Support Structure. In addition to the generally applicable standards for approval of special land use permit applications pursuant to § 220-20-3, the applicant for special land use approval of a wireless communications support structure, also sometimes referred to as a “tower”, shall present evidence demonstrating compliance with the following standards specific to this land use:

1. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. The applicant shall demonstrate that no existing tower, other structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna, based on information submitted by the applicant showing any of the following:
 - a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or

structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- f. There are other limiting factors that render existing towers and structures unsuitable.
 - g. An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
2. Setbacks. The tower base must be set back a distance equal to 110% of the height of the tower from any adjoining lot line; provided that the Planning Commission is authorized to approve a lesser minimum setback in circumstances where the tower is designed, in the event of failure, to fold-over or otherwise collapse within a fall zone less than the total height of the tower. The Planning Commission determination as to the appropriate minimum required setback shall be based on the tower design and other pertinent circumstances of each individual application, and shall be made pursuant to the general standards for special land use approval in § 220-20-3. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.
3. Separation.
- a. Separation from off-site uses/designated areas. The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1, measured from the base of the tower to the lot line of the off-site uses and/or designated areas (straight line measurement):

Table 1

Off-Site Use/Designated Area

Separation Distance

Single-family, two-family or multiple-family residential uses	200 feet or 300% of height of tower, whichever is greater
Areas in any Residential zoning district	200 feet or 300% of height of tower, whichever is greater
Non-residentially zoned lands and non-residential uses	None; only setbacks apply

- b. Separation distances between towers. The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (straight line measurement).

Table 2

Existing Towers - Types

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

4. Maximum Tower Height. The maximum tower height is 300 feet.
5. Colocation. The tower shall be designed and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible antennas for at least two other users, unless the Planning Commission determines pursuant to specific information submitted by the applicant that this multiple user requirement is not technically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special land use approval standards. Where a multiple user tower is proposed, or is otherwise required by the Planning Commission pursuant to this Item 12, the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny space on the tower for compatible antennas of other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.
6. Security fencing; safety. The equipment compound shall be enclosed by security fencing or other suitable enclosure not less than six feet in height, to be determined by the Planning Commission, sufficient to restrict access to authorized personnel only. The tower shall be equipped with an appropriate anti-climbing device.
7. Landscaping and Site Maintenance. A six foot tall landscape screen is required to effectively screen the equipment compound from adjacent residential property, streets and public property, except in locations where the Planning Commission

determines the visual impact of the equipment compound would be minimal. The tower site shall be mowed or otherwise maintained in such a manner as to effectively control undesirable or noxious weeds.

8. **Lighting.** The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surrounding property or roadways, shall be designed to cause the least disturbance to surrounding properties, and shall be designed to minimize bird collisions with the tower.
9. **Signs.** The use of any portion of a tower/antenna or equipment compound for signs other than warning or equipment information is prohibited.
10. **Weather Resistance.** The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area.
11. **Non-Interference.** The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
12. **Abandonment of Unused Towers or Portions of Towers.** The applicant shall be required by deed, land contract, lease, or license agreement provisions to remove the tower or portion of tower and associated facilities upon cessation of the use of same. A tower or portion of tower that has no users for a continuous period of at least 1 year shall be considered abandoned, and shall be dismantled and removed from the premises within 90 days after receipt of notice of such abandonment to the owner of the subject premises.
13. **Aesthetics.** Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.

14. **Accessory Structures.** The design of the buildings and other accessory structures at or in an equipment compound shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them in with the surrounding environment. All such buildings/structures shall meet the minimum

setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

15. **Inspection and Maintenance.** An approved tower/antenna shall be inspected at regular intervals, not less than once a year, and shall be serviced as frequently as may be necessary to maintain same in a safe and weather-withstanding condition. Reports of all inspections and maintenance shall be made available to the Township upon written request.
16. **Minimum Lot and Yard Requirements.** For purposes of determining whether a proposed tower site complies with zoning regulations for the applicable district, including minimum lot area, maximum lot coverage, and yard requirements, the dimensions of the entire lot shall control where a proposed tower site is created pursuant to a lease or license agreement encompassing less than the entire lot.

E. **Installation of Antenna or Other Wireless Communications Equipment on Existing Tower or in Existing Equipment Compound.** The following provisions govern the installation of antenna apparatus and other wireless communications equipment on an existing communication tower or other wireless communications support structure or within an equipment compound on the site of an existing communication tower:

1. Where the existing tower has been granted special land use and site plan approvals, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures and proposed changes to the existing equipment compound, are in complete conformance with the underlying special land use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures.
2. Where the existing tower has been granted special land use and site plan approvals, or has not been granted such approvals but is determined by the Zoning Administrator to otherwise be in compliance with Chapter 220, no further zoning approvals are required if the Zoning Administrator further determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures, or proposed changes to the existing equipment compound comply with all of the following (as applicable):
 - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure/existing equipment compound is itself in compliance with Chapter 220.

- c. The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
- d. The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit collocation.
- e. The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
- f. The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with c, d, e, or f, but which otherwise is compliant with sub-part (2), is subject to zoning approval pursuant to approval of an amended site plan in accordance with all applicable provisions of Chapter 220, but without further special land use approval.

- 3. Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either preceding sub-parts (1) or (2) of this subsection E, the installation shall be subject to special land use and site plan approvals in a zoning district where Wireless Communications Support Structure is designated as a special land use.

Item 13---Utility-Scale Solar Energy Electricity Generating Facility.

- A. No part of the facility shall exceed the generally applicable maximum structure height limit for the District pursuant to the Schedule of Regulations in Article XV (35 feet).
- B. All collector panel structures shall be set back from lot lines a distance equal to at least twice the generally applicable principal structure setback requirements for the District pursuant to the Schedule of Regulations in Article XV; provided, the Planning Commission may approve lesser setbacks (but not less than the minimum yard requirements for principal structures in the District as specified in the Schedule of Regulations in Article XV) pursuant to findings that all applicable approval standards and requirements, including the standards for special land use approval applicable to all special land uses as specified in § 220-20-3.A, will be met with the approved lesser setbacks due to existing and/or planted non-deciduous trees/shrubs, the isolation of the site from public roads and developed properties, or other characteristics specific to the site. Accessory buildings shall observe the setback requirements generally applicable to principal buildings in the District as specified in the Schedule of Regulations in Article XV.
- C. The total lot coverage of the facility shall not exceed 75%, or such lesser percentage as is necessary on a site-specific basis to meet all applicable setback requirements (as measured by drawing an imaginary line around the perimeter of all the collector panel

structures, and adding to the area of that calculation the area of all other buildings/structures on the site).

- D. The collector panels and supporting structures shall be designed and/or located on premises so as to avoid any projection of glare onto public or private streets or any other premises; and/or shall be sufficiently screened to meet this standard.
- E. The facility shall be designed for interconnection to a public utility electrical power grid, and shall be operated with such interconnection.
- F. The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.
- G. The facility shall have a decommissioning plan, documenting the anticipated useful life of the facility, including any collector panel replacements/upgrades, and detailing how the facility will be dismantled and the site restored when the facility is no longer in use. A facility shall be deemed no longer in use, for purposes of this provision, when it has not been operated for its designed and intended purpose for six months or more. The decommissioning plan shall be fully implemented and completed within six months after a facility is deemed no longer in use.
- H. The facility shall not be made operational until the applicant or the applicant's designee has provided to the Zoning Administrator the statement of a licensed professional engineer certifying all aspects of the facility, including the interconnection to a public utility power grid, complies with all applicable building and electrical code requirements, and complies with all the foregoing standards and requirements.

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ARTICLE XXI
Site Plan Review

§ 220-21-1. Purpose of site plan review; uses subject to site plan review.

- A. Purpose of site plan review. The provisions in this article are intended to provide for consultation and cooperation between a land developer and the Township to facilitate the developer's objectives and the use of the land in accordance with the regulations of this chapter and with minimum adverse effect on the use of streets and other public facilities and on other existing and future land uses in the vicinity.
- B. Uses subject to site plan review. Except as provided in § 220-21-7 with respect to matters subject to administrative site plan review, as designated therein, the following uses shall not be conducted upon any land or in any building/structure, nor shall a building permit or zoning compliance permit be issued for the construction of a building/structure associated with such uses, until a site plan has been submitted to, reviewed, and approved by the Planning Commission in accordance with the provisions of this article:
1. Multiple-family residential development.
 2. Mobile home park development.
 3. Office development.
 4. Commercial development.
 5. Industrial development.
 6. Open space preservation development.
 7. All uses in the HDR District other than one-family and two-family residential.
 8. All special land uses.
 9. Site condominium projects.
 10. Any other uses of land for which site plan review is required under any provision of this chapter.

§ 220-21-2. Preliminary site plan review (optional).

- A. Preliminary sketches of site and development plans may be submitted to the Planning Commission. The purpose of this optional preliminary site plan opportunity is to allow discussion between the developer and the Planning Commission as to site, building, and general requirements; to allow the developer to become acquainted with the mandatory final site plan review process; and to investigate the feasibility of the project prior to extensive engineering plans being prepared for the final site plan review procedure. This

preliminary site plan review opportunity is also especially advisable if the applicant intends to ask for a waiver of any of the final site plan content requirements imposed by § 220-21-3, as only the Planning Commission has authority to waive such content requirements, in certain circumstances, as addressed at the end of Section § 220-21-3 All preliminary site plan submittals shall include at least the following:

1. The name and address of applicant.
2. Legal description of the property.
3. Drawings showing tentative plans.

§ 220-21-3. Final site plan application content.

- A. All final site plan review applications shall include all of the following (except where an item of content is clearly only applicable to a specified type of land use, such as sub-part 23):
1. The name and address of applicant. If a corporation, the name and address of the officers thereof. If a partnership, the names and addresses of each partner.
 2. Legal description of the property.
 3. The date, north arrow and scale [the scale shall be not less than one inch equals twenty feet for property under three acres and at least one inch equals one hundred feet for those three acres or more].
 4. All lot and/or property lines, dimensioned, including building setback lines.
 5. The location and height of all existing and proposed structures on and within one hundred feet of the subject property.
 6. The location and dimensions of all existing and proposed drives and aisles, sidewalks, curb openings, signs, exterior lighting, parking spaces, loading and unloading areas, outdoor display and storage areas, and recreation areas, etc.
 7. The location of the pavement and right-of-way width of all abutting roads, streets or alleys.
 8. The name and firm address of the professional individual responsible for the preparation of the site plan (including imprint of professional seal, if any).
 9. The name and address of the property owner (if different from the applicant).
 10. The location of all rubbish receptacles.
 11. The location of all landscaping, and the location, height and type of fences and walls.

12. The size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems, if available.
13. The location of all fire hydrants.
14. The location and dimensions of all existing and proposed interior and exterior areas and structures (including above or below ground storage tanks) to be used for the collection, storage, use, loading/unloading, recycling, or disposal of any chemicals, fuels, flammable materials, contaminated stormwater or washwater, or hazardous materials.
15. The location of all existing and proposed interior floor drains.
16. The location and size of all existing and proposed exterior drains, drywells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water, including the point of discharge for all associated drains and pipes.
17. A property survey by registered surveyor.
18. The existing and proposed contour, shown at two foot intervals, minimum.
19. The location of all lakes, streams, wetlands, county drains, and other waterways abutting or within 100 feet of the subject property.
20. The front, side and rear elevations for all new buildings on the property. Also, with respect to site plans involving multiple-family dwellings, either floor plans for all such buildings or information which is otherwise sufficient to show compliance with the applicable minimum gross floor area per dwelling unit square footage requirement. (Complete floor plans are optional with respect to other types of developments subject to site plan review, but may be required by the Planning Commission where deemed necessary to properly evaluate compliance with the criteria for site plan approval.)
21. A description of the proposed land use in sufficient detail to indicate the effects of the use in producing traffic congestion, noise, glare, air pollution, water pollution, land pollution, fire or safety hazards, or the emission of all potentially harmful or obnoxious matter or radiation.
22. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste tailings and unusable by-products.
23. (for mobile home parks) The lot size, setbacks, trailer pads, patios, and complete park layout.
24. The proposed number of shifts to be worked and the maximum number of employees on each shift.

25. Any other information deemed necessary by the Township Planning Commission.

The Planning Commission may waive any of the above enumerated required items of content for a final site plan if the Commission determines the item of content either does not apply to the proposed use, or is otherwise unnecessary to evaluate the use for which approval is sought-pursuant to the site plan approval standards specified in § 220-21-5.

§ 220-21-4. Final site plan submittal and review scheduling procedures.

- A. The applicant shall file the site plan and all related information with the Zoning Administrator (or other designee of the Planning Commission), and pay any applicable fee. This filing shall be sufficiently in advance of the Planning Commission meeting at which the applicant would like to have the site plan reviewed as to allow the Zoning Administrator adequate time to review the filing and timely comply with subsections B-C below.
- B. The Zoning Administrator (or other designee of the Planning Commission) shall initially review the site plan and all related information submitted by the applicant for "administrative completeness", and shall identify all concerns relating to the standards for approval of the site plan.
- C. A site plan which is determined by the Zoning Administrator (or other designee of the Planning Commission) to be administratively incomplete shall not be distributed to the Planning Commission or placed on the agenda of a Planning Commission meeting, except where the Zoning Administrator clearly identifies any such incomplete content to the Planning Commission for recommended waiver.
- D. When the Zoning Administrator (or other designee of the Planning Commission) has determined a site plan to be administratively complete the applicant shall supply the Zoning Administrator with eight copies of the administratively complete site plan and all related information (or such other number of copies as the Zoning Administrator may require). The Zoning Administrator shall distribute a copy of the site plan and all related information submitted by the applicant, and the Administrator's report on same, to each member of the Planning Commission no later than 5 days prior to the Planning Commission meeting at which the site plan is scheduled to be reviewed. The Zoning Administrator shall retain 1 copy of the administratively complete site plan and all related information submitted by the applicant, and shall file 1 copy of same with the Township office to be available for public examination.

§ 220-21-5. Final site plan review; review standards; modifications; approval conditions; performance guarantee.

- A. Input from other officials. Prior to reviewing or acting on a site plan the Planning Commission may, in its discretion, request comments and recommendations on the site plan from the Township Planner, the Township Engineer, the Fire Chief/Fire Marshall, the Township Building Official, the County Drain Commissioner, the County Road Commission, and such other parties as the Planning Commission may, in its discretion, determine to be advisable or necessary with respect to a particular site plan.

B. Standards for Final Site Plan Review. The Planning Commission shall review and approve a site plan, or approve a site plan with conditions, upon a finding that all of the following standards are met:

1. The proposed use will not have a harmful effect on the surrounding neighborhood development. Fencing, walls and/or landscaping may be required as a screening device to minimize adverse affects upon surrounding development.
2. There is a proper relationship between the major thoroughfares and proposed service drives, driveways and parking areas so as to insure the safety and convenience of pedestrian and vehicular traffic.
3. The adverse effects resulting from the locations of buildings and accessory structures will be minimized to the occupants of adjacent properties.
4. The proper development of roads, easements and utilities has been provided to protect the general health, safety and welfare of the citizens of the Township.
5. The natural features of the landscape, such as ponds, streams, hills, wooded areas, etc. shall be retained where they afford a barrier or buffer between adjoining properties being put to different use.
6. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
7. All areas and structures where chemicals, fuels, flammable materials, contaminated stormwater or washwater, or hazardous materials are to be collected, stored, used, loaded/unloaded, recycled, generated or disposed of have been designed and located to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers and wetlands, except as may be specifically permitted by a state or federal governmental agency.
8. All floor drains have been approved by the responsible governmental agency for connection to an on-site closed holding tank, or, where appropriate, to a septic system or public sewer system, or regulated through a State of Michigan groundwater discharge permit.
9. The height and location of all portions of buildings and structures are accessible to available emergency personnel.
10. The proposed development will comply with all applicable provisions of this chapter, and other applicable ordinances, laws, rules, and regulations.

The Planning Commission shall not approve a site plan if any part of the site plan or the intended use or development of the subject property does not comply with all the preceding standards.

- C. Modifications. The Planning Commission may approve a final site plan contingent upon the modification of the site plan as discussed with the applicant and as specified in the Planning Commission's approval action. In such circumstances the final site plan approval shall not be effective until a new original of the approved site plan, with the required modifications, has been filed with and verified by the Zoning Administrator. Notwithstanding the foregoing, the Planning Commission shall in no case approve a site plan subject to variance relief being granted by the Zoning Board of Appeals. If a proposed site plan cannot be approved without variance relief the Planning Commission shall disapprove the site plan; or, in the alternative, may table any substantive action on the site plan until the applicant has determined whether to apply to the Zoning Board of Appeals for the pertinent variance relief, and any such application has been decided by the Zoning Board of Appeals.
- D. Site plan approval conditions. The Planning Commission is hereby given the discretion and authority to impose reasonable conditions, as a condition of approval of any site plan, as necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility of adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration and be necessary to insure compliance with those standards.
 4. Conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action and shall remain unchanged except by amendment to the site plan as provided for herein.
- E. Performance guarantee. To insure compliance with the approved site plan, this chapter and any conditions imposed as a result of site plan review approval, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with a project for which site plan approval is sought be deposited with the Clerk of the Township to insure faithful completion of the improvement. The performance guarantee shall be deposited at the time or project. The Planning Commission shall establish procedures whereby a rebate of any cash deposit in reasonable proportion to a ratio of work completed on the required improvements will be made as work progress.

As used in this section, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety and welfare of the residents of the Township and future users or inhabitants of the project or project areas, including roadways, lighting, utilities, sidewalks, screening, and the drainage. This term does not include the entire project which is the subject of site plan review and approval.

§ 220-21-6. Duration of site plan approval; conformity to approved site plan; revocation of site plan approval; amendment of approved site plan.

- A. Duration of site plan approval. A site plan approval is valid for one year from the date of approval. If any required building permit has not been obtained and the on-site development actually begun within this one year period, the site plan approval automatically expires and is void. No time extension to a site plan approval shall be granted.
- B. Conformity to approved site plan. Development of property subject to site plan review shall be in complete conformity with the approved site plan, including any conditions imposed on the site plan approval.
- C. Revocation of site plan approval. Any site plan approval may be revoked when the construction of the development is not in conformity with the approved site plan. The Zoning Administrator or Planning Commission shall give the applicant notice of intention to revoke a site plan approval at least 15 days prior to review of the proposed revocation by the Planning Commission. After conclusion of such review, the Planning Commission may revoke its approval of a site plan if the Planning Commission determines that a violation in fact exists and has not been remedied prior to the hearing.
- D. Amendment of approved site plan. The owner/developer of property subject to an approved site plan may propose one or more amendments of the approved site plan, pursuant to the same procedures required by this article for submission/review of the original site plan.

§ 220-21-7. Administrative Site Plan Review.

The following administrative site plan review (ASPR) process shall apply in the circumstances and to the extent specified in this section, as an alternate to the generally applicable final site plan review process specified in this article.

- A. Projects eligible for ASPR. A project is eligible for the ASPR process only with respect to any of the following changes to an existing development:
 - 1. A reduction of the size of an existing building or structure.
 - 2. An expansion of an existing building or structure, not exceeding 25% of the existing square footage, and not exceeding a cost of \$40,000.

3. The internal rearrangement of a parking lot and/or parking spaces, where the total number of parking spaces is neither increased nor decreased, and there is no alteration of the access location or design.
4. The relocation of an existing building or structure, where all setback and yard location requirements are met.
5. A new structure(s) not exceeding a total area of 2000 square feet, within an existing development.
6. Other similar changes of a minor nature which the Zoning Administrator, upon consultation with the Planning Commission Chairperson, determines will not materially affect the character or intensity of use, vehicular or pedestrian circulation, drainage patterns, or the demand for public services; will not have any adverse affect on adjacent or nearby property or the use thereof; and will not have any adverse affect on the health, safety, or welfare of the general public.

The ASPR process shall not apply if any of the above-listed circumstances involve any of the following:

- A new or altered access to the site.
- A change in use and/or a new use.
- A variance from any provision of Chapter 220 is required; or the project fails to comply with any applicable provision of this chapter, or any other applicable ordinance, regulation or law.

B. ASPR Process. The Zoning Administrator, after consultation with the Planning Commission Chairperson, may determine whether a proposed project is eligible for the ASPR process and may be granted site plan approval pursuant to that process. The Zoning Administrator shall refer to the Planning Commission for review and approval consideration pursuant to the provisions of this section pertaining to final site plan review any proposed project for which the Planning Commission Chairperson has not recommended approval pursuant to the ASPR process. In addition, the Zoning Administrator shall have discretion to decline applying the ASPR process to an eligible project, and instead refer such project to the Planning Commission for review and approval consideration pursuant to the provisions of this section pertaining to final site plan review.

C. Review and Approval Criteria. The Zoning Administrator shall review and determine whether to approve a project eligible for the ASPR process pursuant to the standards specified in § 220-21-5 and all other applicable provisions of this chapter. The Zoning Administrator may require the applicant to submit such information pursuant to the final site plan application content requirements of § 220-21-3 as the Zoning Administrator deems necessary to properly review the project pursuant to the ASRP process.

- D. Significance of Approval Pursuant to ASPR Process. A project approved by the Zoning Administrator pursuant to the ASPR process shall be considered to have site plan approval, subject to § 220-21-6.

ARTICLE XXII
Nonconforming Uses, Buildings/Structures and Lots

§ 220-22-1. Scope of Regulations.

This article governs lawfully established nonconforming uses, buildings, structures, and lots. Nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of an unlawful use, building/structure or lot.

§ 220-22-2. Continuation of Nonconforming Uses and Buildings/Structures; Eventual Termination.

Subject to the provisions of this article, a lawful use, building/structure, or lot which is existing and lawful on the effective date of this chapter, or in the case of an amendment of this chapter then on the effective date of such amendment, may be continued even though such use, building/structure, or lot does not conform with the provisions of this chapter or applicable amendment thereof. A change in the ownership, tenancy or occupancy of a use, building/structure, or lot shall not affect such continuation rights. As a matter of policy of the State of Michigan, and of this Township, all nonconforming uses and nonconforming buildings/structures are intended to eventually terminate, to facilitate the use of property and the development of buildings/structures thereon that fully conform to the requirements of this chapter.

§ 220-22-3. Repair and Maintenance of Nonconforming Use or Building/Structure.

Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with law, may be made provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of the building/structure.

§ 220-22-4. Reconstruction/Restoration of Nonconforming Use or Building/Structure.

If a nonconforming use or nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, the use/building/structure shall not be repaired or otherwise reconstructed or restored except in conformity with this chapter. Where such damage or destruction is less than 50% of the fair market value of the use/building/structure at the time of such damage or destruction, the use/building/structure may be repaired or otherwise reconstructed or restored so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction/restoration right shall be considered terminated by abandonment if reconstruction/restoration is not started within six months from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax assessing records of the Township.

§ 220-22-5. Expansion of Nonconforming Use or Building/Structure.

- A. A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless:
 - 1. Such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this chapter and does not aggravate the existing nonconforming condition; or,
 - 2. Such expansion, extension, enlargement or alteration is authorized by the Zoning Board of Appeals pursuant to Article XXIV and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or building/structure.

§ 220-22-6. Substitution of Nonconforming Use.

- A. A nonconforming use shall not be changed to any other nonconforming use except as may be authorized by the Zoning Board of Appeals pursuant to Article XXIV, and upon a finding that:
 - 1. The proposed new use will substantially decrease the degree of nonconformity.
 - 2. The proposed new use will be more compatible with adjacent uses than the prior nonconforming use.
 - 3. No structural alterations are required to accommodate the proposed new nonconforming use.

§ 220-22-7. Reestablishment and Discontinuation of Nonconforming Use or Nonconforming Building/Structure.

- A. A nonconforming use shall not be reestablished after it has been changed to a conforming use or a more restrictive use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming or less nonconforming building/structure.
- B. A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

§ 220-22-8. Nonconformity Due to Rezoning or Text Amendment; Nonconformity Due to Special Land Use Approval Requirement.

- A. The provisions of this article shall also apply to uses, buildings/structures, and lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this chapter.

- B. A land use designated as a special land use by any provision of this chapter applicable to the district in which the land use is located, but in existence before the special land use approval requirement was in effect, may be continued pursuant to § 220-22-2 but shall also be subject to the other provisions of this article unless/until special land use approval has been granted for the land use pursuant to Article XX.

§ 220-22-9. Existing Nonconforming Lots; Combination of Lots Under Single Ownership (Zoning Lots).

- A. Any lot of record created prior to the effective date of this chapter that fails to comply with the minimum requirements of its zoning district may be developed for a lawful conforming use if the lot conforms in all respects to the zoning requirements in effect as of the date of such recording, and complies with all other current requirements of this chapter. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.
- B. Notwithstanding the foregoing subsection A, where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be combined for zoning purposes sufficient to create a single conforming buildable “zoning lot” (or, as applicable, a single less nonconforming zoning lot).

ARTICLE XXIII
Administration and Enforcement

§ 220-23-1. Zoning administration and enforcement.

The provisions of this chapter shall be administered and enforced by the Zoning Administrator (who may also be known as the Zoning Enforcement Officer), and such other persons as the Township Board may designate.

§ 220-23-2. Zoning administrator.

The Zoning Administrator shall be appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine.

§ 220-23-3. Zoning administrator duties.

The Zoning Administrator shall have the following duties and responsibilities:

- A. Investigation of Violations. The Zoning Administrator shall investigate any alleged violation of this chapter coming to his or her attention. If a violation is found to exist, the Zoning Administrator shall proceed in accordance with policies established by the Township Board and as otherwise provided by law.
- B. Inspections. The Zoning Administrator shall make periodic inspections of property subject to an approved site plan and/or special land use permit approval to ascertain that the requirements of this chapter and any approval requirements/conditions are being complied with during the construction/implementation of the approved development.
- C. Administrative Review of Site Plans. The Zoning Administrator shall review site plans and related materials as specified in Article XXI of this chapter.
- D. Issuance of Zoning Compliance Permits. The Zoning Administrator shall review and act on applications for zoning compliance permits pursuant to § 220-16-2 B, and for such other permit matters as the Zoning Administrator may be assigned responsibility by this chapter.
- E. Coordination with Building Official. The Zoning Administrator shall promptly inform the Building Official of all issued and denied zoning compliance permits, and otherwise coordinate with the Building Official with respect to all permit applications reviewed by the Zoning Administrator under this chapter that may have implications for the responsibilities of the Building Official.
- F. Records. The Zoning Administrator shall keep records of all inspections, applications and permits issued, with a notation of all special conditions involved. The Zoning Administrator shall file and safely keep copies of all plans, and a record of all fees submitted with applications. The same shall form a part of the records of the office and shall be readily available.
- G. Other Duties. The Zoning Administrator shall perform such additional duties related to administration and enforcement of Chapter 220 as are prescribed by law or as may from time to time be assigned by the Township Board.

- H. Meeting Attendance. The Township Board may require the Zoning Administrator to attend meetings of the Township Board, Planning Commission, and Zoning Board of Appeals, and keep the members of same informed of matters pertaining to zoning.

§ 220-23-4. Violation and sanctions.

- A. Any person who violates, disobeys, neglects or refuses to comply with any provision of this chapter, any administrative decision made under the chapter, or any permit or approval issued under the chapter, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this chapter.
- B. Any person responsible for a violation of this chapter, whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Any violation of this chapter shall constitute a basis for injunctive relief to compel compliance with the chapter and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. A violation of this chapter is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine according to the Schedule of Fines in Chapter 45 of the Township Code (Violations Bureau; Municipal Civil Infractions).

§ 220-23-5. Nuisance per se.

Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, maintained or changed in violation of any term or provision of this chapter, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

§ 220-23-6. Authority to commence legal action.

The Township Supervisor, the Zoning Administrator, and such other persons as the Township Board may properly designate, may institute such legal actions or proceedings as may be appropriate to prevent, enjoin, abate, remove or to sanction any violation of this chapter; provided that actions in the Circuit Court shall be authorized by the Township Board.

§ 220-23-7. Application fees.

The Township Board is authorized to establish, by motion, fees for consideration of all applications for a permit or other approval by the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or Township Board under this chapter or a related statute, including but not limited to: zoning compliance permit, special land use, site plan review, variance, zoning text or map interpretation, appeal of Zoning Administrator determination, rezoning of property,

amendment of zoning text, or amendment of Master Plan (text or map). The fees may be established at different levels for matters being considered at a regular meeting and matters being considered at a special meeting; and may be established as a flat fee or based on all actual costs incurred by the Township with respect to processing and consideration of the matter, with specified deposit and escrow amounts. All such fees applicable to a particular application shall be paid to the Township Clerk in order for the application to be considered administratively complete and processed for consideration. Such fees may be changed by motion of the Township Board at any lawful meeting, and may take effect immediately or upon such later date as the Board may specify.

ARTICLE XXIV
Zoning Board of Appeals

§ 220-24-1. Creation.

There is hereby created a Zoning Board of Appeals, which shall perform its duties and exercise its powers and jurisdiction as provided by applicable laws and this chapter.

§ 220-24-2. Members.

- A. The Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute. The Zoning Board of Appeals shall consist of five regular members. One of the regular members shall be a member of the Planning Commission. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing outside of any city or village. The membership of the Zoning Board of Appeals shall be representative of the population distribution and of the various interests present in the Township. A member of the Township Board may be a regular member of the Zoning Board of Appeals. An employee or contractor of the Township Board shall not serve as a member of the Zoning Board of Appeals.
- B. The Township Board may appoint to the Zoning Board of Appeals not more than two alternate members for the same term as regular members. An alternate member may be called to sit as a regular member in the absence of a regular member if the regular member will be unable to attend one or more meetings. One alternate member shall also be a member of the Planning Commission, and shall be called to sit as a regular member only in the absence of the regular member of the Zoning Board of Appeals who is also a member of the Planning Commission. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member.

§ 220-24-3. Term.

The term of each member shall be three years and until a successor has been appointed and qualified; such successor shall be appointed not more than one month after the expiration of the preceding term. Staggered terms shall be effected by one or more of the first appointed members serving for less than three years. Members from the Township Board and from the Planning Commission shall have terms limited to their respective other official terms or to such lesser period determined by resolution of the Township Board.

§ 220-24-4. Jurisdiction and powers.

The Zoning Board of Appeals shall have all the powers and jurisdiction prescribed by applicable law, and by the provisions of this chapter, including the following:

- A. Hear and decide, subject to § 220-24-7, appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. The Zoning Board of

Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be done, and to that end it shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

- B. Act upon all questions as they may arise in the administration and enforcement of this chapter, including interpretation of the zoning map.
- C. Hear and decide, subject to § 220-24-9, requests for a nonuse variance from dimensional requirements of Chapter 220, or from any other nonuse-related requirement in that chapter, if there are practical difficulties in the way of carrying out the strict letter of the requirement, so that the spirit of Chapter 220 is observed, public safety secured, and substantial justice done.
- D. Hear and decide requests to change a nonconforming use to another nonconforming use, as provided by § 220-22-6.
- E. Hear and decide requests to approve expansion, extension, enlargement or alteration of a nonconforming use or nonconforming building/nonconforming structure, as provided by § 220-22-5.A.2.

§ 220-24-5. Officers.

The Zoning Board of Appeals shall designate one regular member as its Chairperson; provided a regular member who is also a member of the Township Board is not eligible to serve as Chairperson of the Zoning Board of Appeals. The Zoning Board of Appeals may designate such other officers as it deems expedient to the proper performance of its duties.

§ 220-24-6. Meetings/rules of procedure.

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Zoning Board of Appeals may determine for the efficient conduct of its business. The Zoning Board of Appeals shall not conduct business unless a majority of its regular members are present. All meetings shall be open to the public. The Zoning Board of Appeals may adopt rules of procedure consistent with applicable statutes and this chapter as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

§ 220-24-7. Appeals.

Appeals to the Zoning Board of Appeals may be taken by any party aggrieved or affected by a decision or order of the Zoning Administrator or by an officer or agency of the Township. A notice of appeal specifying the grounds thereof shall be filed with the Zoning Board of Appeals within 30 days after the date of the action appealed. A copy of the notice shall promptly be served upon the officer or agency from whose decision or order the appeal is taken, who shall forthwith transmit to the Zoning Board of Appeals all records pertaining to the action appealed from. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Zoning Board of Appeals that a stay would, in his opinion, cause imminent peril to life or

property. In such case, proceedings shall not be stayed except upon a restraining order issued by the Zoning Board of Appeals or by the circuit court.

§ 220-24-8. Applications.

All appeals and applications for any matter within the jurisdiction of the Zoning Board of Appeals shall be submitted and processed under the following procedures:

- A. The appeal or application shall be filed in triplicate with the Township Clerk, and shall include all of the following:
 1. A completed appeal or application form, using the applicable form prescribed by the Township.
 2. All materials on which the applicant intends to rely in support of the appeal or other application.
 3. For any appeal or other application involving specific property, such as an application for variance relief, a site plan or diagram of the subject property showing, at a minimum, all of the following:
 - a. The location of the subject property with respect to all abutting streets.
 - b. The dimensions of the subject property.
 - c. The location of all existing buildings and structures on the subject property, and on all adjoining properties.
 - d. The location of all proposed buildings/structures on the subject property.
 - e. The existing and proposed uses of the existing and proposed buildings/structures on the subject property.
 - f. The existing and proposed setback of each building/structure which is the subject of the appeal or other application, measured in each instance to the street line and all pertinent lot lines.
 4. Payment of the applicable fee as set by the Township Board.
- B. The Township Clerk shall promptly refer one copy of the application submittal to the Township Attorney, and one copy to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing or other consideration by the Zoning Board of Appeals unless and until it is administratively complete as determined by the Zoning Administrator. The Zoning Administrator shall promptly refer an administratively complete appeal/application to the Zoning Board of Appeals.

§220-24-9. Variance standards and conditions.

- A. Standards: No variance in the provisions or requirements of this chapter shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:
- By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the requirement.
 - The exceptional or extraordinary circumstances or conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.
 - The variance will not be of substantial detriment to adjoining property.
 - The variance will not materially impair the intent and purpose of Chapter 220, or the public health, safety and welfare.
 - The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

In determining whether the standards for variance relief have been shown to be satisfied the ZBA shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
 - The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
 - Increased costs associated with complying with the strict letter of the requirement are not a basis for variance relief.
 - Increased financial return if variance relief is granted is not a basis for variance relief.
 - The ZBA may find the standards for relief from the strict letter of the requirement have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the ZBA shall grant only such lesser variance relief as is necessary.
- B. Conditions. The Zoning Board of Appeals may attach conditions or limitations upon a variance, where such are necessary to insure that public services and facilities affected by a requested variance and the associated land use or activity will be capable of

accommodating increased service and facility loads caused by the variance and associated land use or activity, and to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Prior to attaching a condition or limitation to a variance, the Zoning Board of Appeals shall also specifically determine the following:

1. the condition or limitation is designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity associated with the variance under consideration, residents and land owners immediately adjacent to the land use or activity, and the community as a whole; and,
2. the condition or limitation is related to the valid exercise of the police power, and purposes which are effected by the proposed variance; and,
3. the condition or limitation is necessary to meet the intent and purpose of this chapter, is related to the standards established in § 220-24-9 A for the variance under consideration and associated land use or activity, and is necessary to insure compliance with those standards.

Any such conditions and limitations may impose greater or more restrictions and requirements than are included in this chapter generally, and may include the provision of reasonable financial security to guarantee performance. Violation of any such conditions or limitations shall be deemed a violation of this chapter.

§ 220-24-10. Land use variance.

The Zoning Board of Appeals shall not act on a request for a land use variance (for a use not allowed in a zone).

§ 220-24-11. Public hearings.

Upon the filing of an administratively complete appeal or application on a matter over which the Zoning Board of Appeals has jurisdiction, the Zoning Board of Appeals shall hold a public hearing on such matter if required by law, preceded by notice as required by law.

§ 220-24-12. Decisions.

The Zoning Board of Appeals shall render its decision upon such application within 60 days after the hearing thereon and notify the applicant of its decision.

§ 220-24-13. Vote necessary for decision.

The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to grant a variance or otherwise decide in favor of the applicant, or to reverse an order, requirement, decision, or determination of the Zoning Administrator.

§ 220-24-14. Minutes and records.

The secretary/recording secretary or other designee of the Zoning Board of Appeals shall keep minutes of its proceedings, which shall be filed with the Township Clerk and be a public record.

§ 220-24-15. Time limits.

- A. If a variance is granted or other action is authorized by the Zoning Board of Appeals, the authorized action shall be deemed abandoned and withdrawn if it is not initiated within three months and completed within 12 months after the Zoning Board of Appeals decision. However, upon request of the applicant, filed no later than the applicable deadline, the Zoning Board of Appeals may renew the authorized action where the applicant shows good cause for the delay, and the Zoning Board of Appeals finds there have been no changed conditions that would potentially affect the prior findings of the Zoning Board of Appeals on which the authorized action was dependent.
- B. No application for a variance or other relief which was denied in whole or in part shall be reheard by the Zoning Board of Appeals for a period of one year from the date of the denial, unless the Zoning Board of Appeals finds that grounds for such a rehearing exist on the basis of either newly discovered evidence or proof of changed conditions that were not known to the applicant or the Zoning Board of Appeals at the time of the previous hearing.

§ 220-24-16. Limitation of board action.

Except as expressly authorized in this chapter, the Zoning Board of Appeals shall not, through any decision, alter, vary or otherwise negate any provisions of this chapter. If the Zoning Board of Appeals considers any specific provision of Chapter 220 inappropriate it shall submit to the Planning Commission a request for review of the provision.

ARTICLE XXV
Zoning Text/Map Amendment

§ 220-25-1. Initiation of amendments.

Amendments to this chapter may be initiated by the Township Board or Planning Commission by resolution or by any interested parties by application to the Township Board.

§ 220-25-2. Amendment application procedure.

All applications for amendment to this chapter shall be in writing, signed, and filed in triplicate with the Township Clerk for presentation to the Township Board. Such applications shall include the following:

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

§ 220-25-3. Amendment procedure.

After initiation, applications for amendments to this chapter shall be considered as provided by applicable law.

§ 220-25-4. Conditional rezoning.

- A. Intent. It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a

process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL § 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and offer of conditions.

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district. Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of this chapter or other regulations or ordinances promulgated by or applicable in Rutland Charter Township.
4. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.
5. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.
6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.
7. The offer of conditions may be amended during the process of rezoning consideration, provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board, provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

- C. Planning Commission review. The Planning Commission, after public hearing and consideration of the factors for rezoning in § 220-25-2, shall recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner. The Township may consider, but shall not be limited to, future land use recommendations in the Master Plan; goals and objectives in the Master Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
- D. Township Board review. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning referred to in preceding subsection C. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with applicable law, refer such amendments to the Planning Commission for a report thereof within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments. The Township Board shall consider, but shall not be limited to, future land use recommendations in the Master Plan; goals and objectives in the Master Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
- E. Approval.
1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
 2. The statement of conditions shall:
 - a. Be in a form recordable with the Barry County Register of Deeds or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

- d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the Township with the Barry County Register of Deeds.
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The Township Clerk shall maintain a listing of all lands rezoned with a statement of conditions.
 4. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the county in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

F. Compliance with conditions.

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

G. Time period for establishing development or use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development

and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:

1. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
2. The Township Board finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in Section 405 of the Michigan Zoning Enabling Act (MCL § 125.3405). The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applied to all other rezoning requests.

I. Subsequent rezoning of land. When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the statement of conditions imposed under the former zoning classification shall ceased to be in effect. The Township Clerk shall record with the Barry County Register of Deeds a notice that the statement of conditions is no longer in effect.

J. Amendment of conditions.

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the statement of conditions.
2. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

K. Township right to rezone. Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and applicable law.

- L. Failure to offer conditions. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Charter Township of Rutland adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ordinance No. 2009-135, adopted 6-10-2009.

§ DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
2009-136	09-09-2009	Zoning Map amendment	NCM
2010-137	02-10-2010	Adoption of Code	Ch. 1, Art. 1
2010-138	05-12-2010	Zoning Map amendment	NCM
2010-139	11-10-2010	Zoning text amendment	Ch. 220
2011-140	04-13-2011	Zoning text amendment	Ch. 220
2011-141	10-12-2011	Zoning text amendment	Ch. 220
2012-142	08-08-2012	Zoning Map amendment	NCM
2013-143	04-10-2013	Zoning text amendment	Ch. 220
2013-144	11-13-2013	Hastings-Rutland Joint Planning Commission	Ch. 37
2013-145	12-11-2013	Zoning Map amendment	NCM
2013-146	03-12-2014	Zoning text amendment	Ch. 220
2014-147	05-14-2014	Consumers Energy Company Gas Franchise Ordinance	Ch. A246
2014-148	07-09-2014	Zoning text amendment	Ch. 220
2014-149	07-09-2014	Zoning Map amendment	Ch. 220
2014-150	11-12-2014	Zoning text amendment	Ch. 220
2015-151	04-08-2015	Zoning Map amendment	Ch. 220
2015-152	05-13-2015	Zoning text amendments	Ch. 220
2015-153	09-09-2015	Zoning text amendments	Ch. 220
2015-154	10-14-2015	Zoning text amendments	Ch. 220
2016-155	05-11-2016	Hastings-Rutland Joint Planning Commission	Ch. 37
2016-156	05-11-2016	Zoning Ordinance of Hastings-Rutland Joint Planning Commission	Not in Code
2016-157	07-13-2016	Zoning Map amendment	Ch. 220
2016-158	09-14-2016	Cemetery Ordinance amendment	Ch. 89
2016-159	12-14-2016	Land Division, Combination, Boundary Adjustment	Ch. 200
2017-160	01-11-2017	Joint Ordinance to Amend Zoning Map of the Hastings-Rutland Joint Planning Commission	Not in Code
2017-161	06-14-2017	Zoning text amendments	Ch. 220

Ord. No.	Adoption Date	Subject	Disposition
2017-162	10-11-2017	Zoning text amendments	Ch. 220
2018-163	01-10-2018	Dangerous Buildings	Ch. 100
2018-164	08-08-2018	Great Lakes Energy Electric Cooperative Franchise	Ch. A240
2018-165	11-14-2018	Zoning Map amendment	Ch. 220
2019-166	02-13-2019	Zoning text amendments	Ch. 220
2019-167	04-10-2019	Prohibiting Marihuana Establishments	Ch. A249
2019-168	05-08-2019	Zoning Map amendment and Zoning text amendment	Ch. 220
2019-169	-	(this number was inadvertently skipped)	-
2019-170	09-11-2019	Temporary Sales	Ch. 101
2019-171	10-09-2019	Consumers Energy Electric Consent/Franchise Ordinance	Ch. A241
2019-172	10-09-2019	Joint Ordinance to Amend Hastings-Rutland Joint Planning Commission Zoning Ordinance text	Not in Code
2019-173	11-13-2019	Land Division, Combination, Boundary Adjustment Ordinance Amendment	Ch. 200
2020-174	01-08-2020	Zoning text amendments	Ch. 220
2020-175	05-13-2020	Joint Ordinance to Amend Hastings-Rutland Joint Planning Commission Zoning Ordinance text	Not in Code
2021-176	02-10-2021	Zoning text amendments	Ch. 220

**Zoning Ordinance
Of the
Hastings – Rutland
Joint Planning Commission**

**Adopted by Rutland Charter Township Board May 11, 2016 as
Ordinance No. 2016-156**

Adopted by Hastings City Council June 13, 2016 as Ordinance No. 532

Effective date: July 1, 2016



EXECUTIVE SUMMARY AND USER GUIDE FOR ZONING ORDINANCE OF THE HASTINGS-RUTLAND JOINT PLANNING COMMISSION

This Executive Summary and User Guide is intended to provide a general orientation to the format and organization of the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission (JPC), to make the document easier to understand and use.

Like every municipal zoning ordinance, the JPC Zoning Ordinance regulates the development and use of land by dividing the zoning jurisdictional area of the JPC into “zoning districts”, sometimes commonly referred to as “zones”. This Zoning Ordinance establishes two such zoning districts as noted in Section 3.01, and as shown on the Zoning Map made part of the Zoning Ordinance by Section 3.01: the MU Mixed Use District, and the LI Light Industrial District.

The JPC Zoning Ordinance is based on what is sometimes called a “permissive” zoning concept; that is, land in each zoning district can be used only for the land uses and activities that are specifically designated in the Zoning Ordinance as permissible in that district. The permissible land uses within each zoning district are further divided into either “permitted uses” or “special land uses”. A land use designated as a “permitted use” in a zoning district is recognized as being harmonious with other such uses within the same district, and may therefore require no prior land use approval; but even some permitted uses are subject to “site plan review” or other prior land use approval. A land use designated as a “special land use” in a zoning district always requires prior land use approval by the Joint Planning Commission, pursuant to standards specified in the Zoning Ordinance, to make sure the particular location proposed for the land use will not adversely impact other property, or the general health, safety and welfare of the community.

Chapters 6 and 7 of this Zoning Ordinance indicate the permitted uses and special land uses for each of the two zoning districts. Each of those chapters specifies other requirements applicable in each zoning district, such as the minimum lot size requirements, building “setbacks”, building design and architectural standards, and other requirements for development in each zoning district.

Some provisions of the Zoning Ordinance are intended to apply generally throughout the zoning jurisdictional area of the JPC, such as the “General Provisions” in Chapter 4 and “Supplementary Provisions” in Chapter 5. These and other parts of the Zoning Ordinance regulate specific matters that may also apply in one or more zoning districts, or throughout the JPC zoning jurisdictional area, as indicated to be applicable. Examples of such provisions include the following sections/chapters and subject matters:

- Section 5.01---Accessory Uses
- Section 5.02---Accessory Buildings

- Section 5.03---Temporary Uses or Structures Requiring Zoning Administrator Authorization
- Section 5.05---General Lighting Requirements
- Section 5.10---Waterfront Property Development Regulations
- Section 5.12---Private Roads
- Chapter 12---Off Street Parking Requirements
- Chapter 13---Signs

So, to determine whether property can be used for a particular land use or activity, and what regulations may apply to that property/land use, a person using this Zoning Ordinance will generally go through the following steps:

- ❖ Step 1: find the property on the official Zoning Map and determine the “zoning district” in which the property is located.
- ❖ Step 2: make sure the property meets the minimum “lot” requirements for that zoning district, and is therefore “buildable” pursuant to the requirements in Chapters 6 or 7, as applicable; or is otherwise a legal buildable “nonconforming lot” pursuant to Section 14.09. Chapter 14 also includes special provisions pertaining to “nonconforming” uses and building/structures lawfully established before the enactment of the Zoning Ordinance.
- ❖ Step 3: refer to the pertinent chapter covering that zoning district, Chapter 6 or 7, and determine whether the intended land use is listed there as either a “permitted use” or a “special land use”.
- ❖ Step 4a: if the intended land use is listed as a “permitted use” in the zoning district in which the property is located, check Section 9.02 to see whether that use is subject to a “site plan review” requirement. If so, other provisions of Chapter 9 will apply.

Step 4b: if the intended land use is listed as a “special land use” in the zoning district in which the property is located, review Chapter 10 for information about applying for special land use approval and the “standards” that must be shown to be complied with before the Planning Commission can grant such approval, after a public hearing. Section 10.04 specifies the approval standards that apply to all special land uses; and Section 10.08 includes additional specific standards that are required of certain special land uses. Note: the “site plan review” requirements of Chapter 9 apply to all special land uses.

- ❖ Step 5: for every permitted use or special land use check whether additional regulations are applicable from either Chapter 4 (General Provisions), Chapter 5 (Supplementary Provisions), or other

chapters/sections dealing with specific subjects, such as the examples listed above in the bullet points.

User hint: many words and terms used in this Zoning Ordinance are given a specific definition in Section 2.02. It is therefore important to refer to that section to determine whether a particular word or term has a specific definition for purposes of this Ordinance. Any word or term not specifically defined in that section or elsewhere in this Ordinance (such as in Section 13.02 with respect to various terms relating to signage) is defined in accordance with its customary or common meaning.

Finally, other parts of this Zoning Ordinance address what may be called “administrative” matters, including the following chapters/sections on the indicated subjects:

- Chapter 15---Zoning Board of Appeals
- Chapter 16---Administration and Enforcement
- Section 16.05---Zoning Text/Zoning Map Amendments

These articles are not generally relevant to determining how a particular land use is regulated by the Zoning Ordinance, but may apply in certain circumstances. For example, a potential applicant for a “variance” should review Chapter 15, as that chapter has provisions addressing the authority of the Zoning Board of Appeals to grant variance relief and generally covers the authority and functions of that board.

Disclaimer: this Executive Summary and User Guide is intended to provide a general orientation to the format and organization of the JPC Zoning Ordinance to help persons better understand how to use the Ordinance, generally. Many zoning questions can be answered upon simple reference to the appropriate parts of this Zoning Ordinance; but some questions will require knowledgeable assistance from someone such as the Zoning Administrator, and sometimes from legal counsel with special expertise in zoning matters. In short, although this Executive Summary and User Guide is not intended to substitute for knowledgeable assistance to address a particular zoning question or issue where required; it will hopefully make this Zoning Ordinance less of a mystery to public officials and residents alike, and more accessible to all.

Zoning Ordinance Format Note

This Zoning Ordinance is organized with a chapter-based section numbering system, and a related chapter-based page numbering system.

The chapter-based section numbering system chronologically numbers each section within each chapter. Thus, for example, the first section of Chapter 1 is Section 1.01, and the fourth section of that same chapter is Section 1.04. The first section of Chapter 2 is Section 2.01, and so on.

In coordination with this chapter-based numbering system, the Zoning Ordinance is paginated using a unique chapter-based section page numbering system that enables the user to immediately discern from each page number the chapter of the content on each page, and the consecutive number of each page within that chapter. For example, the fourth page of Chapter 4 is numbered 4-4 at the bottom of the page. This page number tells the user the content of that page pertains to Chapter 4, and is the fourth page of content within that chapter. This pagination system is used for all of the chapters of this Zoning Ordinance.

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CHAPTER 1

TITLE, PURPOSE, SCOPE AND LEGAL BASIS

Section 1.01 Short Title

This Ordinance shall be known as the “Hastings–Rutland Joint Planning Commission Zoning Ordinance.” It includes the ordinance text and the Zoning Map referenced in Section 4.02.

Section 1.02 Purpose

- A. This Ordinance provides the zoning regulations governing the use and development of the geographic area within the zoning jurisdiction of the Hastings-Rutland Joint Planning Commission, as established by agreement of the City of Hastings and Rutland Charter Township and depicted on the Official Zoning Map of the Joint Planning Commission. The Ordinance is based on the Hastings-Rutland Joint Planning Commission 2015 Master Plan as approved by the Hastings-Rutland Joint Planning Commission and the City of Hastings and Rutland Charter Township, and is designed:
1. To promote the public health, safety, morals and general welfare;
 2. To encourage the use of land in accordance with its character and adaptability and limit the improper use of land;
 3. To avoid the overcrowding of population;
 4. To provide adequate light and air;
 5. To lessen congestion on the public roads and streets;
 6. To reduce hazards to life and property;
 7. To facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public improvements and services so as to obtain the most advantageous uses of land, resources and properties.
- B. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

Section 1.03 Scope and Interpretation

This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party.

However, where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

Section 1.04 Legal Basis

This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (MCL 125.3101 et. seq.), and the Michigan Municipal Joint Planning Act, Public Act 226 of 2003, as amended (MCL 125.131 et seq.).

CHAPTER 2

DEFINITIONS AND WORD USAGE

Section 2.01 Rules Applying To Text

The following rules of interpretation apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. With the exception of this section, the headings which title a section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Unless the context clearly indicates to the contrary:
 - 1. Words used in the present tense include the future tense;
 - 2. Words used in the singular number shall include the plural number; and
 - 3. Words used in the plural number shall include the singular number.
- E. A "building" or "structure" includes any part thereof.
- F. The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be used".
- H. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.
- I. Any term or word defined in this Ordinance is defined for the purpose of its use in this Ordinance; such definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

Section 2.02 Definitions

As used in this Ordinance, the following terms shall have the meanings indicated:

ACCESSORY USE, BUILDING OR STRUCTURE

A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

ALTER (or ALTERED or ALTERATIONS)

Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building. Also see “structural changes or alterations”.

AUTOMOBILE REPAIR, MAJOR

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

AUTOMOBILE REPAIR, MINOR service to passenger automobiles and trucks not exceeding two tons' capacity, excluding any repair or work included in the definition of "automobile repair, major."

AUTOMOBILE WASH ESTABLISHMENT

A building or portion thereof, the primary purpose of which is that of washing motor vehicles.

BASEMENT

A portion of a building, or a portion of a room, located wholly or partially below grade.

BED-AND-BREAKFAST FACILITIES

A use which is subordinate to the principal use of a single-family dwelling, in which not more than six transient guests are provided a sleeping room and board in return for compensation for a period of not more than seven days.

BILLBOARDS

See Chapter 13.

BUILDING

An edifice configured or constructed and designed to stand more or less permanently and covering a space of land for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose.

BUILDING HEIGHT

The vertical distance from the average elevation of the adjoining grade paralleling the front, or if on a street corner, the front and side, of the building to its highest point of the roof surface if the roof is flat; to the deck line, if the roof is mansard type; or the average height between the eaves and the ridge if the roof is gable, hip or gambrel type.

BUILDING LINE

The line adjacent to a principal building and parallel to the front lot line, formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjacent ground.

BUILDING/STRUCTURE SETBACK

The minimum horizontal distance required to exist between a building or structure or any portion thereof (including eaves, steps, and porches) and the front, side or rear lot line, or some other place, such as a waterway, as required by this Ordinance.

CHILD CARE CENTER or DAY CARE CENTER

A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parent or guardians are not immediately available to the child. Child care center or day care center includes a facility which provides care for not less than two 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 center or day care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a twelve-month period.
- B. A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

CHURCH/WORSHIP FACILITY

A building whose primary purpose is to provide a place where persons regularly assemble for religious worship which is maintained and controlled by a religious body organized to sustain worship for a local congregation.

CITY

The City of Hastings.

CLINIC

A building or group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by more than one of a staff of professionals, such as a physician, dentist or the like.

COMMUNITY FACILITY

A building or structure owned and operated by a governmental agency to provide service to the public.

CONDOMINIUM UNIT (or UNIT)

That portion of a condominium subdivision designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use.

CONSTRUCTION

The building, erection, alteration, repair, renovation (or demolition, relocation or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance.

DENSITY

The total number of dwelling units divided by the area of land under consideration.

DUPLEX

See "dwelling, two-family."

DWELLING, MULTIPLE-FAMILY

A building or portion thereof, used or designed for occupancy by more than two families living independently of each other.

DWELLINGS, SINGLE-FAMILY ATTACHED

A group of three or more single-family dwelling units which are joined consecutively by a common party wall, but not a common floor-ceiling, with each unit having its own outside entrance. For the purposes of this Ordinance, dwellings such as semidetached and row houses shall be deemed single-family attached dwellings.

DWELLING, SINGLE-FAMILY DETACHED

A dwelling unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot.

DWELLING, TWO-FAMILY

A detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in said building. It may also be termed a "duplex."

DWELLING or DWELLING UNIT

Any building or portion thereof, mobile home, pre-manufactured or pre-cut structure which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families (but not including motels, hotels, tourist rooms or cabins) complying with the following standards:

- A. Minimum living area of 960 square feet for one-bedroom or two-bedroom dwelling plus 150 square feet of additional living area for each additional bedroom beyond two.
- B. A minimum width throughout the entire length of the dwelling of 20 feet measured between the exterior part of the walls having the greatest length.

- C. Firm attachment to a permanent foundation constructed on the site in accordance with applicable construction codes and co-extensive with the perimeter of the building, which attachment also meets all applicable codes and other state and federal regulations.
- D. No exposed wheels, towing mechanism, undercarriage or chassis.
- E. Approved connection to a public sewer and water supply or to such private facilities approved by the local health department.
- F. A storage area either in a basement located under the dwelling, an attic area, in closet areas or in a separate structure being of standard construction similar to or of better quality than the principal dwelling, equal to not less than 15% of the minimum dwelling unit square footage requirement of this Ordinance for the zone in which the dwelling is located.
- G. Aesthetic compatibility in design and appearance to dwellings in the surrounding area; provided this provision shall not be construed to prohibit innovative design concepts in such matters as solar energy, view, unique land contours, or relief from the common or standard designed home.
- H. Permanently attached steps connected to exterior door areas or to porches connected to exterior door areas where a difference in elevation requires the same.
- I. Mobile homes shall comply with the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards" (24 CFR 3208), and as from time to time amended.

The foregoing standards A, B, and C shall not apply to a mobile home occupied as a lawful temporary dwelling in a state-licensed and zoning-approved campground.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance by municipal entities or by utilities regulated by the Michigan Public Service Commission of public utilities for underground or overhead gas, electrical, steam, or water/wastewater transmission, distribution, collection, communication, supply, or disposal systems, including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electric substations, gas regulator stations, utility pump and metering apparatus, and other similar and accessory equipment which are reasonably necessary for the furnishing of adequate services for the public health, safety, and general welfare.

EXOTIC ANIMAL

Any wild or undomesticated animal which is not of a species customarily used as an ordinary household pet, but which would ordinarily be confined to a zoo or which would ordinarily be found in the wilderness of this or any other country.

FAMILY

- A. An individual or group of two or more persons related by blood, marriage or adoption, including those related as foster children and servants, together with not more than one additional unrelated person, who are domiciled together as a single, domestic, nonprofit housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FAMILY BUSINESS

An occupation or business activity conducted as an accessory use to the principal residential use of the same property, but which does not qualify as a home occupation as defined in this ordinance.

FAMILY DAY CARE HOME

A private home where not more than six minor children are received for care and supervision for periods of less than 24 hours per day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

FARM MARKET

An area and/or permanent or temporary building/structure where transactions between a farm market operator and customers take place as a seasonal or year round operation, and where at least 50% of the products marketed for sale (as measured by retail space used to display products) are produced on and by a farm under the same ownership or control as the farm market. A farm product or commodity sold at a farm market may be unprocessed, or processed to convert it into a value-added product that is more marketable for direct sales (such as by washing, sorting, packaging, canning, drying, freezing, or otherwise preparing the product for sale). A farm market may include other activities and services directly related to the farm products sold at the farm market (such as a cider mill accessory to an apple producer's farm market), but shall not otherwise include indirectly related or unrelated activities and services to attract and entertain customers and/or facilitate retail trade transactions unless such activity or service is otherwise permissible in the zoning district at issue and has been granted all required zoning approvals.

FARMERS MARKET

A commercial marketing facility where farm products are sold by multiple vendors whose operations/activities are not necessarily otherwise affiliated with each other. A farmers market may include unprocessed farm products (fruits, vegetables, and other farm commodities) and processed farm products (for example, apple cider, jams, pies, breads). Non-edible goods may be sold at a farmers market if they are directly related to or derived from farm products; but a farmers market is not intended to include such land uses/activities as flea markets, yard sales, or

any other similar sales event where farm products are not predominant. Note: a farmers market may also include a facility that would otherwise qualify as a “farm market” as herein defined except for the percentage of products offered for sale that are not produced on and by a farm under the same ownership and control as the farm market (e.g., less than 50%).

FENCE

A structural barrier constructed of wood, metal, stone, brick or masonry, or other durable materials, of either solid or open-style construction, erected or otherwise serving to enclose an area of land, or as a property boundary demarcation or dividing device, or as a visual screening device, or performing a similar function. This definition is not intended to include growing trees, shrubs, or other similar live vegetative material.

FLOOR AREA

- A. **FLOOR AREA, GROSS** — The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The "floor area" of a building, which is what this normally is referred to as, shall include the basement floor area when more than 1/2 of the basement height is above the established curb level or finished lot grade, whichever is higher (see "basement" definition). Any space devoted to off-street parking or loading shall not be included in "floor area". Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.
- B. **FLOOR AREA, USABLE** — The portion of floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four feet or more.

FOSTER CARE (LARGE GROUP) HOME

A private residence constructed and used for residential purposes that is licensed by the state pursuant to 1979 Public Act 218, as amended (*MCL 400.701 et. seq.*) or 1973 Public Act 116, as amended (*MCL 722.111 et. seq.*) which provides supervision, personal care and protection, in addition to room and board, for 7-13 adults and/or children for compensation, 24 hours a day, five or more days a week, for two or more consecutive weeks; except for persons released from or assigned to adult correctional institutions. This term shall also include, solely for purposes of this Ordinance, a private residence in which 7-13 adults are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian.

FOSTER CARE (SMALL GROUP) HOME

A private residence constructed and used for residential purposes that is licensed by the state pursuant to 1979 Public Act 218, as amended (*MCL 400.701 et. seq.*) or 1973 Public Act 116, as amended (*MCL 722.111 et. seq.*) which provides supervision, personal care and protection, in addition to room and board, for 1-6 adults and/or children for compensation, 24 hours a day, five or more days a week, for two or more consecutive weeks; except for persons released from or

assigned to adult correctional institutions. This term shall also include, solely for purposes of this Ordinance, a private residence in which 1-6 adults are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian.

FRONTAGE (OR LOT FRONTAGE)

The length of the front lot line of a lot. This term generally relates to the minimum required length of a front lot line/lot width for property to be buildable; but may refer to road frontage in other contexts in this Ordinance.

GARAGE, PRIVATE

A building accessory to a principal use designed to house not more than three automobiles.

GRADE

The established grade of the road, street or sidewalk shall be the elevation of the curb at the midpoint of the front of the lot. The elevation is established by the Zoning Administrator.

GROUP DAY CARE HOME

A private home where more than six but less than 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.

HOME OCCUPATION

An occupation or business activity conducted as an accessory use within a dwelling by the resident(s) of the dwelling, in compliance with all of the following characteristics and limitations:

- A. Is operated only after having received a zoning compliance certificate from the Zoning Administrator.
- B. Is operated in its entirety within the dwelling and not within a garage or accessory building located on the premises.
- C. Is only conducted by the person or persons living within the dwelling and by no others.
- D. The dwelling has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
- E. The occupation conducted therein is clearly incidental to the residential use of the building.
- F. No goods or services are sold from the premises which are not strictly incidental to the principal home occupation conducted therein. No outdoor display of products is permitted.
- G. No services are sold or conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night-lighting, or the creation of unreasonable traffic to the premises. Noise,

smoke, odor, electrical disturbance or lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.

- H. The occupation does not utilize more than 25% of the interior gross floor area of the premises.

HOTEL/MOTEL

A building or a series of attached, semidetached, or detached rental units providing long-term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided without the approval by the Planning Commission with the exception of units for use of the manager and/or caretaker.

JUNK

See "trash."

JUNKYARD

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

KENNEL

Any land, building or structure where four or more adult dogs and/or six or more adult cats are boarded, housed, or bred.

LIVESTOCK

Domestic animals raised or kept for any purpose, including but not limited to, cattle, sheep, hogs, horses, chickens, rabbits, ducks, goats, turkeys and geese, but excluding dogs and cats.

LOADING SPACE

An off-street space at least 528 square feet in area on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking and shall not be permitted in the front yard.

LOT

A parcel of land (including a "unit" within a site condominium development) adjoining a public street, or where allowed by this Ordinance a private road or shared driveway, and separated from other lots by legal description, deed, or subdivision plot; provided that the owner of contiguous lots or portions of lots in the same ownership may have as many of the contiguous lots considered as a single lot for the purpose of this Ordinance as the owner chooses, or as may otherwise be lawfully required to render the property buildable in conformance with this Ordinance [see "Lot, Zoning (Zoning Lot)"]. This term is used interchangeably with the word "parcel" in this Ordinance.

LOT AREA

The total horizontal area included within the lot lines. Where the front lot line is the center line of a street, or where a portion of a lot lies within a street right-of-way, the lot area calculated to meet the requirements of this Ordinance shall not include that area inside the street right-of-way.

LOT, CORNER

A lot whose lot lines form an interior angle of less than 135° at the intersection of two street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT COVERAGE

The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings or structures, or impervious surfaces. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, and parking areas, sidewalks, and drives, but shall not include fences, hedges used as fences, walls, or swimming pools.

LOT LINE

A boundary line of a lot; or, where applicable, a street right-of-way line.

LOT LINE, FRONT

- A. Where a lot abuts only one public street, or lawful private road/shared driveway, the front lot line shall be the line separating the lot from the right-of-way of the street or lawful private road/shared driveway; except where a lot has frontage on a lake, river, or other navigable waterway, the front lot line shall be the boundary line abutting the water.
- B. In the case of a corner lot, or a lot that otherwise has frontage on more than one public street, the front lot line shall be the right-of-way line of the street from which primary access to the principal building is provided or is proposed to be provided, or the right-of-way of the street with which the principal building is most directly associated/facing or is proposed to be most directly associated/facing.

LOT LINE, REAR

Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

LOT LINE, SIDE

Any lot line not a front or rear lot line.

LOT OF RECORD

A lot which actually exists in a subdivision as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT WIDTH

The horizontal distance between side lot lines measured at both the front lot line and the building line, on a line parallel to the street (or, where applicable, a lawful private road/shared driveway).

LOT, ZONING (ZONING LOT)

Two or more contiguous lots or portions of lots in the same ownership, where the grouping of such lots for zoning purposes is allowed or required by this Ordinance. In such instances the outside perimeter of the group of lots/portions of lots shall constitute the lot lines of the resulting ‘zoning lot’.

MOBILE HOME

A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living as a single-family dwelling. A mobile home may contain parts that may be combined, folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity.

MOTOR HOME

A self-propelled motor vehicle designed as self-contained living quarters and intended only for short-term occupancy and as defined by current campground legislation.

MOTOR VEHICLE

Every vehicle which is self-propelled.

NATURAL FEATURES

Existing land forms, indigenous vegetation, water bodies, wetlands, wildlife habitat and vistas.

NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT)

A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum frontage or area requirements of the zoning district in which it is located.

NONCONFORMING STRUCTURE

A structure, or portion thereof, lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

NONCONFORMING USE

A use lawfully existing in a building or on land at the effective date of this Ordinance, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

OPEN-AIR BUSINESS

Any of the following types of land uses, or where sales or storage of goods or equipment incidental thereto occurs in whole or in part outside a fully enclosed building:

- A. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- B. Retail sale of fruits and vegetables (not including a Roadside Stand as defined and otherwise allowed by this Ordinance).

- C. Tennis courts, archery courts, shuffleboard courts, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- D. Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sales, rental or repair services.
- E. Sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.
- F. Any other similar business.

PARK

Land owned by a unit of government, open to the public, for traditional active and passive outdoor recreational uses, including nature trails, picnic facilities with or without shelters, playgrounds, rest room facilities, soccer fields, and baseball diamonds. Public parks are not intended to include activities, facilities or structures for which admission is charged, although admission may be charged to the park itself. However, this term does not include linear recreation areas such as "rails to trails" or similar land uses

PARKING AREA, SPACE OR LOT

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

PERMITTED USE

A use which by virtue of being designated as a "permitted use" in a zoning district is recognized as a use of land and buildings which is sufficiently harmonious with other uses allowed within the same district as to not require special or extraordinary controls or conditions.

PLANNING COMMISSION OR JOINT PLANNING COMMISSION

The Hastings-Rutland Joint Planning Commission.

PRINCIPAL OR MAIN USE

The primary or predominant use of a lot.

RECREATION VEHICLE

A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. This term includes folding campers, truck-mounted campers, and motor homes, but does not include mobile homes.

RESIDENTIAL DISTRICT

Any zoning district in the City of Hastings or Rutland Charter Township which includes "Residential" in its name or is otherwise designated and functioning as a zoning district primarily established for residential uses, according to the Zoning Ordinance/Code of the City of Hastings or Rutland Charter Township.

ROAD FRONTAGE

The length of the lot line which borders a public street, or where applicable, a lawful private road/shared driveway.

ROAD OR STREET, PRIVATE

An irrevocable easement running with the land to one or more owners of adjacent properties which provides access to those adjacent properties and which is not dedicated for general public use.

ROAD OR STREET, PUBLIC

See definition of “Street” in this section.

ROADSIDE STAND

A temporary building or structure used for the display and/or sale of agricultural products which are lawfully produced on the premises.

SHOPPING CENTER

A group of establishments engaging exclusively in retail business or service, arranged as a functionally cohesive unit, together with appurtenant features such as parking area and storage facilities.

SIGN

See Chapter 13.

SITE CONDOMINIUM PROJECT OR SUBDIVISION

A place or project consisting of not less than two units established in conformance with the Michigan Condominium Act, PA 59 of 1978, as amended.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS)

Equipment that converts energy from the wind into usable forms of electrical power primarily intended to reduce consumption of utility-generated power by the occupants of the premises on which the system is located (rather than being primarily intended to generate power for the utility grid serving other premises), and includes any base, blade, foundation, generator nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

SPECIAL LAND USE

A use which by virtue of being designated as a “special land use” in a zoning district is recognized as possessing characteristics sufficient to require prior Planning Commission review and approval pursuant to specified standards to determine whether the use can be sited on specific property in a manner consistent with the public health, safety, and general welfare, and without adversely affecting other existing land uses.

STREET

A public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley, and constructed according to the standards and specifications of the Barry County Road Commission or MDOT.

STRUCTURE

Anything constructed or erected and having a permanent location on the ground or attachment to something having a permanent location on/in the ground.

STRUCTURAL CHANGES OR ALTERATIONS

Any change in the supporting members of a building or structure, such as bearing walls, or girders, or any substantial change in the roof.

SWIMMING POOL

Any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than 24 inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both.

TEMPORARY BUILDING OR USE

A structure or use permitted to exist during periods of construction of the main use or for special events, and otherwise subject to applicable provisions of this Ordinance, including Section 5.03

TEMPORARY EVENT

A use of land and/or a building/structure for a commercial or non-commercial activity or event of a temporary nature, incidental to a permissible principal use of the subject property, but not necessarily customarily associated with such principal use, and otherwise subject to this Ordinance.

TOWNHOUSE

A building consisting of five or more attached single-family dwellings.

TOWNSHIP

Rutland Charter Township (unless the context of the use of the term herein clearly states or connotes otherwise).

TRASH

The terms "trash," "litter," and "junk" are used synonymously herein and include used articles or used pieces of iron or scrap metal; vehicle bodies or parts of machinery or junked or discarded machinery; abandoned watercraft; used lumber which may be used as a harborage for rodents or other vermin; ashes; garbage; industrial by-products or waste; empty cans; food containers; bottles; crockery; utensils of any kind; boxes; barrels; pallets; tires; abandoned or unused swimming pools; and all other articles customarily considered trash or junk and which are not housed in a building.

URBAN SERVICES DISTRICT

The Initial Urban Services District and/or any Future Urban Services District established pursuant to the Rutland Charter Township-City of Hastings Intergovernmental Agreement for Sharing Urban Services dated August 13, 2012, as amended, and/or pursuant to any successor agreement.

VARIANCE

A varying or relaxation of the standards of the zoning ordinance by the Zoning Board of Appeals.

VEHICLE

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

WETLAND, REGULATED

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river or stream.
- B. Not contiguous to an inland lake or pond, or river or stream, but more than five acres in area.
- C. Not contiguous to an inland lake or pond, or a river or stream, but five acres or less in area, if the State of Michigan has determined that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction, and has so notified the owner of the subject property.

WIRELESS COMMUNICATIONS SUPPORT STRUCTURE

A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-support lattice tower, guyed tower, water tower, utility pole, or building; provided that for purposes of this Ordinance this term shall not include any tower or other support structure under 50' in height that is owned and operated by a federally-licensed amateur radio station operator or that is used exclusively for receive-only antennas. A tower or other structure within the scope of this definition shall not be considered to be "Essential Services" for purposes of this Ordinance, as that term is defined in this section.

YARD

A general term applied to the space on a lot which contains a building or structure or group of buildings/structures, lying between the building/structure or group of buildings/structures and the nearest respective lot line facing each building/structure:

- A. Front Yard: An open space extending across the full width of a lot between the front lot line and the building setback line. The depth of such yard shall be the shortest horizontal distance between the front lot line and the building setback line, measured at right angles.
- B. Rear Yard: An open space extending across the full width of a lot between the rear lot line and the nearest line of a building, porch or other projection thereof. The depth of such yard shall be the shortest horizontal distance between the rear lot line and the nearest point of the building or projection thereof.

- C. Side Yard: An open space extending on each side of the lot from the required front yard to the required rear yard. The width of such yard shall be the shortest distance between the side lot lines and the nearest point of a building, porch or other projection thereof.

YARD, REQUIRED SIDE-REAR-FRONT

An open space adjacent to a lot line, on the same land with a building or structure or group of buildings/structures, lying in the area between the building/structure or group of buildings/structures and the nearest lot line, and which is unoccupied and unobstructed from the ground upward for the minimum distance and depth/width prescribed in this Ordinance, except as otherwise provided in this Ordinance.

ZONING ADMINISTRATOR

The person designated by this Ordinance to administer and enforce this Ordinance.

ZONING BOARD OF APPEALS

The Zoning Board of Appeals established pursuant to Chapter 15 of this Ordinance.

CHAPTER 3 ZONING DISTRICTS AND ZONING MAP

Section 3.01 Zoning Districts/Zoning Map

For the purpose of this Ordinance the Joint Planning Commission has zoning jurisdiction over the land area within the zoning districts as illustrated on the Hastings-Rutland Joint Planning Commission Official Zoning Map. These zoning districts are known as:

MU - Mixed Use District
LI - Light Industrial District
Other zoning districts as may be added.

The locations and boundaries of these districts are established on a map entitled “Hastings-Rutland Joint Planning Commission Official Zoning Map” which is hereby made a part of this Ordinance. The Official Zoning Map shall be located in the offices of Rutland Charter Township and the City of Hastings and shall be accessible to the general public.

Section 3.02 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of any of the zoning districts shown on the Zoning Map, the following rules shall apply:

- A. Zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on the Zoning Map.
- B. Where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries.
- C. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
- D. In subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- E. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

- F. The Zoning Board of Appeals shall have the power to interpret the map in conformity with the purpose and provisions of this Ordinance where any controversy arises, and its determination shall be final.

Section 3.03 Amendment of Zoning Map

The Zoning Map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this Ordinance. See Section 16.05.

CHAPTER 4 GENERAL PROVISIONS

Section 4.01 Effects of Zoning; Permissive Zoning Concept

- A. No building, structure or land within the jurisdiction of this Zoning Ordinance shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.
- B. Land uses are allowed in a zoning district by express specific designation in this Ordinance. Where a use is not so designated it is prohibited, unless the use is determined by the Zoning Administrator to be substantially similar in character, nature, and intensity to a use designated in this Ordinance as an allowed use in that zoning district and compatible with the stated purpose of that district, or a land use variance is approved by the Zoning Board of Appeals pursuant to Section 15.08.

Section 4.02 Building/Occupancy Permits; Zoning Compliance Permits

- A. Building/occupancy permits. See the applicable construction codes for regulations applicable to building permits, occupancy permits, and otherwise applicable to the construction and occupancy of buildings and other structures.
- B. Zoning compliance permits. No building or structure shall be constructed or sited on any premises without prior zoning approval of the location of the building or structure and the intended use thereof either through the building permit application process, or by a zoning compliance permit issued by the Zoning Administrator where a building or structure is exempt from a building permit requirement pursuant to state law. This zoning compliance permit requirement is also specifically applicable to all signs and fences, even where such a structure is also subject to a building permit requirement. The purpose of this zoning approval requirement, in each instance, is to avoid violations of this Ordinance arising from the impermissible location of any building or structure, or the intended use thereof or of any premises.

Section 4.03 Required Lot, Yard, Area or Space

- A. All lots, yards, and other open spaces shall comply with the lot, yard and area requirements of the zoning district in which they are located and are also subject to the following:
 - 1. No lot, yard or other open space shall be divided, altered or reduced so as to make it less than the minimum required under this Ordinance, and if already less than the minimum required it shall not be further divided, altered or reduced.

2. No yard or other open space provided about any building for the purpose of complying with the requirements of this Ordinance shall be considered as a yard or open space for any other building.
3. Where two or more contiguous lots or portions of lots are in the same ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be grouped together for zoning purposes sufficient to create a single conforming buildable “zoning lot” (or, as applicable, a single less nonconforming zoning lot).
4. Where two or more contiguous lots or portions of lots are in the same ownership, but are not required by the preceding paragraph to be grouped together for zoning purposes, the owner of such lots/portions of lots may nevertheless choose to group such lots/portions of lots together to create a larger “zoning lot”.

Section 4.04 Essential Services

- A. Essential Services are permitted in any zoning district, provided the governing body of the municipality with public utility jurisdiction has granted any applicable municipal consent/franchise.
- B. Notwithstanding subsection A, the following requirements shall apply to such facilities, as applicable:
 1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall at least six feet high and otherwise adequate to obstruct passage of unauthorized persons or materials.
 2. Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed for such facilities shall be landscaped and shall conform with the general character of the architecture of the surrounding area or neighborhood.
 3. Site plan review shall be required for all such development and use of land that involves above ground facilities or parking areas or drives and is to be located outside a dedicated public right-of-way.

Section 4.05 Building/Structure Height Exceptions

The height limitations of all zoning districts may be exceeded by the following structures: flag poles, chimneys, farm structures, non-commercial television and radio antennas (not exceeding 50 feet in height), wireless communications support structures/wireless communications equipment (except as otherwise specifically regulated in this Ordinance), monuments, cupolas, belfries, steeples, spires or other ornamental projections, water towers, fire towers, and small wind energy conversion systems (except as otherwise specifically regulated in this Ordinance). In a zone where industrial uses are allowed, smokestacks, chimneys, cooling and fire towers, parapet walls, elevator buildings and bulkheads, roof storage tanks, and roof structures for other

necessary appurtenances for such uses are also permitted above the height limitations provided they are located at least the same distance as their height from any adjoining property lines.

Section 4.06 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors

Every use shall be conducted and operated so that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise, vibration or vision obstruction beyond the lot or parcel on which the use is located.

Section 4.07 Principal Building on a Lot

On each lot the Zoning Administrator shall designate the primary or main building as the principal building, and other buildings incidental and subordinate to the principal building shall be designated as accessory buildings, for purposes of the requirements of this Ordinance.

Section 4.08 Double Frontage Lots

Buildings on lots having frontage on two intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.

Section 4.09 Garages Occupied as Dwelling Units

Any building erected as a garage, or in which the main portion is a garage, shall not be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premises and complies with all the provisions of this Ordinance relating to buildings for residence purposes.

Section 4.10 Trash, Litter or Junk in Yards

No trash, litter or junk shall be accumulated, placed, stored, or allowed on any premises, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed eight days storage in watertight/covered storage receptacles designed for the temporary accumulation of trash.

Section 4.11 Classification of Moved Buildings

Any building moved within a district, or any building moved into a district from without, shall be considered a new building and be subject to all the limitations and requirements set forth herein relating to uses, construction, permits and certificates.

Section 4.12 Fill Regulations

- A. Statement of Purpose. The purpose of these regulations is to assure that filling activities on any property for building site preparation, or otherwise, comply with applicable state laws, utilize appropriate fill materials, and are undertaken and completed in such a manner as to reduce hazards to life and property, and generally protect the public health, safety and welfare. Nothing herein is intended to allow the establishment of a disposal area regulated by state law or otherwise affect the provisions of applicable law which

require certain waste materials to be disposed of in a solid waste disposal area constructed and licensed pursuant to same.

B. Regulations Applicable in all Zoning Districts. Only inert soil, sand, clay, gravel, stone, and other inert/non-organic material may be used as fill materials in any zoning district, subject to the following regulations:

1. State Wetland Permit Requirement. No filling activities shall take place in a wetland subject to regulation by the State without a permit first being obtained as required by applicable law.
2. State Soil Erosion and Sedimentation Permit Requirement. No filling activities which may result in or contribute to soil erosion or sedimentation of surface waters shall take place without a permit first being obtained from the appropriate state or county agency as required pursuant to applicable law.
3. Fill Material Content. Fill material shall have sufficient porous materials (such as soil, sand or gravel) to bed non-porous materials (such as rock, or pieces of concrete or brick).
4. Maximum Size of Non-porous Materials. Allowable non-porous materials (such as rock, or pieces of concrete or brick) shall be no greater in size than a standard concrete construction block. If larger pieces of material are encountered they shall be broken up to a conforming size or removed and disposed of lawfully.
5. Compaction of Fill Material. All fill material shall be compacted to at least a 90% density.
6. Leveling and Finishing of Filled Areas. Within 30 days or as soon thereafter as is practicable all filled areas shall be graded and leveled, completely covered with clean top soil at a depth of at least six inches, and seeded with a grass or other appropriate form of vegetation sufficient to control erosion.
7. Final Grade and Runoff Control. The final grade of all filled areas shall be such as to either contain precipitation run-off within the subject property, or restore a natural flow to abutting property or a public roadway or other public right-of-way.

C. When Fill Permit Required; Review of Application for Fill Permit by Zoning Administrator or Planning Commission.

1. No Fill Permit Required. No fill permit is required where the volume of fill associated with a particular filling activity or project will not exceed 500 cubic yards of material.
2. Fill Permit Required; Review by Zoning Administrator. Where the volume of fill associated with a particular filling activity or project will be more than 500 cubic yards of material but less than 1,000 cubic yards of material, no filling activity shall take place except upon approval of an application for a fill permit by the

Zoning Administrator pursuant to the application requirements and review criteria specified in subsections 3 and 4 below (administered by the Zoning Administrator as a zoning compliance permit, rather than by the Planning Commission as a special land use).

3. Where the volume of fill associated with a particular filling activity or project will exceed 1,000 cubic yards of material, or where the Zoning Administrator determines that by reason of the nature of the subject property, the location of that property, or other circumstances of the proposed fill activity, a particular filling activity or project is likely to cause a substantial impact on adjoining or nearby properties which may not be temporary in duration, no filling activities shall take place without Planning Commission approval of the filling activities, as an overlay special land use, in accordance with all applicable provisions of this Ordinance, including the following:
 - a. Application for Fill Permit. An application for a Fill Permit shall be filed with the Zoning Administrator in accordance with the requirements of Chapter 10 and shall in addition include the following information:
 - (1) Name and address of applicant.
 - (2) Common address and legal description of property to be filled.
 - (3) Owner of property to be filled.
 - (4) Type(s) of fill material to be deposited.
 - (5) Source(s) of fill material to be deposited.
 - (6) Route(s) of travel from source(s) of fill material to subject property.
 - (7) Volume of fill material requested to be permitted (in cubic yards).
 - (8) Location of portion of subject property where filling activities will take place.
 - (9) Final grade of filled area.
 - (10) The number and type of vehicles and equipment to be used in filling activities, including transporting, dumping and leveling fill materials.

The Planning Commission may require one or more of the above application items and other pertinent information to be supplied in the form of a site plan in accordance with Chapter 9.

- D. Fill Permit Review Criteria. The Planning Commission shall process and review a Fill Permit application in the same manner as a special land use request is processed and reviewed pursuant to law and applicable provisions of Chapter 10. The Planning Commission shall approve, approve with conditions, or disapprove the application based on the general special land use approval standards in Chapter 10, and upon a finding that:
1. The requested filling activities can be conducted in compliance with all applicable Ordinance requirements; and
 2. All applicable state and/or county permits have been obtained; and
 3. The requested fill activities will not have a harmful effect on abutting or nearby properties, except to the extent that any such affects are unavoidably inherent in the filling process, but will be temporary in duration, lasting only so long as the filling activities are taking place.

Section 4.13 Exotic Animals

Exotic animals are not permitted on any premises which are under the jurisdiction of the Joint Planning Commission without a determination by the Zoning Administrator that the subject animal(s) will pose no threat to the health, safety and welfare of persons or property, after submission of a site plan pursuant to Chapter 9 and pursuant to the standards for site plan approval in Section 9.04; provided that the Zoning Administrator may instead refer the site plan submission to the Planning Commission for review pursuant to the applicable provisions of Chapter 9 if the Zoning Administrator determines such review by the Planning Commission instead of the Zoning Administrator is in the public interest.

Section 4.14 Applications for Zoning Approval

No application for a zoning approval or other action required or allowed by this Ordinance shall be processed for consideration unless the Zoning Administrator has determined the application submitted to be administratively complete, and any applicable application/review fee/deposit has been paid. See Section 16.03.

CHAPTER 5 SUPPLEMENTARY PROVISIONS

Section 5.01 Accessory Uses

In any zoning district accessory uses incidental to a principal permitted use or approved special land use are allowed on the same lot as the principal use, or on a contiguous lot under the same ownership. Accessory uses shall not involve the conduct of any business, trade, or industry except where such type of use is otherwise permissible pursuant to this Ordinance.

Section 5.02 Accessory Buildings

- A. If an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
- B. The distance between a detached accessory building and any principal building shall be at least 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar permanent roofed structure or architectural device.
- C. A garage may be placed in the front yard of any lawful waterfront lot, if it is an accessory building and is located at least 30 feet from the edge of the lake or river and does not obstruct the water view of adjacent properties.
- D. No accessory building or structure shall include residential or living quarters for human beings.

Section 5.03 Temporary Uses or Structures Requiring Zoning Administrator Authorization

- A. Temporary office building for construction site. Upon application, the Zoning Administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located for a period of not more than six calendar months and may be renewed by the Zoning Administrator for up to four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- B. Temporary office building for housing development. Upon application, the Zoning Administrator shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project for a period of not more than six calendar months and may be renewed by the Zoning Administrator for up to four additional successive periods of six calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project, and if same has been developed and used in compliance with the permit.

- C. Temporary use of motor home/recreation vehicle as dwelling. Upon application, the Zoning Administrator may issue a permit for a motor home or recreation vehicle to be used for temporary dwelling purposes on premises having running water and sewage facilities. Such a permit shall not be issued for a total of more than 14 days in each six month period on lots with less than 100,000 square feet in area.
- D. Temporary occupancy of dwelling while new dwelling on same site is constructed. Upon application, the Zoning Administrator may issue a permit for occupancy of an existing permanent dwelling while another permanent principal dwelling is under construction or retrofitted to the site. The permit may be issued for not more than 12 consecutive months, after which the original principal dwelling shall be removed or demolished within a thirty-day period. The applicant shall submit a scale sketch plan showing the dimensions of the lot and where both dwellings will be located. The applicant must post a security in an amount equal to a bona fide bid by a company for the demolition and/or removal of the original principal dwelling. Failure to comply with the conditions of the permit may result in the forfeiture of the security and removal/demolition of the original principal building by the City.
- E. Temporary event. Upon application, the Zoning Administrator may issue a permit for a temporary event in the LI and MU districts, subject to the following regulations applicable to any such temporary event:
1. The application shall specify the temporary event for which the permit is requested; the day(s) the event is proposed to be held; the proposed hours during which any aspect of the proposed event will be operating; and emergency contact information for the person or persons who will supervise the proposed event and be responsible for the health, safety, and well-being of all persons participating or assisting in the event.
 2. The event shall be incidental to another permissible use of the subject property that has previously obtained all applicable zoning approvals.
 3. The event shall be compatible with adjacent properties.
 4. The applicant or other party responsible for the event shall make adequate provisions for all of the following with respect to the event, as applicable: parking, traffic circulation, lighting, security and other safety services, garbage/rubbish containment and removal, drinking water, and sanitary facilities.
 5. The event shall not exceed seven consecutive days. No such event shall be held on the subject property more than four times per calendar year, and at least 30 days shall lapse between such events.
 6. The Zoning Administrator may issue a permit for signage for the temporary event pursuant to applicable provisions of Chapter 13, subject to the following requirements and limitations:

- a. The signage shall be limited to 400 square feet, inclusive of all signs, banners and/or flags relating to the event.
 - b. The number, type, and size of all signs shall be provided with the temporary event permit application.
 - c. The permitted signage shall not be in place more than three days prior to the day on which the event begins, and shall be removed not later than the day following the last day of the permitted event.
7. An applicant may propose a temporary event exceeding the seven day limitation specified in subsection E.5; provided that any such application shall not be approvable by the Zoning Administrator, but may be approved by the Planning Commission as an overlay special land use in the zoning districts specified above, subject to the following provisions of this Ordinance:
- a. All of the preceding requirements and limitations of sub-parts 1-6 of subsection E., except the seven consecutive day limitation on the duration of the temporary event.
 - b. All applicable provisions of Chapter 10, Special Land Uses.
 - c. All other applicable provisions of this Ordinance.
- F. Temporary use of mobile home as dwelling. The Zoning Administrator may issue a permit for the temporary use of a mobile home for dwelling purposes that does not satisfy all the requirements for a “dwelling unit” as defined in Chapter 2, provided the mobile home is located upon the premises of the applicant and has running water and sewage facilities of not less than septic-tank quality available for the occupants. The permit shall only be issued in the event of an emergency situation where the applicant has sustained damage to his or her permanent dwelling which makes it impossible to reside in that dwelling. The permit may be issued for a period not exceeding 30 days, but the Zoning Administrator may grant one or more extensions for good cause; provided, the total period of occupancy shall not exceed six months.

As a condition of granting the permit, the applicant shall agree to immediately remove the mobile home from the premises upon completion of repairs to/replacement of the permanent dwelling. The Zoning Administrator may require the posting of a performance bond in an amount not to exceed \$5,000 to assure compliance with the conditions contained herein.

In addition, public utilities may have mobile homes upon their improved business or industrial park property regardless of zone during emergency situations as determined by state or municipal authorities when necessary to perform services for the public, provided that running water and toilet facilities are available upon the property for persons using said mobile homes.

Section 5.04 Additional Setbacks for Structures on Waterfront Lots

Structures on waterfront lots shall be subject to such minimum required setback greater than the generally applicable setback requirements as may be necessary to not obstruct the view of the waterfront by the occupants of adjoining properties.

Section 5.05 General Lighting Requirements

- A. Lighting. All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or a hazard to vehicles on public or private roadways. The following standards shall be met with respect to outdoor lighting:
1. Direct or directly reflected light shall be confined to the site.
 2. Lamps and luminaries shall be shielded, hooded, and/or louvered to provide a glare-free area beyond the property line and upon any public right-of-way, or the light source shall not be otherwise directly visible from beyond the boundaries of the site.
 3. The light from any illuminated source shall be designed so that light intensity or brightness at any property line shall not exceed four lux/lumen or 0.4 footcandle.
 4. Lighting fixtures shall have 100% cut-off above the horizontal plane at the lowest part of the point light source and light rays shall not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 20 feet above the average grade of the site, or 15 feet when the subject site abuts a residential district.
 5. Building-mounted fixtures shall be directed downward, away from adjacent lots, and shall be no higher than the first story eave or, where no eave exists, no higher than eight feet above the finished grade.
 6. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
 7. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color, except for temporary decorative or seasonal lighting. Beacon and search lights are not permitted.
 8. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
 9. A photometric grid shall be submitted with any site plan where lighting is proposed on the site.

- B. Zoning Administrator determination on adequacy of lighting. In the event of any controversy as to the creation of any nuisance or annoyance by artificial lighting, the Zoning Administrator shall determine whether the same is in violation of these lighting provisions and the purpose herein sought to be accomplished for the prevention of nuisance from artificial lighting.
- C. Planning Commission modification of lighting requirements. The Planning Commission may modify the general lighting requirements specified in subsection A above, upon a site-specific determination that compliance with the generally applicable requirements will not be necessary or effective to satisfy the intent of the requirements as applied to the specific site. In making this determination, and determining the resulting modified requirements applicable to the lighting for a specific development on a specific site, the Planning Commission shall consider the following standards:
1. Whether parking, vehicular circulation, or existing or planned land uses are such that compliance with the generally applicable requirements will not achieve the desired effect, or such effect will be better achieved by a lighting plan that includes modifications from the generally applicable requirements.
 2. Whether the public benefit intended by the generally applicable requirements can be better achieved by a lighting plan that includes modifications from the generally applicable requirements.
 3. Whether greater efficiency of the site design will be accomplished by a lighting plan that includes modifications from the generally applicable requirements.
 4. Whether the modified requirements will facilitate compliance with the standards for approval of a site plan specified in Chapter 9.

Section 5.06 Minimum Landscape and Screening Requirements

- A. Intent of requirements. The intent of this section is to promote the public health, safety and welfare by establishing minimum requirements for the design, installation and maintenance of landscaping. Landscaping is necessary for the continued protection and enhancement of all land uses. Landscaping enhances the visual image of the area, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction.
- B. Scope of development requirements.
1. The requirements in this section apply to all lots and uses, and additional requirements may apply to specific uses or specific types of areas, such as landscaping of off-street parking areas in certain districts. No site plan or other development plan shall be approved unless the landscaping therein is consistent with all applicable requirements of this Ordinance.
 2. These requirements are minimum requirements, and nothing herein shall preclude the applicant and the Township from agreeing to more extensive landscaping.

3. Creativity in landscape design is encouraged. The requirements are intentionally flexible to encourage adaptability and creative design. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and the intent and requirements of this section.

C. General requirements.

1. Coverage. Unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material. Areas to be preserved in a natural state may be planted with native groundcover and maintained in an unimproved state.
2. Compliance. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy, or prior to any actual occupancy where such a certificate is not required, unless the Planning Commission or Zoning Administrator (as applicable) approves a weather-related extension of this landscaping planting requirement. All required landscaping shall thereafter be maintained in a healthy and vigorous growing condition.
3. Landscaping of rights-of-way. Public rights-of-way located adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or greenbelts.
4. Screening utility structures. Utility structures such as electrical transformers or sewer pump stations shall be screened from view by landscaping. A minimum of three evergreen trees shall be planted adjacent to the utility structure to screen it from view. All landscape plantings shall be spaced a minimum of 15 feet from any fire hydrant.
5. Maintenance of unobstructed visibility for drivers. Where a driveway intersects a public right-of-way or private road or where a site abuts the intersection of public rights-of-way or private roads, landscaping within the clear sight area shall not exceed a height of 36 inches above the pavement grade at the edge of the pavement.
6. Berms. Where required or provided, berms shall conform to the following standards:
 - a. Berms shall be at least three feet above grade elevation, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal, with at least a two-foot flat area on the top. The Planning Commission may modify the height requirement in cases where sufficient room does not exist to construct a three-foot-high berm.
 - b. Berms shall be planted with grass, ground cover, or other suitable live plant material to prevent erosion and retain its height and shape.

- c. Berms shall be designed to meander to provide visual interest and to allow for adequate drainage.
 7. Screening. Except as otherwise provided in this Ordinance, all premises used for commercial or industrial purposes shall be screened from adjoining premises located in any adjoining residential district by either of the following:
 - a. A natural compact planting area of evergreens or shrubbery which retain their density and screening effect throughout the calendar year, not less than five feet in height at the time of planting, and maintained in a neat and attractive manner, compatible with the adjoining residential district.
 - b. An artificial wall or fence of sufficient density or compactness to screen the activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, compatible with the adjoining residential district. No such planting area, wall or fence shall be closer than 10 feet from any adjoining street right-of-way line.
 8. Modification of landscape requirements. The Planning Commission may reduce or modify the landscape requirements in this section based upon a determination that the landscaping and screening required will not be necessary or effective in meeting the intent of this section. In making this determination, the following shall be considered:
 - a. Whether existing natural vegetation that meets the requirements of this section will be preserved as part of the site plan.
 - b. Whether parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.
 - c. Whether the public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this section.
 - d. Whether the intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
 - e. Whether greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of this section.
- D. Standards for landscape materials. Unless otherwise specified, all landscape material shall comply with the following standards:
1. Plant quality. Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, hardy in Barry

County, in conformance with the standards of the American Nursery and Landscape Association or ANSI American Nursery Stock Index, and shall have passed inspections required under state regulations. Landscaping shall be native to the State of Michigan. Growth stunted or dwarf trees shall not be permitted.

2. Plant material specifications. The following minimum specifications shall apply to all plant material at the time of planting proposed in accordance with the landscaping requirements of this Ordinance:

Minimum Plant Material Size

Plant Type	Minimum Caliper (inches)	Height (feet)	Minimum Spread
Deciduous shade trees	3	4 feet first branch	—
Ornamental trees	2	6	—
Evergreen trees	—	6	2 feet
Shrubs	—	2	15 inches
Hedges	—	4	—

3. Turf areas. Turf area(s) shall be planted using species normally grown as permanent lawns in Barry County. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and diseases. Straw, mulch, or biodegradable seed stabilizing mesh/netting shall be used to protect newly seeded areas.
4. Suggested plant material. The following table lists recommended plant materials for required landscaping. Plant materials of equal or better quality may be substituted for suggested plant materials.

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
<i>Deciduous Canopy Trees</i>		
1.	Oaks	Quercus
2.	Hard Maples (except Japanese)	Acer
3.	Hackberry	Celtis
4.	Planetree (Sycamore)	Platanus
5.	Birch	Betula
6.	Beech	Fagus

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
7.	Ginkgo (male)	Ginkgo
8.	Honeylocust (Thornless Cultivars only)	Gleditsia
9.	Hophornbeam (Ironwood)	Ostrya
10.	Linden	Tilia
11.	Hickory	Carya
12.	Hornbeam (Blue Beech)	Carpinus
<i>Deciduous Ornamental Trees</i>		
1.	Amelanchier	Amelanchier
2.	Redbud	Cercis
3.	Dogwood (Tree Form)	Cornus
4.	Hawthorn	Crataegus
5.	Flowering Crabapple (disease resistant cultivars)	Malus
6.	Flowering Plum (tree form)	Prunus
7.	Flowering Pear	Pyrus
8.	Magnolia	Magnolia
9.	Hornbeam	Carpinus
10.	Rose of Sharon	Hibiscus
<i>Evergreen Trees*</i>		
1.	Fir	Abies
2.	Hemlock	Tsuga
3.	Spruce	Picea
4.	Pine	Pinus

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
5.	Douglas Fir	Pseudotsuga
*Dwarf, Globe, Pendulous species/Cultivars are not permitted.		
<i>Narrow Evergreens*</i>		
1.	Juniper	Juniperus
2.	Arborvitae	Thuja
*Dwarf, Globe, Spreading Species/Cultivars are not permitted.		
Large Shrubs		
<i>Deciduous</i>		
a.	Dogwood (shrub form)	Cornus
b.	Cotoneaster	Cotoneaster
c.	Forsythia	Forsythia
d.	Mock-Orange	Philadelphus
e.	Lilac	Syringa
f.	Viburnum	Viburnum
g.	Witchhazel	Hamamelis
h.	Euonymus	Euonymus
i.	Privet	Ligustrum
j.	Ninebark	Physocarpus
<i>Evergreens</i>		
a.	Juniper (Hetz, Pfitzer, Savin)	Juniperus
b.	Yew (Pyramidal Japanese)	Taxus
<i>Small Shrubs</i>		

<u>Recommended Plant Materials</u>		
<u>Common Name</u>		<u>Genus</u>
	<i>Deciduous</i>	
a.	Barberry	Berberis
b.	Boxwood	Buxus
c.	Quince	Chaenomeles
d.	Cotoneaster	Cotoneaster
e.	Euonymus	Euonymus
f.	Forsythia	Forsythia
g.	Hydrangea	Hydrangea
h.	Holly	Ilex
i.	Privet	Ligustrum
j.	Potentilla	Potentilla
k.	Currant	Ribes
l.	Lilac	Syringa
m.	Viburnum	Viburnum
n.	Weigela	Weigela

5. Installation and maintenance. The following standards shall be observed where installation and maintenance of landscape materials is required:
 - a. Installation. Landscaping shall be installed in a professional manner to ensure the continued growth of healthy plant material.
 - b. Protection from vehicles. Landscaping shall be protected from vehicles through curbing. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
 - c. Maintenance. Required landscaping shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy

and dead plant material shall be replaced in the next appropriate planting period.

Section 5.07 Fences and Hedges

- A. Fences and hedges on the premises of a residential use shall not exceed six feet in height.
- B. No fence or hedge shall obstruct the view of the front setback of a lake lot, or the front setback of a non-lake lot, by the occupants of adjoining properties.
- C. Barbed wire and electric fences are not permitted.
- D. All fences shall have the decorative or finished side toward the outside of the property line.
- E. All fences shall be kept in an upright position, and otherwise properly repaired and maintained so as to not become unsightly or dilapidated.
- F. Except as otherwise specified in this Ordinance, fences are not subject to minimum setback requirements.
- G. No fence shall be installed before a zoning compliance permit has been obtained from the Zoning Administrator as required by Section 4.02 herein.

Section 5.08 Swimming Pools

- A. Pool licensed by state. Any swimming pool licensed by the state shall abide by all applicable regulations.
- B. Pool not licensed by state. Any pool not subject to a state licensing requirement is subject to the following regulations before any use of the pool:
 - 1. Permit required. A private or public swimming pool shall be considered a structure for purposes of this Ordinance, and therefore requires issuance of a building permit and/or zoning compliance permit, as applicable.
 - 2. Fence/wall required. All ground level swimming pools shall be enclosed by a fence, wall, or other structure at least four feet in height as measured from the outside that impedes climbing by small children. Any opening in the fence or wall shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. The entrance way shall lead to the shallow end of the pool. If the entire premises is enclosed by an approved fence or wall, this requirement may be waived by the Zoning Administrator. Above ground swimming pools are not subject to the enclosure requirements of this section, if the steps and pool entrance are secured by a self-closing and latching gate with the latch on the pool side of the gate.

3. Setback and yard requirements. The pool location, including fencing (except otherwise permissible fencing enclosing the entire premises on which the pool is located), shall comply with the applicable minimum setback requirements of the district in which the pool is located.
4. Electrical installations. All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the State Electrical Code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation

Section 5.09 Junkyards and Similar Businesses

Any junkyard, salvage yard, dismantling yard, or business dealing in same, including scrap dealers, shall operate only as authorized by this Ordinance, and where otherwise permissible shall meet the following conditions and regulations:

- A. Any such activity or business shall be carried on entirely within a building or buildings or fully enclosed structure, or within a fenced-in area entirely surrounded by a solid fence or natural screen at least eight feet in height, constructed of new materials or of natural shrubbery or trees, and sufficient to at all times effectively screen the activities conducted within same from view from surrounding properties or adjoining roads.
- B. Such business or activity shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. daily.
- C. The premises shall be kept and maintained in a clean, sanitary, and neat condition, and so that rats, vermin, and fire hazards are kept to a minimum, and rubbish or garbage is not present on the premises other than in normal containers pending periodic removal.
- D. No materials shall be stock-piled above the height of the fence or solid screen.
- E. There shall be no burning of any items upon the premises other than the normal burning of trash made of paper products or wood.
- F. The setback requirements for industrial uses shall apply. Where a fence or a solid screen is used, same shall not be located within any required setback area.
- G. All such activities shall be currently licensed by the State of Michigan.

Section 5.10 Waterfront Property Development Regulations

- A. Intended scope and applicability of regulations. The regulations in this section are intended to apply when property in any zoning district with frontage on a navigable waterway, such as a lake or river, is proposed to be developed for a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, in such a manner as to provide a right of use or access to the waterfront portion of the property to

the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, whether such right of use/access is by single-fee ownership, common-fee ownership, condominium document, easement, lease, license, or other arrangement. This type of use of waterfront property to provide waterfront access to non-waterfront lots/units in a development is often known as developmental “funneling” or “keyholing”.

The regulations in this section are not intended to apply, and such regulations shall therefore not be applied, so as to restrict any owner/occupant of a single-family dwelling on an existing waterfront single-family lot in any zoning district from allowing other persons access to the waterfront and waterway for non-commercial recreational use, including such activities as swimming, fishing, boating, and seasonal boat moorage at any dock that is otherwise permissible pursuant to any other applicable provisions of this Ordinance (which does not include this section), in the same manner as the owner/occupant of the waterfront lot could use such lot themselves. Such use and access is explicitly not intended to constitute developmental keyholing or funneling regulated by this section.

- B. Developmental anti-funneling/anti-keyholing minimum frontage and depth requirement. In all zoning districts a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, that proposes to provide a right of use or access to the waterfront portion of the property to the owner(s) or occupant(s) of any other lot(s)/unit(s) within the development that do not have any direct frontage on the waterway, shall provide an amount of lineal frontage (using a traverse line, not a meandering line) at the normal high water line of the waterway equal to at least the minimum lot frontage requirement applicable to the zoning district in which the property is located for each lot/ or dwelling unit intended to have a right to use or access the waterway through such waterfront property either individually or in common with others. Any such waterway access lot shall also have a depth of at least 150 feet for the entire width of the access lot.
- C. Waterway access lot use limitations. A waterway access lot created in a new subdivision, condominium/site condominium development, multiple-family dwelling unit development (apartment building), or any other multi-lot/unit development, to which the developmental anti-funneling/anti-keyholing minimum frontage and depth requirement applies pursuant to subsection B above, shall also be subject to the following use limitations:
1. Not more than one dock shall be allowed for each lot or dwelling unit with a right to use/access the waterway as determined pursuant to subsection B. All such permissible docks and associated dockage or mooring of boats in such a development shall be subject to all provisions of this Ordinance (if any) generally regulating docks/dockage, and to all other applicable ordinances.
 2. Buildings and structures are not permissible on any portion of a waterway access lot created pursuant to subsection B above, except for the following structures to the extent they are otherwise permissible and in accordance with all applicable

provisions of this Ordinance: fencing; trash receptacles; boat ramp; swings, slides, volleyball courts, and similar outdoor recreational facilities; picnic tables; and otherwise permissible docks as provided above.

3. Overnight vehicle parking is not permissible on any portion of a waterway access lot created pursuant to subsection B above. Any area of such a waterway access lot otherwise permissibly used for the non-overnight parking of motor vehicles shall not be required to be paved, but shall otherwise be subject to all applicable provisions of this Ordinance regulating parking standards and requirements.
- D. Shoreline alteration and new channelization prohibited. In all zoning districts a new development subject to this section shall not alter the existing shoreline of any waterway in such a manner as to intend to create or have the effect of creating new channels, canals, or additional shoreline for additional development lots/units or a waterfront access lot pursuant to subsection B above. Otherwise permissible shoreline alteration pursuant to this subsection D shall also conform with all laws and regulations of the State of Michigan applicable to such matters.

Section 5.11 Media Production on Public Property

Any media production on public property shall be subject to the following regulations:

- A. Definition. For purposes of this section "media production" shall mean any of the following or a combination thereof, whether for commercial, nonprofit, artistic, or any other purpose:
 1. Photographing, producing, videotaping, or other filming of movies, television programs, commercials, print advertising, or other media.
 2. Still photo shoots.
- B. Permit required. No person, firm, association, or other entity shall operate or engage in any media production on public property without first obtaining a permit from the Zoning Administrator as required herein; provided the provisions of this section shall not apply to current news productions and local cable public television access productions, including reporters, photographers, and camera persons in the employment of a newspaper, news service, broadcasting agency, or to college or other educational facility productions, or any similar entity.
- C. Permit application. An application for a media production permit shall be filed with the Zoning Administrator at least seven days before the intended beginning date for any production activity involving public property, including any preproduction activities, for review and action as provided herein. The application shall include all of the following information:
 1. Applicant's name, primary business address, temporary local address, telephone number, and any other pertinent local contact information, including the name and

direct telephone number of the applicant's designated local liaison with the Zoning Administrator.

2. A description of the proposed production, generally, and a specific description of the portion of the production involving public property.
3. A description of the proposed location(s) for the production, including the dates and times for the portion involving public property from setup through conclusion of the production.
4. A copy of the certificate of insurance and hold-harmless agreement form required by subsection D.3 herein.

D. Standards for permit issuance. Within five days after receipt of an administratively complete application, the Zoning Administrator shall issue a permit upon finding all the following standards to be met:

1. All permits required by any applicable construction code have been issued by the appropriate Building Official.
2. Any permits or other approvals required by any other unit of government have been issued.
3. Proof of general liability insurance of at least \$1,000,000 covering all aspects of the media production on public property and naming the City and Township and the officials, employees and agents of each as additional insureds in effect at all times during the media production; and a standard hold-harmless agreement executed by the applicant holding the City and Township and the officials, employees and agents of each harmless from any liability of any kind claimed to be caused by any act or omission relating in any manner to the permitted media production, and further obligating the applicant to provide a legal defense against any such liability claim brought against the City or Township or the officials, employees or agents of each.
4. The media production will not be detrimental to the public health, safety, or general welfare, either generally or with specific regard to the particular dates and times for the intended use of the specific locations of public property.
5. The media production will not be unreasonably detrimental to the use or occupancy of any private property adjacent to the intended public property production location(s) or any other private property in the vicinity of same.
6. The media production will not involve any obscene matter or performance in violation of law, or otherwise violate any local ordinance or state or federal law.
7. The applicant has the ability and intention to at all times comply with the foregoing standards and all conditions attached to the permit.

- E. Permit conditions. The permittee shall comply with the following conditions imposed on a permit issued pursuant to this section:
1. All public property used for a media production shall be kept in a safe and clean condition for all participants in the production and the general public.
 2. The permittee shall provide on-site security if and to the extent deemed necessary by the Zoning Administrator to insure the public health, safety, and general welfare.
 3. The permittee shall be responsible for all costs of security, and for the costs of all damage and cleanup to public property and any incidental damage and cleanup to private property resulting from the production.
 4. The following conditions shall apply to that portion of any media production involving a public street:
 - a. Base camps shall not be located on a public street.
 - b. A public street shall not be closed or otherwise obstructed for longer than reasonably necessary pursuant to the issued permit, and any such closure or obstruction shall be subject to immediate termination by the Zoning Administrator or any law enforcement authority with jurisdiction over the street to facilitate immediate access to and use of the street by emergency vehicles.
 - c. Only necessary production vehicles may be parked on a public street; all other vehicles and equipment shall be parked at a predetermined approved location.
 5. The permittee shall allow the Zoning Administrator and Building Official (or their designees) a right of access at any time to any production location involving public property for the purpose of verifying continuing compliance with all permit approval standards and conditions.
- F. Suspension or revocation of permit. The Zoning Administrator may temporarily suspend any permit issued under this section in the event of noncompliance with any provision of this section or any applicable City of Hastings ordinance or state or federal law, where the Zoning Administrator determines the permittee can and likely will abate the noncompliance within a reasonable period of time; and the permit shall be reinstated when the Zoning Administrator determines such noncompliance has been abated. The Zoning Administrator may revoke a permit issued under this section in the event of any ongoing or otherwise non-abated noncompliance with any provision of this section or any other applicable City ordinance or state or federal law.

The Zoning Administrator shall promptly give to the permittee notice of any such permit suspension, permit reinstatement, or permit revocation. Such notice may initially be given

orally, but any such oral notice shall be followed by written notice at the earliest feasible opportunity.

Section 5.12 Private Roads

- A. Purpose and Applicability. The Joint Planning Commission has determined the Michigan Land Division Act may allow property to be divided in such a manner as to create new parcels that are “accessible” to a public road as required by that Act, but without the minimum frontage on a public street or sometimes a private road as required by the Planning Commission’s zoning regulations to be “buildable”. The construction, improvement, extension, relocation, and use of private roads is regulated herein as an overlay special land use in any zoning district, to assure they are designed and constructed with a sufficient width, surface, and grade to provide safe passage and maneuverability of private vehicles and emergency services vehicles, and to protect against or minimize soil erosion and prevent damage to the natural environment, including lakes, streams, and wetlands, and to require such private roads to be sufficiently repaired and maintained to facilitate continued safe and convenient use. This section includes provisions pertinent to the continuation of existing private roads, the extension of existing private roads to serve additional lots or building sites, and the construction and use of new private roads where such roads are allowed by this section. This section also distinguishes between private roads and “shared driveways”.

The provisions of this section are not intended to apply to any of the following:

1. access roads and driveways internal to any individual lot which has direct public street frontage access and is under the control of one person or entity, where the access road does not provide access to any abutting lot.
 2. a shared driveway, as defined herein.
 3. access roads that are subject to site plan review and formal approval by the Planning Commission pursuant to other provisions of this Ordinance (pertaining to commercial developments, for example).
- B. Definitions. For purposes of this section, and elsewhere in this Ordinance where the usage of the term is consistent with the usage of that term in this section, the following terms are defined as follows:
- EXISTING DWELLING UNIT — A dwelling unit lawfully existing before December 11, 1996.
 - EXISTING LOT — A lot existing before December 11, 1996 which meets at least one of the following conditions:
 1. The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Barry County Register of Deeds, or a parcel described by a land contract or memorandum of land contract which has been recorded with the Barry County Register of Deeds;

2. The lot has been assigned its own parcel number by the Assessor and is individually assessed and taxed on that basis; or
 3. The lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the Barry County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCL § 559.101 et seq.) and other applicable laws and ordinances.
- **EXISTING PRIVATE ROAD** --- A private road, as defined herein, which was actually and physically existing before December 11, 1996.
 - **EXISTING SHARED DRIVEWAY** --- A shared driveway, as defined herein, which was actually and physically existing before December 11, 1996.
 - **PRIVATE ROAD** --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to four or more lots, or four or more separate dwelling buildings.
 - **SHARED DRIVEWAY** --- A road, easement, or right-of-way not dedicated to public use which is used or intended to be used to provide access to two or three lots, or two or three separate dwelling buildings.
- C. Continuation of existing private roads and shared driveways. Any lawful existing private road, and lawful existing shared driveway, as defined in this section, may continue to exist as it actually and physically existed before December 11, 1996, without being subject to the other requirements of this section, but shall not be changed except in compliance with this section.
- D. Changes to an existing private road or existing shared driveway. Changes to an existing private road or existing shared driveway shall comply with all the provisions of this section pertaining to new private roads.
- E. New private roads.
1. After December 11, 1996 no new private road shall be constructed, and no existing private road shall be extended, relocated, or otherwise changed, except in accordance with the standards and requirements and review procedures specified in this section.
 2. A private road is allowable in any zoning district, as an overlay special land use.

F. Procedure for review of private roads.

1. Construction permit application and content. An application to construct, extend, or relocate a private road shall be filed with the Zoning Administrator with the application fee (which shall be sufficient to cover all costs and expenses incurred to review and administer the application, and administer an issued private road construction permit, and a final private road permit, including legal and engineering fees). The application shall contain or be accompanied by the following information:
 - a. the name(s) of the owner(s) and any other parties having any legal interest in the private road and the property across which it is to be constructed.
 - b. the property tax parcel number and legal description of the property over which the private road is to be constructed.
 - c. a site location map showing the location of the property containing the road and surrounding properties and roadways (public and private) within 1/2 mile of the site.
 - d. a scaled drawing showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts, and the location and distance to any public street which the private road is to intersect.
 - e. a scaled drawing illustrating the existing and proposed lots accessed by the private road, including the dimensions of all such lots.
 - f. a proposed maintenance/access agreement, and any applicable deed restrictions, as addressed in subsection I herein.
 - g. a driveway permit from the Barry County Road Commission or Michigan Department of Transportation or City of Hastings, as applicable.
 - h. the proposed private road name, and a letter from the Barry County Planning Department indicating there is no known duplication of the proposed name.
 - i. an approved soil erosion permit from Barry County.
 - j. a letter from a professional engineer licensed in Michigan certifying the proposed private road meets all applicable design and construction specifications in this section.

2. Review of construction permit application.
 - a. The Zoning Administrator shall review the application for completeness, and for apparent compliance with the requirements of this section, and shall forward an administratively complete application to the Hastings City Clerk to process for Joint Planning Commission review pursuant to this section.
 - b. The Planning Commission shall review the application pursuant to the standards and requirements of this section, assisted by such consultation with the location Fire Chief and the City Attorney, Engineer, and Planner as the Planning Commission deems necessary.
 - c. If the Planning Commission determines the application meets the standards and requirements of this section, it shall approve the application and direct the Zoning Administrator to issue a construction permit for the approved private road. The construction permit is not a final private road permit and does not authorize the construction of any dwelling units or other buildings to be accessed by the private road. The construction permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date the construction permit is deemed expired and abandoned, and a new permit application must be submitted and approved before any construction can begin. The approved private road must be completed within one year from the beginning of construction.

G. Standards for Planning Commission review and approval of private road construction permit application.

1. The Planning Commission shall review a private road application for compliance with the standards generally applicable to all special land uses as specified in Chapter 10 and for compliance with the additional standards and requirements as specified herein. In applying these standards to an application the Planning Commission shall also give consideration to the following factors:
 - a. the impact of the proposed private road and resulting development on nearby properties.
 - b. the impact of the proposed private road and resulting development on the long-range planning goals of the Joint Planning Commission.
 - c. the potential for conflicts between the proposed land uses and existing land uses (i.e., residential development in an agricultural area).
 - d. the health, safety and general welfare of the surrounding community.
 - e. the potential for traffic congestion or intersection interference or other similar or related problems created by the private road.

- f. the potential for soil erosion, or other damage to the natural environment, including lakes, streams, and wetlands.

H. General private road requirements and construction requirements.

1. The private road shall be designed and constructed to accommodate vehicle speeds of 35 mph.
2. The private road shall intersect with a public road.
3. A building lot shall have sufficient frontage on the private road to comply with the applicable minimum frontage requirement of the zoning district in which it is located.
4. The private road shall be centered within a sixty-six foot-wide easement or right-of-way.
5. The private road shall be constructed with sufficient slopes and grades as to provide adequate stormwater and road drainage; provided no part of the private road shall exceed a finished grade of more than 6% unless the Planning Commission approves a greater slope after consulting with the City Engineer.
6. The private road shall provide adequate culverts and ditches at all drainage courses and waterways. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a professional engineer licensed in Michigan as complying with all applicable Barry County Drain Commissioner and State of Michigan structural and other requirements.
7. The private road shall have a surface layer of not less than six inches of 22A aggregate base gravel.
8. A private road serving seven or fewer dwelling units shall have a finished road surface of at least 18 feet in width. A private road serving more than seven dwelling units, or serving a commercial or industrial use, shall have a paved road surface of at least 22 feet in width, with six inches of 22A aggregate base gravel, two inches or 220#/syd of 20A bituminous base and 1.5 inches or 165#/syd of 36A bituminous surface. All paved road specifications shall be provided and certified by a professional engineer licensed in Michigan, and by the City Engineer, as complying with all applicable requirements.
9. A cul-de-sac shall have a minimum radius of 35 feet.
10. An intersection of the private road with a public street shall meet Barry County Road Commission standards (or MDOT or City standards, where applicable).

11. The private road shall have horizontal and vertical clear zones sufficient to accommodate local delivery and emergency vehicles as determined by the Planning Commission upon consultation with the City Fire Chief.
12. Each phase of construction of the private road shall be inspected by a professional engineer licensed in Michigan, and a written report of such inspection shall be promptly filed with the Zoning Administrator. After consultation with the City Engineer, the Zoning Administrator may require additional inspections at other times during construction of the private road.
13. The name of a private road and the assigning of numbers to all properties/buildings on the private road shall be in accordance with the Barry County Address Ordinance (as administered by the Barry County Planning Office).
14. Upon completion of construction a professional engineer licensed in Michigan shall certify to the Township in writing that the private road was constructed to all the applicable standards and requirements of this section.

I. Maintenance/access agreements and deed restrictions.

1. The proposed maintenance/access agreement/deed restrictions required to be submitted with a private road construction permit application, and the executed version of such document(s) required to be recorded prior to issuance of a final private road permit by the Zoning Administrator, shall have provisions determined by the City Attorney to adequately address all of the following:
 - a. A method of initiating and financing repairs and maintenance of the private road to keep the road in a safe and usable condition (such as a property owner's association).
 - b. A workable method of apportioning the costs of maintenance to one or more of the lots benefited by the private road.
 - c. An explicit declaration that, if repairs and maintenance are not made by the private party responsible for same, the City Council may establish a special assessment district without petition to finance the required repairs/maintenance and assess the owners of property on the private road for such costs, plus all administrative and legal expenses incurred by the City to create and administer the special assessment district.
 - d. An explicit declaration that no public funds of the City of Hastings are to be used to build, repair, or maintain the private road, at any time.
 - e. The granting of easements to the public for purposes of utilities, and for emergency services vehicles and other public vehicles for whatever public services are necessary.

- f. A provision obligating the owners of any property using the road to refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners or other parties with a legal right to use the road. Normal ingress, egress, and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
 - g. An explicit declaration obligating the owner(s) of the private road and the owners of all property benefited by the private road to indemnify and save and hold the City and Township and the boards, commissions, officers and employees of same harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair or replace the private road, or in any other manner claimed to be associated with the private road in any respect, including all legal fees and expenses incurred in defending such claims.
- J. Final compliance requirements. Upon completion of construction of the private road the applicant shall provide to the Zoning Administrator:
- 1. A letter from a professional engineer licensed in Michigan certifying the road has been constructed in compliance with the approved private road plans and all applicable requirements.
 - 2. Documentation that the executed road maintenance agreement/access easement/deed restrictions have been recorded with the Barry County Register of Deeds office.
- K. Final private road permit issuance. Upon approval of all items required for final compliance, the Zoning Administrator shall issue a final private road permit. This final private road permit constitutes zoning approval of the use of the private road, and authorization to apply for building/zoning permits for development on lots dependent on the private road in order to qualify as a buildable lot.
- L. Permits for buildings dependent on private road.
- 1. A building permit/zoning compliance permit shall not be issued for any property which derives its primary access or minimum required frontage from a new private road unless a private road construction permit has been issued pursuant to this section and either of the following applies:
 - a. The Zoning Administrator has issued a final private road permit for the completed road; or
 - b. The applicant for the building permit/zoning compliance permit or owner(s) of the private road have provided the City with cash, bond or irrevocable letter of credit in an amount determined by the City sufficient to insure completion of construction of the private road in accordance with the approved private road construction permit within one year from the

issuance of the building permit/zoning compliance permit. A bond or letter of credit shall contain a provision giving the City the right to access the letter of credit or bond if such letter of credit/bond is not renewed 30 days before its expiration date, and the final private road permit is not yet issuable.

CHAPTER 6 MU-MIXED USE DISTRICT

Section 6.01 Purpose of District

- A. The Mixed Use District is intended to provide for a variety of uses and an appropriate mix of uses on the same lot, including high density residential, office, civic, and limited commercial and light industrial activities. This district is intended to allow land use flexibility to maximize utilization of urban infrastructure, such as water and/or sewer facilities, while creating a unique environment designed to function well with the existing natural features, surrounding neighborhood and overall region.
- B. The MU District is designed to balance development with natural feature preservation, including wetlands, streams, rivers, woodlands, and topography, and create commercial/industrial land use patterns that focus on local surrounding residential development, to enhance the character of the area and region.

Section 6.02 Permitted Uses

- A. The following uses are designated as permitted uses in this District, subject to site plan approval in accordance with this Ordinance:
 - 1. Attached living units or dwellings, including condominiums, townhouses or apartments.
 - 2. A detached single-family dwelling on an individual lot.
 - 3. Any generally recognized retail business that supplies commodities on the premises within a completely enclosed building, such as but not limited to foods, drugs, liquor, furniture, clothing, dry goods, appliances or hardware.
 - 4. Any personal service establishment that performs services on the premises within a completely enclosed building, such as but not limited to repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barbershops, interior decorators and photographers.
 - 5. Banks, savings and loan institutions, and similar financial establishments serving the local community, with or without a drive up window.
 - 6. Professional offices or clinics, including but not limited to medical, law, accounting, architectural, engineering, real estate and insurance offices.
 - 7. Libraries and museums.
 - 8. Retail sales of bakery and dairy products, with or without a drive up window.

9. Coffee shops, with or without a drive up window.
10. Retail grocery/party stores, which are integrated with on-site residential development.
11. Laundromats, laundry and dry-cleaning establishments (retail outlets only, not including large commercial/industrial laundry operations).
12. Photography studios.
13. Gift shops and antique shops with associated outdoor display areas limited to an area of 200 square feet.
14. Florist retail operations not including plant production on premises.
15. Accessory uses and structures; provided that the keeping or raising of livestock and other agricultural uses are not allowed in this district as an accessory use or otherwise.
16. Retail drug and pharmaceutical stores, with or without a drive up window.
17. Music/dance schools.
18. Community facility.
19. Veterinary clinics, with indoor boarding facilities for in-patient care only.
20. Restaurants, with or without a drive up window.
21. Essential services.
22. Any of the following uses accessory to an otherwise lawful residential dwelling unit:
 - a. Home occupation.
 - b. Family day care home.
 - c. Foster care (small group) home.
 - d. Roadside stand.
 - e. Bed and breakfast facility.
23. Health clubs with all activities indoors.
24. Farm market.
25. Signs, in accordance with the applicable provisions of Chapter 13.

Section 6.03 Uses Subject to Special Land Use Permit

- A. The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Ordinance:
1. Child care center/day care center.
 2. Hotels/motels.
 3. Hospitals/emergency medical facilities.
 4. Greenhouse/nursery/landscaping/garden shops.
 5. Open-air business as defined Chapter 2 herein.
 6. Bar or pub (providing that such use shall not be within 500 feet of a church, school, hospital, or adult or child care facility).
 7. Funeral homes.
 8. Laboratories – mechanical, medical, or environmental research/testing.
 9. Warehouses and inside storage, including self-storage facilities.
 10. Machine shop.
 11. Crating and packing service.
 12. Auto repair (major or minor) completely contained within a building.
 13. Multi-unit shopping centers or plazas.
 14. Small wind energy conversion systems.
 15. Indoor and outdoor recreation establishments such as bowling centers, indoor theaters, miniature golf courses, indoor soccer and baseball fields, gymnastic centers but excluding health clubs if all activities are indoors.
 16. Refueling stations/convenience stores, with or without restaurants.
 17. Private and public parks.
 18. Any of the following uses accessory to an otherwise lawful residential dwelling unit:
 - a. Group day care home.
 - b. Foster care (large group) home.

19. Auto wash establishments.
20. Farmers market.
21. Churches/worship facilities.

Section 6.04 Setbacks

- A. Minimum Required Building Setbacks. Commercial, office, industrial, and residential buildings shall be subject to the following setbacks from lot lines:
1. Front yard: 30 feet minimum; except where a different setback is required or allowed herein or by Section 5.04.
 2. Side yard: 20 feet minimum.
 3. Rear yard: 20 feet minimum.
 4. Notwithstanding the generally applicable minimum setback requirements specified above, buildings on a lot adjoining M37 or M43 shall have a minimum setback of 50 feet from the highway right-of-way line, except where a lesser setback is expressly allowed by this Ordinance, or where a greater setback is required by this Ordinance.
 5. An otherwise applicable minimum setback as specified above shall be increased to equal or exceed the height of the building or structure, where the calculated setback based on the height of the building or structure is greater than the otherwise applicable required setback.
- B. Minimum Setback from Residential District. Commercial, office, and industrial buildings and parking lots shall be set back a minimum of 30 feet from any property in a Residential zoning district of any zoning jurisdiction. This setback area shall be landscaped as set forth in Section 5.06.
- C. Internal Access Roads; Reduced Building Setback Requirements.
1. Internal access roads may be built within the required building setback along M-37 and M-43.
 2. The Planning Commission may reduce otherwise applicable building setback requirements by up to 50% when the structure is accessed via an internal access road.

Section 6.05 Lot Coverage

The intent of the following lot coverage standards is to minimize unnecessary impervious surface, protecting watershed quality, and to provide open space on each site.

- A. Lot coverage shall be limited to a maximum of 50%. The 50% maximum may be increased with approval from the Planning Commission by 5% for each of the following completed items:
1. Significant natural features, including but not limited to wetlands and forested areas and open space, will be permanently preserved. These areas shall be located adjacent to other preserved areas on adjacent parcels to create interconnected open spaces.
 2. Areas with slopes greater than 20% will not be developed or graded. (Note: A twenty-percent slope equals one foot of rise over five feet of run).
 3. Shared parking and/or cross access will be provided within the development site and with adjacent property.
 4. Stormwater best management practices are incorporated into the development.

Section 6.06 Lot Size Requirements

- A. For parcels located within an Urban Services District: the minimum lot size is 8,000 square feet for a detached single family dwelling, and 21,780 square feet (1/2 acre) for all other uses.
- B. For parcels not located within an Urban Services District: the minimum lot size is 8,000 square feet for a detached single family dwelling, and one acre for all other uses.

Section 6.07 Residential Density and Dwelling Standards

- A. The maximum residential density for a multiple family dwelling development shall be eight units per acre regardless if developed solely as residential or as part of a mixed-use development.
- B. All dwelling units shall comply with the standards specified in the definition of “Dwelling or Dwelling Unit” in Section 2.02.

Section 6.08 Landscaping & Greenbelts

- A. Within the Mixed Use District a greenbelt shall be provided adjacent to and outside of the public right-of-way within the front yard setback. For side yards of a corner lot abutting a public right-of-way or those lots that abut a public right-of-way along the rear or side yard, a greenbelt shall be provided. All greenbelts shall conform to the following standards and the landscaping standards in Section 5.06, Minimum Landscape Requirements:
1. A required greenbelt may be interrupted only to provide for pedestrian or vehicular access, or signage.
 2. Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except where paved walkways are used.

3. A minimum of one deciduous canopy tree and one evergreen tree shall be planted for each 50 linear feet, or portion thereof, of required greenbelt length. Trees may be planted at uniform intervals, at random, or in groupings.
 4. All existing trees eight inches or greater in diameter that are in a healthy condition and within the greenbelt shall be preserved, except where necessary to install vehicular, pedestrian and utility access points.
- B. All residential uses within the Mixed Use District, including detached single-family and attached living units, shall provide one deciduous shade tree within 20 feet of the front lot line; corner lots and lots having a width of 80 feet or more shall provide two deciduous shade trees. These trees shall be indicated on the site plan submittal for a building permit.
- C. All tree plantings within the greenbelt shall be located to avoid overhead utility lines, and shall be located to maintain a clear sight area.
- D. Required greenbelt landscaping shall not count towards landscaping requirements for signage, parking, buffering, or screening.
- E. The Planning Commission may reduce or modify the landscape requirements in this section based upon a determination that the landscaping required in this section will not be necessary or effective in meeting the intent of this provision. In making this determination, the following shall be considered:
1. Whether existing natural vegetation that meets the requirements of this section will be preserved as part of the site plan.
 2. Whether parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.
 3. Whether the public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this section.
 4. Whether the intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
 5. Whether greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of this section.

Section 6.09 Building Design and Architectural Standards

- A. Purpose. The purpose of the following regulations is to provide specific design and architectural standards for the review and approval of new commercial buildings and re-developed parcels in the MU zoning district in order to achieve the following community objectives:

1. To encourage commercial building facade treatments that are articulated and enhanced in order to reduce the massive scale and impersonal appearance of large retail buildings.
2. To maintain and improve community character by requiring buildings to be closer to the street which helps to create shopping areas with a more a pedestrian scale.
3. To encourage developers to use a more creative approach in the design of commercial buildings.

B. Applicability. The following developments shall be subject to the building design and architectural standards of this section:

1. Newly constructed principal buildings.
2. Uses which require site plan review by the Planning Commission as regulated herein.
3. Exterior alterations, renovations and additions to existing non-residential buildings which require a building permit and which pertain to the building facade (that portion or portions of a building which front on a public street).

C. Architectural Standards.

1. Façade materials. At least 80% of the “façade” of a building, which for purposes of this provision is defined as that portion or portions of a building which fronts on a public street or which faces an on-site parking lot, shall be constructed of one or more of the following materials:
 - a. traditional hard coat stucco.
 - b. brick.
 - c. natural or cast stone.
 - d. tinted and/or textured masonry block.
 - e. glass.
 - f. architectural pre-cast panels.
 - g. wood, except materials such as T-71, plywood or particle board, or similar processed wood materials.
 - h. similar materials as approved by the Planning Commission.
2. Façade design devices. All facades shall have a recognizable “top” or upper portion consisting of one or more of the following devices:

- a. cornice treatments, other than just colored “stripes” or “bands”, with integrally textured materials such as stone or other masonry or differently colored materials.
- b. sloping roof with overhangs and brackets.
- c. stepped parapets.

In addition, if the building has more than one story, the façade shall have a horizontal expression line which separates each floor.

3. Façade wall design and features. That portion of a building which fronts on a public street shall be designed to eliminate large expanses of blank walls by the application of two or more of the following methods approximately every 50 feet in wall length:
 - a. doors with corniced parapets over the main entry door.
 - b. display windows that orient street-level customers to products.
 - c. arched entryways, canopies or awnings.
 - d. changes in the plane of a wall, such as offsets, or projecting ribs which are at least 12 inches in width.
 - e. change in texture, color or masonry pattern.
 - f. pilasters, piers or columns.
 - g. other applications as approved by the Planning Commission to meet the intent of this provision.
4. Façade walls exceeding 100 feet in length. Façade walls more than 100 feet in total length shall also incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade and extending at least 20% of the length of the façade.
5. Customer entrances. Building facades shall exhibit clearly defined, highly visible, and articulated front entrances that feature at least two of the following devices:
 - a. canopies or porticos.
 - b. overhangs.
 - c. recesses or projections of at least three percent of wall length.
 - d. arcades.

- e. raised cornice parapets over the door.
- f. distinctive roof forms.
- g. arches.
- h. outdoor patios.
- i. display windows.

Rear customer entrances, if provided, shall also be subject to the foregoing standards.

- 6. Side/rear walls. Side or rear walls that face rear walkways or rear or side service drives may include false windows and door openings defined by frames, sills, and lintels, or similarly proportioned modulations of the wall, but only when actual doors and windows are not feasible.
- 7. Roofs.
 - a. Buildings shall be topped with pitched roofs with overhanging eaves, or with flat roofs with articulated parapets and cornices. Materials for pitched roofs shall include shingles (either wood or asphalt composition), slate, tiles, or other material if such other material is similar to the roof material on buildings within 500 feet in the MU District.
 - b. Parapets shall be used to conceal flat sections of roofs and rooftop equipment, such as HVAC units, from public view. The average height of such parapets shall not exceed 25% of the height of the supporting wall, and such parapets shall not at any point exceed 1/3 of the height of the supporting wall.

D. Building height.

- 1. The maximum building height shall not exceed 35 feet or 2.5 stories, whichever is less, except as provided herein.
- 2. Building height may be increased if all of the following criteria are met as determined by the Planning Commission:
 - a. The proposed development is designed to provide for shared parking and/or cross access easements with adjacent parcels.
 - b. The height of the building is designed to blend with adjacent development and will not create a dramatic height differential causing detrimental impacts to existing structures.
 - c. The height of the building has been approved by the local fire chief,

upon determining the building height does not exceed the effective fire-suppression capabilities of the Fire Department.

E. Parking.

1. No more than two rows of off street parking shall be located within the front yard, which is defined as the area between the principal building and the front lot line across the entire width of the lot. In certain circumstances the Planning Commission may allow permitted uses and special land uses to have more than two rows of parking between the building and the front lot line. In determining when such parking should be allowed the Planning Commission shall consider the following criteria:
 - a. Whether the need for truck loading and unloading docks and maneuvering areas for trucks does not allow for required parking spaces to be located to the side or in the rear of the building;
 - b. The width of the lot relative to the size of the building;
 - c. The parking requirements for large “big box type” stores create difficulties in providing the majority of the required parking in the side or rear yards.
 - d. Whether additional front yard parking would result in the preservation of a natural site feature(s);
 - e. Whether parking in the side or rear yard is impractical due to a wetland or steep slope or other similar natural feature.
2. For parcels located on a corner lot the above requirements shall only apply to that street which the Zoning Administrator determines carries the most traffic. For the remaining street the parking lot may be located in the front yard subject to the setback regulations of the zoning district in which it is to be located.

F. Sidewalks.

1. Sidewalks shall be provided along all streets in accordance with the City of Hastings standards. Sidewalks shall be a minimum of five feet wide; but the Planning Commission may require a maximum sidewalk width of ten feet in order to allow for the safe and efficient movement of all types of non-motorized transportation.
2. The Planning Commission may also require, where practical and feasible, that a walkway be provided extending from the public sidewalk to the entrance of the building on the site in order to provide for safe pedestrian access.
3. Where the zoning approval for property fronting on M-37/M-43 provides for or requires a non-motorized trail within the front yard but not within the street right-

of-way, an appropriate easement for the trail shall be part of the zoning approval process.

- G. Refuse Containers. All refuse containers shall be located within a four-sided solid fence enclosure constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated. Refuse container enclosures shall not be located in a front yard.
- H. Additional Considerations. In order to promote non-motorized access to businesses along the M-37/M-43 corridor bike racks at individual stores are encouraged to be provided as well as lighting of non-motorized trails which traverse or abut the property.
- I. Modification of Standards. The foregoing building design and architectural standards shall be subject to modification by the Planning Commission during the site plan review process upon finding the following factors are met:
 - 1. If the modification is approved the resulting development will still be consistent with the purposes of this District.
 - 2. If the modification is approved the resulting new building or alteration of an existing building will still be visually compatible with existing buildings on adjacent properties and within 500 feet in the MU District.
 - 3. In instances of the reconstruction or conversion of an existing building, approval of the modification is necessary to alleviate practical physical difficulties resulting from strict compliance with the specified standards and requirements.

CHAPTER 7 LI-LIGHT INDUSTRIAL DISTRICT

Section 7.01 Purpose of District

The District is intended for light industrial applications that are not likely to require public utilities, and will be designed to be compatible with other land uses in the area. The allowed industrial uses should be developed with appropriate utility and transportation connections, and in harmony with the area's natural features, with minimal impact on the environment or the surrounding community.

Section 7.02 Permitted Uses

The following uses are designated as permitted uses in this District:

- A. Essential services.
- B. Industrial establishments involving only the assembly and/or packaging of such products as food products (not including the processing of livestock), candy, musical instruments, optical goods, toys, novelties, electrical equipment, and appliances, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- C. Storage rental units completely within an enclosed building, for items such as household goods, vehicles, and recreational equipment.
- D. Tool and die business, including metal working machine shops involving the use of grinding or metal cutting tools, manufacturing of tool dies/molds/jigs/fixtures (excluding the production of stampings, castings, forging, and similar production run parts), where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- E. Wholesaling and warehousing of goods and products such as automotive equipment, dry goods, apparel, groceries and related products, raw farm products (not including livestock), electrical goods, hardware products, plumbing products, heating equipment and supplies, machinery, alcoholic beverages, paper and paper products, furniture and home furnishings, and any product the manufacture of which is allowed in this District, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- F. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise.

G. Signs, in accordance with the applicable provisions of Chapter 13.

Section 7.03 Special Land Uses

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Ordinance.

- A. Automobile repair (major and minor), where no junk vehicles, parts, or vehicles not containing all of their body parts are stored overnight unless adequately screened as determined by the Planning Commission pursuant to applicable standards in this Ordinance.
- B. Broadcast/transmission towers.
- C. Central laundry plants.
- D. Industrial facilities for the assembly, fabrication, manufacture, packaging or treatment of products from the following previously prepared materials: canvas, cellophane, caulk, cork, felt, fiber, glass, leather, paper/cardboard, plastics, precious or semi-precious metals or stones, sheet metal (excluding large stamping such as automobile fenders or body panels or those requiring in excess of 400 tons of manufacture), textiles, wax, wire, wood (excluding saw and planing mills and yards), where all such operations, equipment and storage are completely contained within a fully enclosed building and where all loading/unloading areas and facilities are located at or near the rear of the building
- E. Laboratories (mechanical or environmental research/testing).
- F. Municipal waste treatment or water treatment facilities.
- G. Refueling stations, and auto wash establishments.
- H. Repossession lots/storage, including retail sales of repossessed items.
- I. Salvage and/or recycling centers.
- J. Wireless communications support structure.
- K. Small wind energy conversion system.

Section 7.04 Density, Area, Height, Bulk and Placement Regulations

- A. Minimum lot area: 200,000 sq. ft
- B. Minimum lot width: 300 ft.
- C. Minimum setbacks:
 - Front: 100 ft.

Side: 50 ft.
Rear: 50 ft.

- D. Maximum lot coverage: 35%

Section 7.05 Site Plan Review Required

Site plan review is required for all permitted uses and special land uses, and for other uses as specified in Chapter 9 herein.

Section 7.06 Architectural Standards

The following architectural standards shall apply to buildings/structures in this District:

- A. The maximum building/structure height is 35 feet or 2 ½ stories, whichever is less.
- B. Buildings with multiple stories shall be improved with windows that add character to the structure and create a visual delineation between stories.
- C. Building façade shall have bays, storefronts, entrances, columns, and other vertical elements in 20-40 horizontal foot increments to avoid uninterrupted horizontal stretches of exposed facing building and “break-up” the building façade.
- D. Exterior materials shall reflect a sense of permanence and community character. All proposed materials shall be subject to Planning Commission approval.
- E. Windows shall have sills and trim.
- F. Architectural features shall be complementary with all aspects of the building elevation. For example, building materials and designs shall complement/coordinate on all sides of the building.
- G. Roof design shall be flat, hipped, or front-gabled. Flat roofs shall incorporate a decorative cornice line that clearly identifies the top of a building.
- H. The form, scale and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- I. Mechanical equipment on the ground or on the roof shall be screened from view.

CHAPTER 8

(this chapter is reserved for potential future use)

CHAPTER 9 SITE PLAN REVIEW

Section 9.01 Purpose

The intent of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish their objectives in the utilization of land within the regulations of this Ordinance and with minimum adverse effect on the use of adjacent streets and other public facilities, and on nearby existing and future uses and the natural environment.

Section 9.02 Site Plan Review Required

- A. Planning Commission Review. Except as provided in this Ordinance with respect to matters subject to administrative site plan review, the following uses shall not be conducted upon any land or in any building/structure, nor shall a building permit or zoning compliance permit be issued for the construction of a building/structure associated with such uses, until a site plan has been submitted to, reviewed, and approved by the Planning Commission in accordance with the provisions of this chapter:
1. Any principal commercial, office, industrial, institutional or business use, and any residential use with more than two dwelling units.
 2. Special land uses.
 3. A change in the use of a building or property or an expansion of a building or use for which additional parking spaces are required by this Ordinance or an expansion of an existing parking lot to add more parking spaces.
 4. Relocation of an existing driveway.
 5. Site condominiums. Also see Chapter 11.
 6. All other uses subject to site plan approval as required by this Ordinance.
- B. Zoning Administrator Review. A site plan for any of the following uses shall be reviewed by the Zoning Administrator, instead of the Planning Commission; provided the Zoning Administrator may choose to refer any site plan for such uses to the Planning Commission for review by the Planning Commission in accordance with the requirements of this Chapter:
1. A change in the use of a building or property or an expansion of the building or use which does not result in the need for more parking spaces as required by this Ordinance.

2. Construction of a building or structure which is accessory to the principal use or building.

Review of site plans by the Zoning Administrator shall be in accordance with the same procedures, requirements and standards required for site plans reviewed by the Planning Commission, except the number of site plan copies and submittal date shall be subject to the discretion of the Zoning Administrator. The Zoning Administrator may waive specific site plan review submittal requirements if it is determined that such requirements are not relevant to the site plan under consideration. Following approval of a site plan the Zoning Administrator shall notify the Planning Commission.

C. Application and Review Procedures.

1. Requirements. An application for site plan review along with 10 sets of the site plan and all supporting materials shall be submitted to the Zoning Administrator at least two weeks prior to the next scheduled Planning Commission meeting. The application shall at a minimum contain the following information:
 - a. The applicant's name, address and phone number.
 - b. Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
 - c. The name, address and phone number of the owner of record if different than the applicant.
 - d. The address of the property.
 - e. Legal description or permanent lot number of the property.
 - f. Project description.
 - g. Size of the property in square feet or in acres.
 - h. Signature of the applicant and owner of the property.
2. Technical review. The Zoning Administrator shall refer copies of the application and site plan to the City director of public services and the City building official for technical review. Copies may also be sent to the city planner, fire chief and police chief as deemed necessary. The site plan shall be reviewed for compliance with the requirements of this Ordinance and a report prepared for the Planning Commission.
3. Final review. The Planning Commission shall review the site plan according to the general standards for site plan review in Section 9.04 and any other applicable regulations of this Ordinance. Based on these standards and regulations, the Planning Commission shall approve, deny, or approve with conditions the site

plan. If the site plan is denied, the applicant shall be given written notification of the reasons for denial within ten working days of the date of denial.

4. Approval. Upon approval of the final site plan, three copies of this plan shall be stamped as approved, dated, and signed by the Zoning Administrator. One copy of the approved plan shall be returned to the applicant, one shall be submitted to the building official as part of the building permit review process, and one copy shall be kept by the Zoning Administrator.
5. Review period. The Planning Commission shall render a decision on a site plan within 60 days of submission of all required information by the applicant unless an extension of time is agreed to by the applicant, or a different time is otherwise required by law.

Section 9.03 Site Plan Content

- A. Each site plan submitted for review shall be drawn at a scale of 1" = 200' or less. The site plan shall contain the following information unless the Zoning Administrator determines that certain items are not necessary or relevant in reviewing the site plan:
 1. A vicinity map illustrating the location of the site.
 2. Date the site plan was prepared.
 3. Name and address of the preparer.
 4. North arrow.
 5. Legal description of the property.
 6. Property lines, dimensions, and building setback distances and all structures and lot lines within 100 feet of the site.
 7. Existing and proposed contour elevations at a minimum of five-foot intervals on the site and to a distance of ten feet outside the boundary lines of the site.
 8. Direction of stormwater drainage and how stormwater runoff will be handled.
 9. Location of existing and proposed buildings, their intended use, the length, width and height of each building, and the square footage of each building.
 10. Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site.
 11. Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drainfields, and utility easements.

12. Location of all sidewalks, bike paths, and other walkways.
13. Location and size of any existing and proposed walls, fences or other screening provisions.
14. Location of all proposed landscape materials, including size and type of planting.
15. Location of all exterior lighting, and proposed accessory structures, including light poles or fixtures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas and signs.
16. Proposed parking areas and access drives showing number and size of spaces and aisles, loading areas, and handicapped access ramps. Also note method of surfacing such areas.

Section 9.04 General Standards

- A. The Planning Commission shall review the site plan for compliance with the requirements of this Ordinance and conformance with the following general standards:
1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications that result in maximum harmony with adjacent areas.
 3. Special attention shall be given to property site drainage so that removal of stormwaters will not adversely affect neighboring properties.
 4. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
 5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means as required by the fire department.
 6. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
 7. There shall be provided a pedestrian circulation system insulated as completely as reasonably possible from the vehicular circulation system.

8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, that face or are visible from residential districts or public thoroughfares shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height.
9. Exterior lighting shall comply with Section 5.05A and any other provisions of this Ordinance applicable to lighting.
10. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, particularly the avoidance of building corners next to access drives, and arrangement of parking areas that are safe and convenient, and insofar as practicable, do not detract from the design of the proposed buildings and structures and the neighboring properties. Streets and drives part of an existing or planned street pattern that serve adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the city's master plan.
11. All public streets shall be built in accordance with the requirements of the City of Hastings or, where applicable, the Michigan Department of Transportation.
12. Sidewalks shall be provided along all streets in accordance with the City of Hastings requirements, and any other applicable provision of this Ordinance (such as Section 6.09F in the MU District).
13. Site plans shall conform to all applicable requirements of state and federal statutes, and approval may be conditioned on the applicant's receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

Section 9.05 Access Control Standards

- A. The Planning Commission shall review site plans according to the standards of this section relating to vehicle access and circulation. The purpose of specific access standards is to increase traffic safety, lessen congestion, provide adequate access, promote community character, and ensure orderly development.
- B. The Planning Commission shall have the authority to require a frontage road or service drive for lots contiguous to M-43 and M-37, and on other streets. The Planning Commission shall also have the authority to limit the number of driveways for a site; to require that parking lots on contiguous lots be connected; to require that driveways for contiguous lots be shared; and to require that opposite driveways be directly aligned. In determining whether the above or other access control measures shall be required, the following criteria shall be considered:
 1. The type and location of commercial uses on the site and adjacent to the site.

2. The location, size and design of existing and proposed parking areas.
 3. The existing and projected traffic volume on the roadway and adjacent roadways.
 4. Compatibility between adjacent land uses and likelihood of change or expansion.
 5. Number of lots involved, location of lot lines and amount of road frontage.
 6. Topography and site distance along adjacent roadways and on the site.
 7. Distance from intersections.
 8. Location of driveways opposite the site.
 9. Width of roadway and number of lanes.
 10. Environmental limitations (steep slopes, water, or vegetation).
 11. Sufficient building setback.
- C. The following regulations shall apply to commercial uses along M-37 and M-43, and other streets where the Planning Commission has required access control measures pursuant to Section 9.05B above:
1. A lot shall not be denied reasonable access to a public roadway.
 2. A maximum of one driveway shall be provided to an individual lot or to a contiguous lot under the same ownership when the property in question has no other reasonable access to another abutting street or access road. Additional driveways may also be permitted in accordance with the driveway spacing standards herein. A one-way in/one-way out driveway system may be permitted if it is demonstrated that traffic circulation on and off the site will not create hazardous situations.
 3. Temporary direct access to M-43 and M-37 may be granted in instances where access roads or adjoining lots are not yet developed. A temporary driveway permit shall specify the future means of access, location if known, and date the change will be made. A temporary access agreement shall be recorded with the county register of deeds.
 4. Lots with 300 or more feet of road frontage with a single large use will not be required to construct a service drive but may be required to connect the parking area to parking areas on contiguous lots.
 5. If a lot with an established commercial use, and with 300 feet or more of road frontage, is divided to allow for an additional commercial use (resulting in lots with less than 300 feet of road frontage), an additional driveway for that use will not be permitted. Both the original and the additional commercial use will be

required to construct an adjoining service drive. An exception to this standard exists if the anticipated traffic volumes generated by either the original or the additional commercial use will exceed 3,000 vehicles per day and/or are projected to cause traffic congestion during peak hours.

6. If two or more existing contiguous lots with noncommercial uses together comprise less than 300 feet of road frontage, and if any of those lots converts to a commercial use (or any other use for which site plan review is required), the construction of a service drive will be required. As additional contiguous lots convert to commercial uses, they will be required to construct additional segments of the service drive. These lots will eventually be served by common driveway access, the placement of which will be determined by driveway spacing standards contained herein.
7. Driveways for a lot shall be permitted based on the amount of road frontage for that lot as follows, except that the Planning Commission may modify this in the interest of public safety based on the criteria in subsection B of this section:

Frontage (feet)	Driveways Permitted
Less than 300	1
300 to 600	2
More than 600	3

8. Driveway spacing and location from intersections shall be based on the following:
 - a. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the travel lane on the intersecting street.
 - b. The minimum distance between a driveway and an intersecting street shall be based on the following tables, as applicable:
 - (1) Spacing from intersection for driveways along M-43 and M-37 and other streets as deemed necessary:

Intersecting Street	Full Movement Driveway (feet)	Channelized for Right-Turn-In Right-Turn-Out Only (feet)
Highway	250	100

Signalized major street	250	75
Other street (local street or non-signalized major street)	100	75

- (2) Spacing from intersection with M-37 and M-43 for driveways along side streets:

Side Street Classification*	Full Movement Driveway (feet)	Channelized for Right-Turn-In Right-Turn-Out Only (feet)
Highway	200	100
Signalized major street	100	75
Other street (local and non-signalized major street)	75	75

9. If the amount of street frontage is not sufficient to meet the above criterion, the driveway shall be constructed along the property line farthest from the intersection to encourage future shared use, and/or a frontage road or rear access service drive shall be developed.
10. For lots which are only allowed a channelized right-turn-in, right-turn-out driveway, and alternative means of access (shared driveway, frontage road, service drive or connected parking lots) are not feasible due to lot size or existing adjacent development, the Planning Commission may allow a non-channelized, full movement driveway provided that:
 - a. The driveway is spaced no closer to the intersection than the minimum spacing allowed for a right-turn-in, right-turn-out driveway.
 - b. A traffic study, conducted by a registered traffic engineer, provides substantial justification that the driveway operation will not result in conflicts with vehicles at the adjacent intersection.
11. Driveway spacing from other driveways shall be determined as follows:
 - a. There shall be minimum spacing of 25 feet between the centerline of a driveway and the adjacent property line, not including the right turn lane and/or taper. The centerline for channelized driveways is measured at the

street right-of-way line. This requirement does not apply to shared driveways.

- b. Minimum driveway spacing requirements shall be determined based on posted speed limits along the lot frontage, as indicated in Table 7-1.

TABLE 7-1

Posted Speed (mph)	Minimum Driveway Spacing* (in feet)
30	125
35	150
40	185
45	230
50	275
55	350

* As measured from the centerline of each driveway.

- c. The values in table 7-1 are considered minimums based on the distances required to avoid conflicts between vehicles turning right or left from adjacent driveways.
- d. The Planning Commission shall have the authority to waive or modify the preceding spacing requirements when strict adherence to them would result in unreasonable access to the site. In waiving or modifying the spacing requirements, the criteria of subsection B of this section shall be used.

Section 9.06 Performance Guarantee

- A. The Planning Commission may require a performance bond, letter of credit, or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, drainage, and other required improvements associated with the project. The estimated amount shall be determined by the Zoning Administrator after conferring with the City director of public services. Such performance guarantee shall be deposited with the city clerk/treasurer prior to the issuance of a building permit authorizing the activity or project. The performance guarantee is to ensure faithful completion of the improvements indicated with the approved site plan; if not completed, the performance guarantee shall be forfeited.

- B. The city clerk/treasurer shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of this Ordinance have not been met, the amount of the aforementioned performance guarantee shall be used by the city to complete the required improvements or return the property to a safe and healthy condition at the option of the city; and the balance, if any, shall be returned to the applicant. No rebate shall be paid until the work is completed and the costs have been accurately determined by the city.

Section 9.07 Time Limit for Site Plan Approval

The development for which a site plan has been approved shall be under construction within one year after the date of final approval by the Planning Commission (or, where applicable, by the Zoning Administrator). If the applicant does not fulfill this provision, the Planning Commission may grant a single extension of not more than one year provided the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or the one year extension has expired without construction underway, the site plan approval shall be deemed abandoned and terminated.

Section 9.08 Amendment of an Approved Site Plan

- A. Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- B. A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Planning Commission.

The following items shall be considered as minor changes:

1. Reduction of the size of any building and/or sign.
2. Movement of buildings by no more than 10 feet.
3. Plantings approved in the site plan landscape plan being replaced by different but similar types of landscaping.
4. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
5. Changes required or requested by the Planning Commission for safety reasons.
6. Changes which will preserve the natural features of the site without changing the basic site layout.

7. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.
- C. The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval, regardless of whether the change may qualify as a minor change. In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.
 - D. If the Zoning Administrator determines that the requested modification to the approved site plan is not minor, resubmission to the Planning Commission for an amendment of the site plan shall be required and conducted in the same manner as an original site plan review application.

CHAPTER 10 SPECIAL LAND USES

Section 10.01 Purpose

The purpose of this chapter is to provide regulations for uses not essentially incompatible with uses permitted by right in a given district, but which may only be appropriate if restrictions or conditions are imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties. The special land use permit procedure established in this chapter is designed to provide the Planning Commission with an opportunity to review and act upon any application for a special use permit.

Section 10.02 Authorization

The Planning Commission shall have the power to approve or deny a special land use permit application, or approve same with conditions, as authorized in Section 10.05, pursuant to the approval standards specified or referenced in Section 10.04.

Section 10.03 Procedure

- A. Application. An application for a special land use permit shall be filed with the Zoning Administrator. The Zoning Administrator shall review the application for administrative completeness, and inform the Hastings City Clerk when the application is determined to be complete for further processing.
- B. Site plan requirement. Applications for a special land use permit shall also be accompanied by a site plan, which shall contain the information for final site plans required by Chapter 9 of this Ordinance.
- C. Additional information. The Planning Commission may require that the applicant provide additional information about the proposed use. Such information may include but shall not be limited to traffic analysis, environmental impact statement, impact on public utilities and services, and effect on the public school system.
- D. Planning Commission hearing. The Zoning Administrator or City Clerk shall refer an administrative complete application to the Planning Commission, and schedule a public hearing for the application. Notice of the hearing shall be given as required by Section 16.04 of this zoning ordinance.

Section 10.04 Standards for Approval

To approve a special land use, the Planning Commission must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this Ordinance for specific special land uses:

- A. The proposed use is designed and constructed and will be operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and will not result in a detrimental change to the essential character of the area in which it is proposed.
- B. The proposed use will be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
- C. The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- D. The proposed use will not involve uses, activities, processes, materials and equipment, or conditions of operation that will be overly detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- E. The proposed use is consistent with the intent and purpose of the zoning district in which such use will be located.
- F. The proposed use is compatible with and in accordance with the Hastings-Rutland Joint Planning Commission Master Plan.
- G. The proposed use will comply with the specific standards applicable to that particular use as specified in Section 10.08, or elsewhere in this Ordinance.

Section 10.05 Conditions on Approval

- A. In approving a request for a special land use permit, the Planning Commission may impose conditions, provided such conditions shall be reasonable and necessary to:
 - 1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
 - 2. Protect the natural environment and conserve natural resources and energy;
 - 3. Insure compatibility with adjacent uses of land; and
 - 4. Promote the use of land in a socially and economically desirable manner.
- B. Conditions imposed shall meet all of the following requirements:
 - 1. Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of the police power and purposes affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- C. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the applicant. The Planning Commission shall maintain a record of the conditions which are changed.

Section 10.06 Validity of Special Land Use Permit

- A. Planning Commission approval of a special land use permit shall be valid regardless of change of ownership, provided that all terms and conditions are complied with by the new owners.
- B. In cases where development authorized by a special land use permit has not commenced within one year of issuance, the permit shall automatically terminate. Upon written application filed before the termination of the one-year period, the Planning Commission may authorize a single extension for a further period of not more than one year.
- C. The Planning Commission shall have the authority to revoke a special land use permit following a public hearing with notice given as required herein. Such permit may be revoked upon evidence that the applicant, owner or operator has failed to comply with the requirements of the permit or any other applicable regulations of this Ordinance.

Section 10.07 Changes to an Approved Special Land Use

- A. Any person for which a special land use permit has been approved shall notify the Zoning Administrator of any proposed changes to the approved use or site plan. Any minor change such as dimension changes, increase in parking, drive relocation, landscaping changes, or movement of lighting or signs may be approved by the Zoning Administrator, who shall notify the Planning Commission in writing of such changes, and maintain a record of some.
- B. Any proposed major changes to any approved special land use or site plan shall be subject to all applicable requirements of this Ordinance for a new special land use permit application and/or site plan review. Major changes shall include but are not limited to increasing the density or number of dwelling units, increasing the number of buildings or land area, and the addition of another use or uses not initially authorized under the original special land use permit or site plan. The Zoning Administrator shall determine if other similar changes constitute a major change.

Section 10.08 Specific Standards Required of Particular Special Land Uses

The following specific standards shall be required of the particular special land uses designated in this section pursuant to Section 10.04G of this Ordinance, in addition to the standards specified in Section 10.04A-F of this Ordinance. The required standards for each such use are referred to in the following table and included in the subsequent applicable text for the corresponding item number:

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Group day care home	MU	1
Foster care (large group) home	MU	2
Private road	MU, LI (overlay)	3
Small wind energy conversion system	MU, LI	4
Wireless communications support structure	LI	5
Filling activity exceeding 1,000 cy of material	MU, LI (overlay)	6
Temporary event exceeding seven days	MU, LI (overlay)	7

Item 1. Group Day Care Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.

- E. It shall meet all applicable sign regulations in this Ordinance.
- F. It shall meet all applicable off-street parking requirements in this Ordinance.

Item 2. Foster Care (Large Group) Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas intended for children, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall meet all applicable sign regulations in this ordinance.
- E. It shall meet all applicable off-street parking requirements in this ordinance; and in addition shall provide a designated passenger loading/unloading area near a barrier-free entrance to the facility, and a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.
- F. A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking and loading/unloading areas visible from adjacent properties or streets.
- G. All exterior lighting of entryways, parking spaces, and loading/unloading areas shall be directed and/or hooded so as to not reflect onto adjacent properties or streets.

Item 3. Private road.

“Private road” is designated in Section 5.12 of this Ordinance as an “overlay” special land use in any zoning district. See Section 5.12 for the approval standards and other applicable provisions and requirements.

Item 4. Small Wind Energy Conversion Systems.

- A. The system may be portable or attached to a building, tower, or other structure, subject in each instance to the following applicable height limitation, measured from grade directly below the supporting base of the system to the uppermost component of the system at its highest vertical position:
 - 1. For lots of less than two acres in area: 35 feet.
 - 2. For lots of two to five acres in area: 60 feet.
 - 3. For lots greater than five acres in area: not exceeding such height as is permissible to comply with the setback/location requirements in subsection C below.
- B. The minimum vertical blade tip clearance from grade shall be 20 feet.
- C. No part of the system, including guy wire anchors, may extend closer than 10 feet to the property boundaries of the site upon which it is installed. The tower structure shall be set back from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the height of the system in its highest vertical position.
- D. The system shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. The system shall be equipped with the following safety-related components: an automatic braking, governing or feathering system to prevent uncontrolled rotation or overspeeding; lightning protection; and a locking safety ladder for a tower installation.
- F. A building/electrical permit application for the system shall be accompanied by standard drawings of all components of the system, including any tower, base, and footings.
- G. The system shall comply with applicable federal and state regulations pertaining to tall structures that may interfere with aircraft, including any necessary approvals for installations in close proximity to an airport.
- H. The system shall not be connected to a utility grid electric system until utility company approval of the connection has been filed with the Zoning Administrator.
- I. The system shall not be operated until the applicant has provided to the Zoning Administrator the statement of a licensed professional engineer certifying the system was installed in compliance with all applicable building and electrical code requirements and otherwise complies with all the foregoing standards and requirements.

Item 5. Wireless Communication Support Structure.

- A. Purpose. The purpose of these regulations is to establish standards for the siting of wireless communication support structures/equipment compounds and wireless communications equipment (for convenience, sometimes referred to as "towers" or "communication towers" and "antennas") based on the following goals: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in nonresidential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- B. Definitions. The following terms used in this section shall be defined as follows:
- **ALTERNATIVE TOWER STRUCTURE.** Man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
 - **ANTENNA.** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
 - **BACKHAUL NETWORK.** The lines that connect a provider's towers/cell sites to one or more wireless telephone switching offices, and/or long distance providers, or the public switched telephone network.
 - **CO-LOCATE.** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Co-location" has a corresponding meaning.
 - **COMMUNICATION TOWER OR TOWER.** The same thing as wireless communications support structure, except where the context of the usage of the term is clearly applicable to only a tower type of support structure.
 - **EQUIPMENT COMPOUND.** An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

- **HEIGHT.** When referring to a wireless communications support structure, the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.
- **WIRELESS COMMUNICATIONS EQUIPMENT.** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.
- **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE.** (See definition in Chapter 2).

C. Information required with special land use application.

1. In addition to any information required for applications for special land use permits pursuant to Section 10.03, applicants for a special land use permit for a communication tower/antenna shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subsection D.3, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator or Planning Commission to be necessary to assess compliance with the standards for approval in this section.
 - b. Legal description and ownership of the parent parcel (and leased parcel, if applicable).
 - c. The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a residential zoning district.
 - d. An inventory of existing towers, antennas, or sites approved for towers or antennas that are owned/used by the applicant or any affiliated entity within Barry County, or within any adjoining township/county within one mile of the area under the jurisdiction of the Planning Commission. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned/used by the applicant or any affiliated entity located

within the jurisdiction of the Planning Commission or within one mile of any boundary thereof, and indicate the owner/operator of such towers, if known.

- e. A landscape plan showing fencing and specific landscape materials.
 - f. Finished color and, if applicable, the method of camouflage and illumination.
 - g. A description of compliance with all applicable federal, state and local laws.
 - h.. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
 - i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other wireless sites owned or operated by the applicant or any affiliated entity in the City or Township.
 - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k. A description of the desirable characteristics justifying the suitability of the proposed location.
 - l. Point-of-view renderings of how the proposed tower will appear from the surrounding area.
 - m. Any additional information requested by the Planning Commission relevant to compliance with any provision of Chapter 10 pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
2. All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that fourteen-day period, or before expiration of that fourteen-day period, notifies the applicant (in writing or electronically) that the application is not administratively complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land

use application for this land use not more than 90 days after the application is considered to be administratively complete.

D. Specific standards for approval of special land use permit for wireless communication support structure. In addition to the generally applicable standards for approval of special land use permit applications pursuant to Section 10.04A-E the applicant for special land use approval of a wireless communications support structure, also sometimes referred to as a "tower", shall present evidence demonstrating compliance with the following standards specific to this land use:

1. Availability of suitable existing towers, other structures, or alternative technology. The applicant shall demonstrate that no existing tower, other structure, or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna, based on information submitted by the applicant showing any of the following:
 - a. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. There are other limiting factors that render existing towers and structures unsuitable.
 - g. An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
2. Setbacks. The tower base must be set back a distance equal to 70% of the height of the tower from any adjoining lot line, provided that the Planning Commission is authorized to approve a lesser minimum setback in circumstances where the tower is designed, in the event of failure, to fold over or otherwise collapse within

a fall zone less than the total height of the tower. The Planning Commission determination as to the appropriate minimum required setback shall be based on the tower design and other pertinent circumstances of each individual application, and shall be made pursuant to the general standards for special land use approval in Section 10.04. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.

3. Separation.

- a. Separation from off-site uses/designated areas. The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1, measured from the base of the tower to the lot line of the off-site uses and/or designated areas (straight line measurement):

Table 1	
Off-Site Use/Designated Area	Separation Distance
Single-family, two-family or multiple-family residential uses	200 feet or 300% of height of tower, whichever is greater
Areas in any residential zoning district	200 feet or 300% of height of tower, whichever is greater
Non-residentially zoned lands and nonresidential uses	None; only setbacks apply

- b. Separation distances between towers. The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (straight line measurement).

Table 2 Existing Towers - Types				
	Lattice (feet)	Guyed (feet)	Monopole 75 Feet in Height or Greater (feet)	Monopole Less Than 75 Feet in Height (feet)
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Feet in	1,500	1,500	1,500	750

Table 2 Existing Towers - Types				
	Lattice (feet)	Guyed (feet)	Monopole 75 Feet in Height or Greater (feet)	Monopole Less Than 75 Feet in Height (feet)
Height or Greater				
Monopole Less Than 75 Feet in Height	750	750	750	750

4. Maximum tower height. The maximum tower height is 300 feet.
5. Co-location. The tower shall be designed and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible antennas for at least two other users, unless the Planning Commission determines, pursuant to specific information submitted by the applicant, that this multiple-user requirement is not technically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special land use approval standards. Where a multiple-user tower is proposed, or is otherwise required by the Planning Commission pursuant to the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny space on the tower for compatible antennas of other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.
6. Security fencing; safety. The equipment compound shall be enclosed by security fencing or other suitable enclosure not less than six feet in height, to be determined by the Planning Commission, sufficient to restrict access to authorized personnel only. The tower shall be equipped with an appropriate anti-climbing device.
7. Landscaping and site maintenance. A six-foot-tall landscape screen is required to effectively screen the equipment compound from adjacent residential property, streets and public property, except in locations where the Planning Commission determines the visual impact of the equipment compound would be minimal. The tower site shall be mowed or otherwise maintained in such a manner as to effectively control undesirable or noxious weeds.
8. Lighting. The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If lighting is required, it shall be oriented inward so as to not project onto surrounding property or roadways, shall be designed to cause the least disturbance to surrounding properties, and shall be designed to minimize bird collisions with the tower.

9. Signs. The use of any portion of a tower/antenna or equipment compound for signs other than warning or equipment information is prohibited.
10. Weather resistance. The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area.
11. Noninterference. The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
12. Abandonment of unused towers or portions of towers. The applicant shall be required by deed, land contract, lease, or license agreement provisions to remove the tower or portion of tower and associated facilities upon cessation of the use of same. A tower or portion of tower that has no users for a continuous period of at least one year shall be considered abandoned, and shall be dismantled and removed from the premises within 90 days after receipt of notice of such abandonment to the owner of the subject premises.
13. Aesthetics.
 - a. Towers and antennas shall meet the following requirements:
 - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - b. Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.
14. Accessory structures. The design of the buildings and other accessory structures at or in an equipment compound shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them in with the surrounding environment. All such buildings/structures shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
15. Inspection and maintenance. An approved tower/antenna shall be inspected at regular intervals, not less than once a year, and shall be serviced as frequently as may be necessary to maintain same in a safe and weather-withstanding condition.

Reports of all inspections and maintenance shall be made available to the Planning Commission upon written request.

16. Minimum lot and yard requirements. For purposes of determining whether a proposed tower site complies with zoning regulations for the applicable district, including minimum lot area, maximum lot coverage, and yard requirements, the dimensions of the entire lot shall control where a proposed tower site is created pursuant to a lease or license agreement encompassing less than the entire lot.

E. Installation of antenna or other wireless communications equipment on existing tower or in existing equipment compound. The following provisions govern the installation of antenna apparatus and other wireless communications equipment on an existing communication tower or other wireless communications support structure or within an equipment compound on the site of an existing communication tower:

1. Where the existing tower has been granted special land use and site plan approvals, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures and proposed changes to the existing equipment compound are in complete conformance with the underlying special land use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures.
2. Where the existing tower has been granted special land use and site plan approvals, or has not been granted such approvals but is determined by the Zoning Administrator to otherwise be in compliance with Chapter 10 no further zoning approvals are required if the Zoning Administrator further determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures or proposed changes to the existing equipment compound comply with all of the following (as applicable):
 - a. The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure/existing equipment compound is itself in compliance with Chapter 10.
 - c. The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
 - d. The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit co-location.

- e. The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
- f. The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with subsection E.2.c, d, or e, but which otherwise is compliant with subsection E.2, is subject to zoning approval pursuant to approval of an amended site plan in accordance with all applicable provisions of this Ordinance, but without further special land use approval.

- 3. Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either preceding subsection E.1 or E.2, the installation shall be subject to special land use and site plan approvals in a zoning district where wireless communications support structure is designated as a special land use.

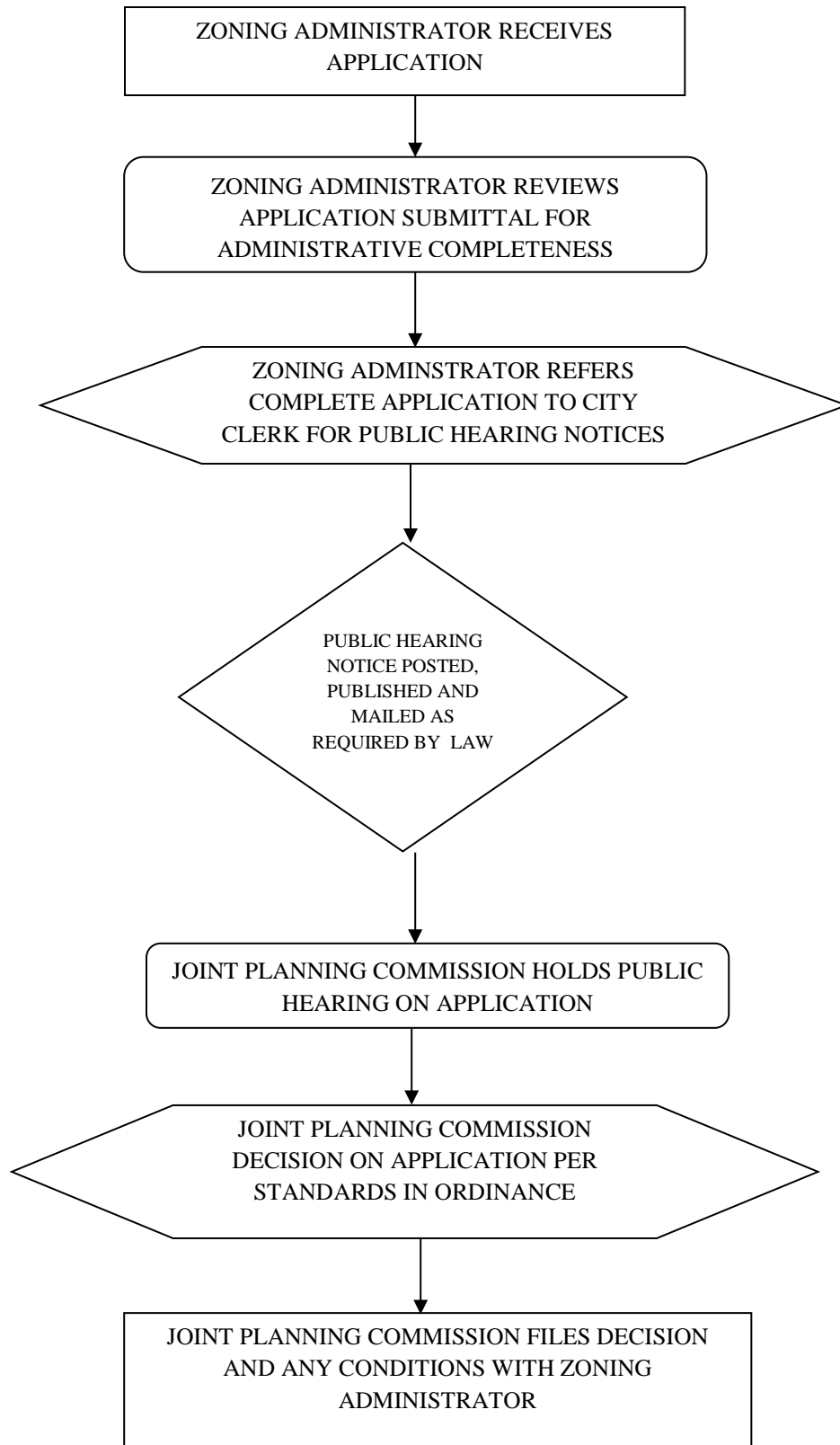
Item 6. Filling exceeding 1,000 cubic yards of material.

Filling activity exceeding 1,000 cubic yards of material is designated in Section 4.12 of this Ordinance as an “overlay” special land use in any zoning district. See Section 4.12 for the approval standards and other applicable provisions and requirements.

Item 7. Temporary event exceeding seven days.

A temporary event exceeding seven days is designated in Section 5.03E of this Ordinance as an “overlay” special land use in any zoning district. See Section 5.03E for the approval standards and other applicable provisions and requirements.

FLOW DIAGRAM FOR SPECIAL LAND USE APPLICATIONS



CHAPTER 11

SITE CONDOMINIUMS

Section 11.01 Review and Approval Requirements

- A. It is not the intent of this Ordinance or any other applicable ordinance of the Township or City to treat developments with a condominium form of ownership any differently than developments with any other form or ownership. This Ordinance therefore treats a “unit” within a site condominium development as a “lot” for purposes of this Zoning Ordinance (see definition of “lot” in Chapter 2).
- B. All proposed site condominium projects are subject to site plan review under this Ordinance (see Chapter 9).
- C. To assure the equality of treatment between site condominium subdivisions and more traditional subdivisions, site condominium subdivisions shall be subject to Article VIII of the Municipal Code of the City of Hastings (Site Condominium Projects), and any other applicable provisions of that Municipal Code pertaining to review and approval of condominium subdivisions; provided that any reference therein to the planning commission shall for these purposes mean the Joint Planning Commission.

CHAPTER 12

OFF STREET PARKING REQUIREMENTS

Section 12.01 Purpose

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles to ensure that adequate parking and access is provided in a safe and convenient manner, and that adjacent land uses are afforded reasonable parking protection from light, noise, air pollution and other effects of parking areas. In all zoning districts, off-street parking and loading spaces shall be in accordance with the standards and requirements in this Chapter or as otherwise specified elsewhere in this Ordinance.

Section 12.02 Location

- A. For all residential buildings, required parking shall be provided on the lot with the building or use it is required to serve.
- B. For all nonresidential buildings and uses, or mixed use buildings, required parking shall be provided within 300 feet of the building or use it is required to serve, measured by the pedestrian distance from the nearest point of the parking area to the nearest normal entrance to the building or use.

Section 12.03 Joint Use of Facilities

Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the minimum individual requirements.

Section 12.04 Requirements for Parking Areas

Every area established as an off-street public or private area for more than four vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, seasonal uses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- A. The parking area and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any zoning district within or outside the zoning jurisdiction of the Joint Planning Commission which permits residential or agricultural uses by a greenbelt 10 feet in width landscaped with lawn and low shrubbery clumps backed up by a solid planting of evergreen trees which are a minimum of five feet in height or other suitable screen device. A berm may be required to achieve the screening objectives of this provision. Additional or different landscaping and screening requirements may apply to off-street parking areas in specified districts pursuant to Section 5.06, or other provisions pertaining to specific uses.

- B. The parking area and its driveways shall be designed to provide adequate drainage; surfaced with concrete or asphalt pavement; and maintained in good condition, free of dust, trash, and debris. The Planning Commission may, however, approve a gravel parking area when it determines on a site-specific basis that a gravel surface would be more beneficial to the environment, compatible with the use to be served, and not detrimental to adjoining properties.
- C. The parking area and its driveways shall not be used for the repair, dismantling, or servicing of any vehicles.
- D. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.
- E. Lighting of the parking area and its driveways shall be so arranged as to reflect the light away from adjoining properties.
- F. No part of any required public or private parking area regardless of the number of spaces provided shall be closer than 10 feet to the street right-of-way or any adjacent residentially zoned or used property.
- G. Except as may be permitted in the Mixed Use District, all new or expanded parking areas shall be located to the rear or side of the building or use the parking area is intended to serve (with the "rear" defined for purposes of this provision as the area closest to the rear lot line). The Planning Commission may consider and approve a parking area in front of the building or use the parking area is intended to serve where a rear-side parking area location is not feasible due to existing conditions on the site or where a front parking area may be better suited for the site and the intended use.
- H. On corner lots the parking area shall be located in the interior of the lot to the greatest extent feasible, unless such a location is precluded by the location of existing buildings or structural obstacles.
- I. New or expanded parking structures (but not parking lots) may be approved with a zero setback from abutting street intersection rights-of-way where the ground floor of the structure contains floor area devoted to a permissible principal use (other than parking) along the street frontage.

Section 12.05 Table of Parking Requirements

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings, shall be determined in accordance with the following table, and the spaces so required shall be stated in the application for a building permit, and on a special land use application or site plan where either/both of same is required, and shall be irrevocably reserved for such use and shall comply with the other requirements of this Chapter. For any use not specifically listed, see Section 12.06:

	Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
1.	Residential	
	a. Residential, one-family and two-family	2 spaces for each dwelling unit
	b. Residential, multiple-family	2 spaces for each dwelling unit for developments of 1 to 24 units; 1.75 spaces for each dwelling unit for developments of more than 24 units
	c. Bed and breakfast facility	1 space for each sleeping room
2.	Institutional	
	a. Community colleges	1 space for every 3 students plus 1 for every faculty/administrator
	b. Churches/worship facilities	1 space for each 3 seats, maximum seating capacity in the main unit of worship
	c. Hospitals	1 space per two beds plus 1 per employee at largest shift
	d. Adult foster care facilities	1/2 space per bed plus 1 space for each employee
	e. Public or private elementary and junior high schools	1 space for each classroom plus 1 space for each 5 fixed seats of any area used for auditorium purposes or for each 35 square feet of seating area where there are no fixed seats
	f. Senior high school	1 space for each classroom and each other room used by students plus 1 space for each 10 full-time students in addition to the requirements for auditorium (see item k, "Stadium, sport arena or similar place of outdoor assembly," below)
	g. Private clubs or lodge halls	1 space for each 3 members allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes

	Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
	h. Stadium, sport arena or similar place of outdoor assembly	1 space for each 3 seats or 10 feet of bench
	i. Theaters and auditoriums (indoors)	1 space for each 4 seats plus 1 space for each 2 employees
	j. Libraries, museums, and noncommercial art galleries	1 space for each 250 square feet of gross floor area
	k. Day-care, preschool and nursery schools	1 space for each staff member plus 1 space for every 5 children or 1 space for every 10 children if adequate off-street dropoff facilities are provided
3.	Business and commercial	
	a. Automobile service stations, gasoline stations, convenience stores in conjunction with service or gas stations	2.5 spaces for each lubrication stall, rack, pit or pump, plus 1 space for every 75 square feet of gross floor area devoted to retail sales; plus 1 space for each employee
	b. Auto wash, auto reconditioning, auto cleaning (interior/exterior)	1 space for each 1 employee, plus 1 space for each 250 square feet of gross floor area devoted to reconditioning or cleaning
	c. Beauty parlor or barbershop	2 spaces for each chair, plus space for each employee
	d. Bowling alleys	5 spaces for each 1 bowling lane, plus employees
	e. Dance halls, pool or billiard parlors, roller or ice rinks, exhibition halls and assembly halls without fixed seats	1 space for each 3 seats or 1 space for each 100 square feet of gross floor area, whichever is greater
	f. Drive-in establishments	1 space for each 60 feet of usable floor area, with a minimum of 25 parking spaces
	g. Establishments for sale and consumption on the premises of beverages, food or refreshments, including cocktail lounges and taverns	1 space for every three persons allowed within the maximum occupancy load as determined by code, plus 1 space for each three employees

Use		Number of Minimum Off-Street Parking Spaces Per Unit of Measure
h.	Furniture and appliance, household equipment, repair shop, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	1 space for each 800 square feet of floor area, occupied in processing or manufacturing
i.	Laundromats and coin-operated dry cleaners	1 space for each 2 washing machines
j.	Miniature golf courses	3 spaces for each 1 hole plus 1 space for each 1 employee
k.	Mortuary establishments	1 space for each 50 square feet of assembly/seating area open to the public
l.	Motel, hotel or other commercial lodging establishments, ballrooms, or meeting rooms based upon maximum occupancy load	1 space for each 1 occupancy unit plus 1 space for each 1 employee, plus extra spaces for dining rooms
m.	Motor vehicles sales and service establishments, trailer sales and rental boat showrooms	1 space for each 400 square feet of gross floor area of sales room
n.	Open-air businesses	1 space for each 600 square feet of lot area, excluding required yards
o.	Restaurant, carry-out	1 space for each 60 square feet of usable floor area
p.	Retail stores, except as otherwise noted in this section	1 space for each 300 square feet of usable floor area
q.	Shopping center or clustered commercial	1 space for each 300 square feet of usable floor area
r.	Auto body shop	1 space for each 500 square feet of gross floor area plus 1 space for each employee
s.	Auto/truck sales	1 space for each 500 square feet of gross floor area for automobile sales

	Use	Number of Minimum Off-Street Parking Spaces Per Unit of Measure
	t. Health spas, gymnasiums, and health clubs	10 spaces for each club or spa plus 1 space for each 200 square feet of gross floor area in excess of 1,000 gross square feet
4.	Offices	
	a. Banks, savings and loan offices	1 space for each 200 square feet of gross floor area
	b. Business offices or professional offices except as indicated in the following item but including court houses and governmental offices	1 space for each 400 square feet of gross floor area
	c. Medical or dental clinics, professional offices of doctors, dentists or similar professions	1 space for each 175 square feet of gross floor area
5.	Industrial	
	a. General manufacturing establishments	1 space for every 650 square feet of gross floor area, plus 1 space per each 350 square feet of office space
	b. Light and limited industrial manufacturing	1 space for every 500 square feet of gross floor area, plus 1 space per each 350 square feet of office, sales or similar space
	c. Research and development	1 space for every 350 square feet of gross floor area plus 1 space per each 350 square feet of office, sales, or similar space
	d. Warehousing	1 space for every 2,000 square feet of gross floor area

Section 12.06 Uses Not Specified

For uses not specifically listed in Section 12.05 the minimum parking space requirements shall be determined as follows:

- A. The Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking needs to a use which is listed in Section 12.05. In such case, the same parking requirement shall apply.

- B. If the parking needs of the proposed use are not similar to the parking needs of a use listed in Section 12.05, the Zoning Administrator shall refer to engineering or planning manuals, publications and reports, or to the parking requirements used by other municipalities to determine the minimum parking requirements for the proposed use.

Section 12.07 Size of Parking Space

Off-street parking spaces shall be in accordance with the following minimum dimensions:

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0 (parallel parking)	12	8	23	20	28
30 to 53	13	9	20	33	53
54 to 74	18	9	21	39	60
75 to 90	25	9	19	44	63

Section 12.08 Off-Street Loading and Unloading

Off-street loading and unloading spaces, if provided, shall comply with the following requirements:

- A. Each loading space shall be at least 12 feet in width and 22 feet in length, and have a minimum clearance of 14 feet above grade.
- B. A loading space may be located within the front, side or rear yard, except for required landscape areas, provided that maneuvering of trucks and other vehicles shall take place on the site and not in the street right-of-way.
- C. Loading spaces that face, abut or are adjacent to a residential district shall be at least 50 feet from the residential district lot line and shall be screened on all sides by a solid fence, wall or berm at least six feet in height.

Section 12.09 Screening and Landscaping of Off-Street Parking Spaces

- A. This section shall apply to all off-street parking and loading areas serving non-residential and multi-family uses.
- B. When off-street parking and loading areas abut a residential district, the parking lot and loading area shall be screened from the residential district by a solid, ornamental masonry wall at least four feet tall that coordinates with and is complementary to the principal structure, in addition to the following requirements for landscape plant materials:

1. A greenbelt at least 10 feet in width landscaped with turf, four shrubs and one deciduous tree per each 20 linear feet along the property line, rounded upward.
 2. In lieu of a wall, the Planning Commission may permit or require one evergreen tree at least five feet in height planted every 10 feet in staggered rows along the adjacent property boundary.
 3. In lieu of a wall, berming may be installed consistent with Section 5.06C.6. Berming shall reduce the amount of required landscaping material by 20%.
- C. In addition to required screening around off-street parking and loading areas, all off-street parking areas containing more than 10 parking spaces shall provide the following landscaping within the parking lot envelope, described as the area including the parking lot surface and extending 18 feet from the edge of the parking lot:
1. Two canopy trees shall be required for each 900 square feet of total of the paved driveway and parking lot surface, provided that in no case less than two trees shall be provided. Utilizing landscape islands in the interior of the parking lot for tree plantings shall be encouraged, but not required.
 2. Landscaped areas in and around parking lots shall be no less than 10 feet in any dimension and no less than 150 square feet in area per tree. Landscaped areas shall be protected with curbing or other means to prevent overhang encroachment of vehicles.
 3. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements, and the parking lot landscaping required in the section cannot be credited toward required greenbelts.
 4. Parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area. Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sight distance for motorists, nor disrupt drainage patterns on the site or adjacent properties.
 5. Landscaped areas shall be covered by grass or other living ground cover. Wood chips or similar materials, with a minimum depth of three inches, is permitted for planting beds immediately surrounding plant material. Such material should be identified on the landscape plan.
- D. The Planning Commission may modify the off-street parking and loading area landscaping requirements specified in subsection C above, upon a site-specific determination that compliance with the generally applicable requirements will not be necessary or effective to satisfy the intent of the requirements as applied to the specific site. In making this determination, and determining the resulting modified requirements applicable to the parking and/or loading area(s) for a specific development on a specific site, the Planning Commission shall consider the following standards:

1. Whether existing natural vegetation that meets the requirements of this section will be preserved as part of the site plan.
2. Whether parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.
3. Whether the public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of this section.
4. Whether the intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
5. Whether greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of this section.

Section 12.10 Parking Variation

Where it can be demonstrated that the parking requirements of this chapter would result in more parking spaces than are necessary for the parking needs of a particular use, the Planning Commission may approve a parking plan with fewer spaces than required by this Ordinance according to the following requirements:

- A. The applicant must provide written evidence to the Planning Commission that the parking proposed on the site for the use is sufficient to meet the parking needs of those who will patronize the use as well as the parking needs for employees during the largest working shift. Such evidence may consist of: arrangements for nearby shared parking; evidence that the proposed use will also be patronized by pedestrians or by those using bus service or; evidence from the parking history of the proposed use or a use similar to the proposed use at other locations or; that there is sufficient space on the site for the required parking to be provided if it becomes necessary at a later time.
- B. If a plan is approved to allow fewer parking spaces than otherwise required such parking plan shall only apply to the stated use. Any other use shall comply with the requirements of this chapter before an occupancy permit is issued or such use shall first obtain approval from the Planning Commission in accordance with Section 12.10.A above before an occupancy permit is issued.

CHAPTER 13 SIGNS

Section 13.01 Intent

- A. It is the intent of this section to regulate the size, number, location and manner of construction and display of signs in the area under the jurisdiction of the Joint Planning Commission. This Chapter does not regulate official traffic and government signs, or official notices, the flags of any nation, government or corporate or noncommercial organizations, or religious symbols or commemorative plaques.
- B. The purpose of these regulations is to:
1. Protect the public health, safety and welfare of residents and visitors and to protect the natural beauty and distinctive character of the area under the jurisdiction of the Joint Planning Commission and to harmonize with the regulations of Rutland Charter Township.
 2. Protect all zoning districts from visual chaos and clutter.
 3. Eliminate distractions hazardous to vehicular traffic.
 4. Protect appropriately identified usages from too many and too large signs.
 5. Provide ability for the public to identify premises and establishments.
 6. Encourage creativity of sign design.
 7. Enhance the aesthetics of the community.
 8. Balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the rights of businesses and other nonbusiness uses to communication

Section 13.02 Definitions

As used in this Chapter or elsewhere in this Ordinance, the following terms shall have the meanings indicated:

- **ABANDONED SIGN.** A sign which no longer identifies or advertises a currently operating business, service, owner, product or activity and/or for which no legal owner can be found.
- **AREA (SIGN AREA).** The entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of one side of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. If a sign is

designed to have matter displayed on more than one side, and the surface area of all sides is not equal, the side with the greatest surface area shall be used to calculate the surface area of the sign for purposes of this Chapter. Where the parallel faces of any double-sided sign are more than 12 inches apart the square footage of each face shall be considered a separate sign and included in the calculation of total sign area.

- **AWNING SIGN.** A sign that is either attached to, affixed to, or painted on an awning or canopy.
- **BILLBOARD.** A sign directing attention to a use, activity or product not located, sold, manufactured or processed on the premises on which the sign is located.
- **BUSINESS CENTER.** An area designated for multiple businesses that are located within the same principal building, or on the same lot or parcel, such as a mall or plaza. These areas may utilize one main entrance/exit.
- **CHANGEABLE-COPY SIGN.** A portion of a sign on which copy is changed manually.
- **CLEAR SIGHT AREA.** An unoccupied space extending along the full width of the front lot line between side lot lines and extending 10 feet from the abutting street right-of-way. Such space shall remain clear of obstructions between three and 12 feet above grade.
- **DIRECTIONAL SIGN.** A sign giving directions or instructions for vehicular or pedestrian circulation. A directional sign shall not contain advertising display copy.
- **DIRECTORY SIGN.** A sign which displays names and/or location of occupants or users of the premises.
- **ELECTRONIC MESSAGE BOARD.** A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
- **GROUND-MOUNTED SIGN.** A sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.
- **ILLEGAL SIGN.** A sign which does not meet the requirements of this Ordinance and which does not have a legal nonconforming status.
- **NON-CONFORMING SIGN.** A sign which was legally erected prior to the effective date of this Ordinance.
- **POLE SIGN.** A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

- **PORTABLE SIGN.** A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other mobile structure with or without wheels.
- **SIGN.** Any device, structure, fixture, billboard or placard using graphics, symbols and/or written copy, which is designed, intended or used to advertise or inform.
- **SIGN OWNER.** The owner of a premises upon which a sign is located is presumed to be the owner of the sign unless facts are submitted to the Township showing other ownership.
- **TEMPORARY SIGN.** A sign designed for use for a limited period of time to announce special events, sales, or sale/lease or rental of property; or a sign political in nature and advocating action on a public issue or indicating a candidate for public office. Portable signs may be allowed as temporary signs, to the extent otherwise permissible as otherwise specified in this Ordinance.
- **WALL SIGN.** A sign attached to a wall and not projecting away from the wall more than 12 inches.

Section 13.03 Signs Allowed/Prohibited

Signs are allowed to be located according to the zoning district in which they are situated pursuant to the provisions of this Chapter pertinent to the particular zoning district; pursuant to Section 13.04 governing signs allowed in all zoning districts; and further pursuant to the General Standards and Requirements provisions of this chapter governing certain aspects of signs in various zoning districts. A sign not expressly allowed in a specific zoning district, or generally allowed in all zoning districts pursuant to this chapter, is prohibited.

Section 13.04 Signs Allowed in All Districts

The following types of signs are allowed in all zoning districts where the use to which the sign pertains is otherwise allowed, without a permit, but subject to the lighting, maintenance and locational requirements in Section 13.06 herein, and other applicable laws:

- A. Building address numbers; and one dwelling nameplate sign per dwelling, not exceeding two square feet in area, either freestanding or attached to the building.
- B. One sign not exceeding four square feet in area and six feet in height giving the name and/or occupation of a lawful home occupation or family business.
- C. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- D. Legal notices posted by any governmental body.

- E. Identification, informational or directional signs, or other types of signs lawfully erected or required by any governmental body including, but not limited to, the State of Michigan, Barry County, Rutland Charter Township, or the City of Hastings.
- F. Governmental use signs erected by governmental bodies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, governmental buildings, or other public places.
- G. Signs directing and guiding traffic and parking on private property, including private off-street parking areas open to the public, provided any such sign does not exceed four square feet in area, and is limited to traffic control functions, and bears no advertising matter.
- H. Historic signs designating sites recognized by the State of Michigan as Centennial Farms or Historic Landmarks, provided any such sign does not exceed 16 square feet in area.
- I. Signs posted to control or prohibit trespassing, hunting or fishing upon private property or public property.
- J. Essential service signs designating utility lines, railroad lines, hazards, or precautions, properly erected and placed by a public or private utility company or railroad, or a governmental entity.
- K. Headstones and monuments in public or lawfully established private cemeteries, and memorial signs or tablets which are either cut into the face of a masonry surface, or constructed of bronze or other incombustible materials and located flat on the face of a building.
- L. Banners and similar devices erected by a governmental entity to advertise a public event or civic function sponsored by a governmental entity.
- M. Temporary Election/Campaign signs.
- N. One Real Estate Sign per lot, located on-premises only while the premises are actually on the market for sale, rent or lease, and not exceeding eight square feet in area; provided, however, that on a corner lot or lot with more than 330 feet of road frontage, more than one Real Estate Sign is allowed so long as the aggregate total of all such signs does not exceed eight square feet in area.
- O. Temporary construction signs designating architects, engineers, or contractors in conjunction with construction work under construction, not exceeding one per project of no more than eight square feet for single family dwelling and two-family dwelling construction projects, and not exceeding 32 square feet in area for all other types of construction projects.
- P. Signs or other special decorative displays used for holidays, public demonstrations, or promotion of civic welfare or charitable purposes, only when authorized by the

Zoning Administrator, based upon the following standards:

1. The size, character and nature of the sign or display shall be compatible with the nature of the matter being promoted.
 2. The duration or time period during which the sign or display will be utilized shall be reasonably related to the nature of the matter being promoted and the proper promotion of same. Arrangement shall be made for the prompt removal of the sign or display after the conclusion of the matter being promoted.
 3. The sign or display shall not affect light or air circulation for lots which are either adjoining or in the surrounding neighborhood of the proposed sign or display.
 4. The sign or display shall not constitute a traffic hazard.
 5. The sign or display shall not have an adverse or detrimental impact on adjoining lots or the surrounding neighborhood.
- Q. One temporary auction or garage sale/yard sale sign located on the premises where such a sale is lawfully being conducted, only while the sale is in progress, and not exceeding 8 square feet in area.
- R. One temporary event sign, not to exceed 32 square feet, such as for special events and sales as defined in this Ordinance. The display of any such temporary event sign shall be limited to 45 days in advance and the day of the event. No such sign shall be redisplayed on the same premises within 90 days of a previous temporary event sign display.

Section 13.05 Permitted Signs

In the Mixed Use District (MU) and Light Industrial District (LI) the following signs may be permitted for each principal use occupying one lot or parcel, upon application for and issuance of a sign permit pursuant to Section 13.08 (where required). For multiple uses on one lot see requirements for business centers (subsection D).

- A. Signs allowed in all zoning districts pursuant to Section 13.04.
- B. Wall signs on building walls facing a public right-of-way or parking area, with a sign area not exceeding 20% of the building wall area upon which affixed, or 90% of the width of the wall, but subject to a total area limit of 200 square feet; except for buildings over 150,000 square feet in area the total area limit is 550 square feet.
- C. One pole sign or one ground-mounted sign in accordance with Option 1 or Option 2 in the table below; provided a permissible business use on a corner lot shall be permitted one ground-mounted sign on each street frontage in accordance with Option 1 or Option 2 in the table below:

Minimum Setback (feet)	Sign Type	Area (square feet)	Height (feet)
Option 1 10	Pole	32	10
OR			
	Ground-mounted	50	6
Option 2 20	Pole	75	20
OR			
	Ground-mounted	100	6

D. Business centers:

1. One pole sign or one ground-mounted sign identifying the name of the business center; provided a business center located on a corner lot is permitted one such sign on each street frontage. For type, area, height, and setback, either Option 1 or Option 2 from the above table applies.
2. Individual establishments within the business center are permitted one wall or one awning sign with an area not exceeding 20% of the wall area or 50% of the awning area, but in either instance not exceeding 200 square feet in area.

E. Billboards are allowed on otherwise lawful lots within business, commercial or industrial areas as defined in the Highway Advertising Act of 1972 (*MCL 252.301 et. seq.*) bordering interstate highways, freeways or primary highways as defined in that Act, in accordance with the following regulations.

1. Not more than three billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the same street or highway. The linear mile measurement shall not be limited to the boundaries of the area over which this JPC Zoning Ordinance applies where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard.

Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side-by-side to one another) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection B. below. Stacked billboard faces (i.e., two parallel billboard faces facing the same direction with one face being directly above the other) are not permissible at any location.

2. No billboard shall be located within 1,000 feet of another billboard abutting either side of the same street or highway; provided the spacing requirement for an

electronic message board from another electronic message board on either side of the same street or highway facing the same direction of oncoming traffic shall be increased to 1,750 feet (where such an electronic message board is an otherwise permissible type of sign, in the MU District, only).

3. No billboard shall be located within 200 feet of a residential zone and/or existing residence, church, or school. If the billboard is illuminated, this prohibited distance shall instead be 300 feet.
4. No billboard shall be located closer than 5 feet from a property line adjoining a public right-of-way or 3 feet from any interior boundary lines of the premises on which the billboard is located.
5. The surface display area of any side of a billboard shall not exceed 200 sq. feet. In the case of billboard structures with tandem billboard faces, the combined surface display area of both faces shall not exceed 200 sq. feet.
6. The height of a billboard shall not exceed 25 feet above (1) the grade of the ground on which the billboard sits or (2) the grade of the abutting roadway, whichever is higher.
7. No billboard shall be on top of, cantilevered, or otherwise suspended above the roof of any building.
8. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
9. The billboard shall, in addition to complying with the above regulations, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended. In the event of a conflict between the applicable provisions of said Act and the applicable provisions of this Ordinance, the provisions of this Ordinance shall be controlling to the extent allowed by law.

Notwithstanding the foregoing, an otherwise permissible sign in any of these districts shall not include an electronic message board, except in the MU District where any such electronic message board shall be subject to the design standards and use limitations specified Section 13.06.H.

Section 13.06 General Standards and Requirements

All otherwise permissible signs shall comply with the following standards and requirements, unless a more specific standard or requirement is specified in this chapter for a specific type of sign or in a particular circumstance.

- A. Other codes. All signs shall comply with applicable provisions of the building and electrical codes of the City of Hastings.
- B. Setbacks/location. All signs shall be setback at least 10 feet from all lot lines and any street or road right-of-way; and shall otherwise not be located so as to obstruct the clear sight area.
- C. Illumination. Where signage is otherwise allowed to be illuminated, the illumination shall not be flashing, and shall be arranged so that light is deflected away from adjacent properties and so no direct source of light is visible to any driver or pedestrian located in a public street or private road right-of-way or from any premises in a residential district or used for residential purposes. In addition, all exterior lighting of signs shall be downward facing.
- D. Stationary, on-premises signage. All signs shall be stationary, and shall pertain only to the business or activity conducted on the premises; except non-commercial signs and billboards as allowed in this chapter.
- E. Changeable-copy signs and electronic message boards. All otherwise permissible pole signs and ground-mounted signs may include changeable-copy signs, or electronic message boards (in MU District only), subject to the design standards and use limitations specified in 13.06.H
- F. Design standards for wall signs. A wall sign shall not extend beyond the vertical edge of the wall to which it is affixed, and shall not extend more than three feet above the roof line of a building for more than 40% of the sign width.
- G. Design standards for ground-mounted signs. Ground-mounted signs shall be constructed of wood, brick, concrete, stone (or equivalent imitation stone) or other similar material as approved by the Zoning Administrator in the sign permit process. The base of any ground-mounted sign shall be landscaped with drought-tolerant plant materials that do not obscure the visibility of the sign itself, or encroach into the clear sight area.
- H. Design standards and use limitations for electronic message boards. Electronic message board are permitted in the MU District, only, and subject to the following design standards and use limitations:
 - 1. An electronic message board may change messages and/or background images/color if the rate of change between two static messages and/or images/background color is not more frequent than one change per eight seconds, and each change is complete in one second or less, and all such changes are otherwise compliant with subsections 2 and 3 herein. In addition, animation and flashing features are prohibited, but frame effects are permitted, subject to compliance with subsections 2 and 3 herein.
 - 2. An electronic message board shall be equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions.

3. An electronic message board shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle meter at a preset distance, and using the following brightness measurement process:
 - a. At least 30 minutes past sunset, use a foot candle meter to record the ambient light reading for the area, with the digital sign off or displaying all black copy.
 - b. The reading shall be taken with the meter aimed directly at the digital sign at the appropriate pre-set distance (100 feet from source).
 - c. Turn on the digital display to full white copy and take another reading.
 - d. If the difference between readings is 0.3 foot candles or less, the brightness is properly adjusted.
- I. Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation, and be subject to periodic inspection by the Zoning Administrator. In addition, all signs including sign surfaces shall be maintained so as to not have a dilapidated appearance due to leaning, peeling, missing pieces, or other visually distracting or blighting condition. A sign which is not maintained in accordance with these requirements or which otherwise no longer serves the purpose for which it was intended, or is abandoned, shall be removed by the owner within 30 days of written notice by the Zoning Administrator.

Section 13.07 Prohibited Signs

The following types of signs and/or signage features or devices are prohibited:

- A. Private use signs located on public land or in a public street or private road right-of-way; except otherwise permissible traffic control signage for such public land or street/road, and otherwise permissible temporary real estate signs and temporary political signs as specified in Section 13.04
- B. Abandoned signs.
- C. Signs imitating or resembling official traffic or governmental signs or signals.
- D. Flashing or intermittently illuminated signs.
- E. Trailers, vehicles, or other mobile objects that are clearly used primarily for advertising purposes.
- F. Portable signs, except where otherwise allowed by this Chapter as a temporary sign, only.

Section 13.08 Sign Permits and Application Procedures

- A. Permits required. A sign permit shall be required for the erection, use, construction or alteration of all signs, except those exempted in this Ordinance. For purposes of this section "alteration" shall mean any change to an existing sign, including changing the copy to promote, advertise or identify another use. Alteration shall not mean normal maintenance of a sign.
- B. Application. An application for a sign permit shall include the following, and be filed with the Zoning Administrator:
1. Name, address and telephone number of the applicant and the person erecting the sign.
 2. Address or permanent parcel number of the property where the sign will be located.
 3. A sketch showing the location of the building, structure or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with the setbacks from lot lines.
 4. Drawings of the plans and specifications, method of construction and attachment to structures or ground stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than 30 pounds per square foot of area.
 5. Any required electrical permit, attached to the application.
 6. The zoning district in which the sign is to be located.
 7. Any other information the Zoning Administrator may require in order to demonstrate compliance with this chapter.
 8. Signature of the applicant or the person erecting the sign and signature of the property owner.
 9. Any required application fee.
- C. Issuance of sign permit. The Zoning Administrator shall issue a sign permit if all provisions of this chapter and other applicable city ordinances are met. A sign permit expires one year from the date of issuance unless the permitted sign has been installed within the one year period, or unless the Zoning Administrator has granted an extension of not more than one year upon good cause shown. The Zoning Administrator shall deny a permit extension request if the sign for which the permit was issued would no longer be approvable pursuant to this chapter.

Section 13.09 Nonconforming Signs

- A The legal nonconforming status of a sign shall be lost, and the sign shall be removed or otherwise brought into compliance with this Ordinance, if any of the following apply:
1. The sign is relocated.
 2. The structure or size of the sign is altered except toward compliance with this Chapter. This does not refer to change of copy or normal maintenance.
 3. The sign suffers more than 50% deterioration, as measured by the renovation/replacement cost.
 4. The sign is abandoned or otherwise no longer serves the purpose for which it was intended, for one year or longer.
 5. The sign is structurally altered so as to change the shape, size, type, or design of the sign.
- B. Nonconforming signs may be maintained and repaired so as to continue the useful life of the sign. If a nonconforming sign is damaged or destroyed, resulting in a loss of 60 percent or more of its replacement value by fire, flood, wind or other such calamity, its reconstruction shall be in accordance with the provisions of this Ordinance. Any such restoration must be started within a period of one year at the time of such damage and diligently prosecuted to completion.
- C. Except where a provision of Chapter 14 pertaining to non-conformities, generally, conflicts with any specific provision of this Section 13.09, Chapter 14 shall apply to legal nonconforming signs.

CHAPTER 14 NON-CONFORMITIES

Section 14.01 Scope of Regulations

This chapter governs lawfully established nonconforming uses, buildings, structures, and lots. Nothing herein shall be interpreted as authorization for or approval of the initiation, continuance or reestablishment of an unlawful use, building/structure or lot.

Section 14.02 Continuation of Nonconforming Uses and Buildings/Structures; Eventual Termination

Subject to the provisions of this chapter, a lawful use, building/structure, or lot which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance then on the effective date of such amendment, may be continued even though such use, building/structure, or lot does not conform with the provisions of this Ordinance or applicable amendment thereof. A change in the ownership, tenancy or occupancy of a use, building/structure, or lot shall not affect such continuation rights. As a matter of policy of the State of Michigan, and of Rutland Charter Township and the City of Hastings, all nonconforming uses and nonconforming buildings/structures are intended to eventually terminate, to facilitate the use of property and the development of buildings/structures thereon that fully conform to the requirements of this Ordinance.

Section 14.03 Repair and Maintenance of Nonconforming Use or Building/Structure

Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with law, may be made provided that no such work shall include structural alterations which are likely to extend the reasonably anticipated useful life of the building/structure.

Section 14.04 Reconstruction/Restoration of Nonconforming Use or Building/Structure

If a nonconforming use or nonconforming building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, the use/building/structure shall not be repaired or otherwise reconstructed or restored except in conformity with this Ordinance. Where such damage or destruction is less than 50% of the fair market value of the use/building/structure at the time of such damage or destruction, the use/building/structure may be repaired or otherwise reconstructed or restored so as to be not more nonconforming than at the time of the damage or destruction. Any such reconstruction/restoration right shall be considered terminated by abandonment if reconstruction/restoration is not started within six months from the time of the damage or destruction. For purposes of this provision there shall be a rebuttable presumption that the "fair market value" of a building/structure is the same as the "true cash value" for that building/structure according to the most recent property tax assessing records of the municipality

with assessing jurisdiction over the subject real property on which such building/structure is located.

Section 14.05 Expansion of Nonconforming Use or Building/Structure

- A. A nonconforming use or nonconforming building/structure shall not be expanded, extended, enlarged, or otherwise altered, unless:
1. Such expansion, extension, enlargement or alteration is, by itself, in conformity with the provisions of this Ordinance and does not aggravate the existing nonconforming condition; or,
 2. Such expansion, extension, enlargement or alteration is authorized by the Zoning Board of Appeals pursuant to Chapter 15 and upon a showing that the requested expansion, extension, enlargement or alteration will not substantially extend the otherwise reasonably anticipated useful life of the nonconforming use or building/structure.

Section 14.06 Substitution of Nonconforming Use

- A. A nonconforming use shall not be substituted for or changed to any other nonconforming use except as may be authorized by the Zoning Board of Appeals pursuant to Chapter 15, and upon a finding that:
1. The proposed new use will substantially decrease the degree of nonconformity.
 2. The proposed new use will be more compatible with adjacent uses than the prior nonconforming use.
 3. No structural alterations are required to accommodate the proposed new nonconforming use.

Section 14.07 Reestablishment and Discontinuation of Nonconforming Use or Nonconforming Building/Structure

- A. A nonconforming use shall not be reestablished after it has been changed to a conforming use or a more restrictive use. A nonconforming building/structure shall not be reestablished after it has been changed to a conforming or less nonconforming building/structure.
- B. A nonconforming use or nonconforming building/structure shall not be reestablished after being discontinued, vacant, not conducted or abandoned without an intention to resume same. Such an intention shall be presumed after discontinuation, etc. for a period of one year.

Section 14.08 Nonconformity Due to Rezoning or Text Amendment; Nonconformity Due to Special Land Use Approval Requirement

- A. The provisions of this article shall also apply to uses, buildings/structures, and lots which hereafter become nonconforming due to any rezoning or a change in the text provisions of this Ordinance.
- B. A land use designated as a special land use by any provision of this Ordinance applicable to the district in which the land use is located, but in existence before the special land use approval requirement was in effect, may be continued pursuant to Section 14.02 herein but shall also be subject to the other provisions of this chapter unless/until special land use approval has been granted for the land use pursuant to Chapter 10.

Section 14.09 Existing Nonconforming Lots; Combination of Lots Under Single Ownership (Zoning Lots)

- A. Any lot of record created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zoning district may be developed for a lawful conforming use if the lot conforms in all respects to the zoning requirements in effect as of the date of such recording, and complies with all other current requirements of this Ordinance. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.
- B. Notwithstanding the foregoing subsection A, where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be combined for zoning purposes sufficient to create a single conforming buildable “zoning lot” (or, as applicable, a single less nonconforming zoning lot).

CHAPTER 15 ZONING BOARD OF APPEALS

Section 15.01 Membership and Appointment

The Zoning Board of Appeals shall be the City of Hastings Zoning Board of Appeals which shall be subject to the requirements of this Ordinance.

- A. Pursuant to the Michigan Zoning Enabling Act, Act 70 of 2006, as amended, there shall be a Zoning Board of Appeals consisting of six members, each to be appointed by the mayor with the approval of council for overlapping terms of three years, running from January 1 of the year appointed. Vacancies shall be filled by appointment for the unexpired term. The Zoning Board of Appeals shall elect its own chairperson and vice chairperson.
- B. The mayor with the approval of the council shall appoint two alternate members for the same term as regular members. A member of the city council may serve as an alternate member of the Zoning Board of Appeals. Alternate members shall serve in the case of absence of a regular member or the inability of a regular member to serve due to conflict of interest. The alternate member, having been appointed shall serve on the case until a final vote has been made. Alternate members shall have the same voting rights as regular members.
- C. One member of the Zoning Board of Appeals may be a member of the Joint Planning Commission. An employee or contractor of the city council may not serve as a member of the Zoning Board of Appeals. A member of the city council shall not serve as the chairperson of the Zoning Board of Appeals.
- D. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the city council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or city council. The member may consider and vote on the other unrelated matters involving the same property.
- E. Members of the Zoning Board of Appeals may be removed by the city council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

Section 15.02 Jurisdiction and Powers

The Zoning Board of Appeals shall have all the powers and jurisdiction prescribed by applicable law, and by the provisions of this Ordinance, including the following:

- A. Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. The Zoning Board of Appeals may

reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be done, and to that end it shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit. See Section 15.05.

- B. Act upon all questions as they may arise in the administration and enforcement of this Ordinance, including interpretation of the Zoning Map.
- C. Hear and decide applications for a nonuse variance from dimensional requirements of the Zoning Ordinance, or from any other nonuse-related requirement in the Ordinance, if there are practical difficulties in the way of carrying out the strict letter of the requirement, so that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done. See Section 15.06.
- D. Hear and decide applications for a land use variance. See Section 15.08.
- E. Hear and decide requests to expand, extend, enlarge, or otherwise alter a lawful nonconforming use or nonconforming building/structure. See Section 14.05A.2.
- F. Hear and decide requests to change a nonconforming use to another nonconforming use. See Section 14.06.

Section 15.03 Employees

The Zoning Board of Appeals may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and available for that purpose.

Section 15.04 Meetings

Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals may determine, and shall be at sufficiently frequent intervals, in the discretion of the board, for the efficient conduct of its business. All meetings shall be open to the public. A quorum shall consist of four members.

Section 15.05 Appeals

Appeals to the Zoning Board of Appeals in any matter over which it has jurisdiction may be taken by any party aggrieved by the decision or order appealed from, or by an officer, department, board or agency of a municipality affected by such decision or order. A notice of appeal, specifying the grounds thereof, shall be filed with the Secretary of the Zoning Board of Appeals within 30 days after the date of the action appealed from. A copy of the notice of appeals shall promptly be served upon the officer from whom the appeal is taken, whom shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action in respect to which the decision or order appealed from was made unless the officer from whom the appeal is taken certifies to

the Zoning Board of Appeals that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order granted by the Zoning Board of Appeals or by the Circuit Court.

Section 15.06 Applications

All appeals and applications for any matter within the jurisdiction of the Zoning Board of Appeals shall be submitted and processed under the following procedures:

- A. The appeal or application shall be filed with the Zoning Administrator, and shall include all of the following:
 1. A completed appeal or application form, using the applicable form prescribed by the Zoning Administrator.
 2. All materials on which the applicant intends to rely in support of the appeal or other application.
 3. For any appeal or other application involving specific property, such as an application for variance relief, a site plan or diagram of the subject property showing, at a minimum, all of the following:
 - a. The location of the subject property with respect to all abutting streets.
 - b. The dimensions of the subject property.
 - c. The location of all existing buildings and structures on the subject property, and on all adjoining properties.
 - d. The location of all proposed buildings/structures on the subject property.
 - e. The existing and proposed uses of the existing and proposed buildings/structures on the subject property.
 - f. The existing and proposed setback of each building/structure which is the subject of the appeal or other application, measured in each instance to the street line and all pertinent lot lines.
- B. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing or other consideration by the Zoning Board of Appeals unless and until it is administratively complete as determined by the Zoning Administrator.
- C. The Zoning Administrator shall promptly refer an administratively complete appeal/application to the City Clerk for further processing and consideration by the Zoning Board of Appeals.

Section 15.07 Non-Use Variance Standards and Conditions

A. Standards: No variance from a dimensional or other non-use provision or requirement of this ordinance shall be authorized by the Zoning Board of Appeals unless the Zoning Board of Appeals finds from reasonable evidence that:

1. By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the Ordinance.
2. The exceptional or extraordinary conditions applying to the specific property do not apply generally to other properties that are subject to the requirement at issue.
3. The variance will not be of substantial detriment to adjoining property.
4. The variance will not materially impair the intent and purpose of this ordinance, or the public health, safety and welfare.
5. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties that are subject to the requirement at issue.

In determining whether the standards for variance relief have been shown to be satisfied the Zoning Board of Appeals shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
- The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
- Increased costs associated with complying with the strict letter of the ordinance are not a basis for variance relief.
- Increased financial return if variance relief is granted is not a basis for variance relief.
- The Zoning Board of Appeals may find the standards for relief from the strict letter of the ordinance have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the Zoning Board of Appeals shall grant only such lesser variance relief as is necessary.

B. Conditions. The Zoning Board of Appeals may attach conditions or limitations upon a variance, where such are necessary to insure that public services and facilities affected by

a requested variance and the associated land use or activity will be capable of accommodating increased service and facility loads caused by the variance and associated land use or activity, and to protect the natural environment and conserve natural resources and energy, and to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Prior to attaching a condition or limitation to a variance, the Zoning Board of Appeals shall also specifically determine the following:

- a. That the condition or limitation is designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity associated with the variance under consideration, residents and land owners immediately adjacent to the land use or activity, and the community as a whole; and,
- b. That the condition or limitation is related to the valid exercise of the police power, and purposes which are effected by the proposed variance; and,
- c. That the condition or limitation is necessary to meet the intent and purpose of the zoning ordinance, is related to the standards established in the ordinance for the variance under consideration and associated land use or activity, and is necessary to insure compliance with those standards.

Any such conditions and limitations may impose greater or more restrictions and requirements than are included in this Ordinance generally, and may include the provision of reasonable financial security to guarantee performance. Violation of any such conditions or limitations shall be deemed a violation of this Ordinance.

Section 15.08 Land Use Variances

An application for a land use variance, to permit a land use not otherwise allowed in that zoning district, may be considered by the Zoning Board of Appeals but only according to the following procedures:

- A. The applicant shall first apply to rezone the property to that zoning district that permits the desired use, and/or shall apply for a text amendment to add the desired use as a permitted use or special land use in the existing zoning district. If the rezoning and/or text amendment application is denied by the city council, the applicant may then file an application for a use variance from the Zoning Board of Appeals.
- B. Such application shall be filed with the City Clerk.
- C. The City Clerk shall forward the application materials to the Joint Planning Commission for consideration at its next regularly scheduled meeting. The Joint Planning Commission shall review the request with attention to the planning classification of the Joint Planning Commission Master Plan for the property in question. The Joint Planning Commission shall then make an advisory recommendation to the Zoning Board of Appeals.

- D. The variance request shall then be considered by the Zoning Board of Appeals in accordance with the hearing procedures in this chapter or as otherwise required by law.
- E. In order to approve a use variance request the Zoning Board of Appeals shall determine that an unnecessary hardship exists and that the variance request meets all of the following standards:
 - 1. The property could not be used (be put to a reasonable use) for any of the uses allowed in that zone.
 - 2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
 - 3. The use would not alter the essential character of the area.
 - 4. The problem is not self-created.
 - 5. The spirit of this Ordinance is observed, public safety secured and substantial justice done.
- F. In granting a use variance the Zoning Board of Appeals may prescribe reasonable conditions, as authorized by law. See Section 15.07B.

Section 15.09 Public Hearings

- A. Upon the filing of any appeal, or other application in any matter over which the Zoning Board of Appeals has jurisdiction by law or ordinance, the Zoning Board of Appeals shall hold a hearing on such appeal or application preceded by notice as required by law, or pursuant to City policy if such policy requires notice beyond what is required by law.

Section 15.10 Fees

Upon the filing of any appeal or application to the Zoning Board of Appeals by any person other than an officer, department, board or agency of the City of Hastings or Rutland Charter Township, the appellant or applicant shall pay a fee as set by resolution of the City Council to defray the cost of the hearing of the matter.

Section 15.11 Time Limit for Approved Variances and Reapplication

- A. Any variance granted under the provisions of this Ordinance shall become void unless the construction, occupancy or other actions authorized by such variance have commenced within one year of the granting of such variance.
- B. Upon written application filed with the Zoning Administrator prior to the termination of the one-year time period, the Zoning Board of Appeals may authorize a single extension of the time limit for an additional period of not more than one year upon a finding that the circumstances creating the need for the extension were largely beyond the control of the applicant.

- C. No application for a variance that has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted within one year from the date of the original filing of an application for the variance, except on grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original application, found by the Zoning Board of Appeals to be valid.

Section 15.12 Vote Necessary for Decision

The final disposition of any matter of the Zoning Board of Appeals shall require the concurring vote of four of its members.

Section 15.13 Minutes and Records

Minutes shall be kept of the proceedings of the Zoning Board of Appeals showing the findings of fact and resulting conclusions, and the vote of each member upon every motion, or if absent or failing to vote, indicating that fact. Records of the official actions of the Zoning Board of Appeals shall be filed in the office of the city clerk/treasurer and shall be a public record.

Section 15.14 Appeals of Zoning Board of Appeals Decision

A decision of the Zoning Board of Appeals shall be final. Any party aggrieved by any such decision may appeal to the circuit court for Barry County as provided by law. Such appeal shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing signed by the chairperson, or 21 days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made, whichever occurs first. The records of the Zoning Board of Appeals shall be made available for the court's review.

CHAPTER 16 ADMINISTRATION AND ENFORCEMENT

Section 16.01 Administration and Enforcement

- A. Administration. This Ordinance shall be administered by the Zoning Administrator and any designees of the Zoning Administrator. The Zoning Administrator shall be appointed and have the various duties as specified herein.
- B. Enforcement. This Ordinance shall be enforced by the ordinance enforcement personnel designated by the City, in cooperation with the Zoning Administrator.

Section 16.02 Zoning Administrator Appointment and Duties

- A. Appointment. The Zoning Administrator shall be appointed by the Rutland Charter Township Board for such term and subject to such conditions as the Township Board may determine.
- B. Duties. The Zoning Administrator shall have all such duties as may be specified in this Ordinance, and as may otherwise be lawfully assigned, including the following specific duties:
 - 1. Review for administrative completeness all applications for zoning permits/zoning approvals, such as applications for zoning compliance permits, sign permits, temporary event permits, special land use permits, site plan review, and all other zoning-related matters, except where the duty to review the matter is expressly assigned by this Ordinance to another official.
 - 2. Approval or disapproval of permit applications where this Ordinance specifically assigns such authority to the Zoning Administrator, such as with respect to zoning compliance permits, temporary event permits, sign permits, and minor site plan approvals not otherwise required by this Ordinance to be reviewed by the Planning Commission.
 - 3. Promptly inform the City Clerk of all administratively complete applications required to be noticed for public hearing, and coordinate with the City Clerk with respect to the proper processing of such applications for hearing. See Section 16.04.
 - 4. Inform the Building Official of all issued and denied zoning permits/approvals, and otherwise coordinate with the Building Official with respect to all permit applications and other zoning matters reviewed by the Zoning Administrator under this Ordinance that may have implications for the responsibilities of the Building Official.
 - 5. Keep accurate records of all zoning matters with which the Zoning Administrator is involved, and a record of all fees submitted with zoning-related applications.

6. Attend such meetings of the Joint Planning Commission as may be requested by the Joint Planning Commission, and keep the members of the Joint Planning Commission informed of matters pertaining to zoning.

Section 16.03 Application/Review/Permit Fees

The Hastings City Council is authorized to establish, by motion or resolution, fees for consideration of all applications for a permit or other review/approval under this Ordinance or a related statute by the Zoning Administrator, Joint Planning Commission, Zoning Board of Appeals, Hastings City Council, and any other municipal personnel involved with the consideration of any such matter pursuant to this Ordinance. Such matters for which a fee may be established include but are not limited to: zoning compliance permit, temporary event permit, special land use permit, site plan review, variance, ordinance interpretation, appeal of Zoning Administrator determination, Zoning Ordinance text amendment, Zoning Map amendment (rezoning), and amendment of Master Plan (text or map). The fees may be established at different levels for matters being considered at a regular meeting and matters being considered at a special meeting; and may be established as a flat fee or based on actual costs incurred with respect to administrative review, processing, and all aspects of consideration of the matter, with specified deposit and escrow amounts. All such fees/deposits applicable to a particular application shall be paid before an application is considered administratively complete and processed for public hearing or other consideration. Such fees may be changed by motion or resolution of the Hastings City Council at any lawful meeting, and shall take effect immediately unless a later effective date is specified by the Council action.

Section 16.04 Filing and Processing of Zoning Applications; Public Notice Requirements

- A. Filing and Processing of Applications. Except as may otherwise be specified in this Ordinance, all applications for zoning permits and other zoning-related matters shall be filed with the Zoning Administrator. The Zoning Administrator shall promptly forward to the Hastings City Clerk a copy of each filed application, along with any fee remitted with the application. The Hastings City Clerk shall coordinate with the Zoning Administrator to assure each application is thereafter processed as required by law and/or this Ordinance.
- B. Public Notice. All applications for land use or development approval requiring a public hearing shall be noticed for public hearing in accordance with all applicable requirements of the Michigan Zoning Enabling Act and the Michigan Open Meetings Act, and any other applicable requirements of this Ordinance and charter requirements and policies of the City of Hastings. The City Clerk or the designee of same shall be responsible for all public hearing notices.

Section 16.05 Zoning Text and Zoning Map Amendments

- A. This Ordinance may be amended, supplemented, or otherwise changed by ordinance, in accordance with this section, applicable legal procedures, and any relevant provisions of agreements between the City of Hastings and Rutland Charter Township.

- B. Amendments may be initiated by the Joint Planning Commission, the Hastings City Council, the Rutland Charter Township Board, or on application by any person.
- C. Applications for a zoning text amendment or zoning map change shall be filed with the Hastings City Clerk on an application form provided by the City Clerk, which shall contain the following information as applicable:
 - 1. Name, address and phone number of the applicant.
 - 2. Name, address and phone number of the property owner.
 - 3. A legal description and street address accompanied by a drawing illustrating the location of the property (for a Zoning Map change).
 - 4. Filing date of the application.
 - 5. Nature of the request.
 - 6. Signature of the applicant.
- D. The City Clerk shall promptly forward one copy of the application to the Joint Planning Commission, which shall consider and take action on the application in accordance with all applicable requirements of law, ordinance, charter, municipal policy, and agreements between the City of Hastings and Rutland Charter Township.

Section 16.06 Violation and Sanctions; Nuisance Per Se

- A. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.
- B. Any person responsible for a violation of this Ordinance, whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.
- C. Any violation of this Ordinance shall constitute a basis for injunctive relief to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- D. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine according to Section 52-38 of the City of Hastings Municipal Civil Infractions Ordinance, which is herein incorporated by reference.

- E. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to *MCL 125.3404* and as otherwise provided by law.

Section 16.07 Effective Date; Non-Repeal

- A. Effective Date. After this Ordinance has been adopted as a joint ordinance by the Hastings City Council and the Rutland Charter Township Board, this Ordinance shall become effective on the 8th day after publication of a Notice of Adoption in a newspaper of general circulation within the City of Hastings and Rutland Charter Township, or on such later date as may be specified in the joint ordinance or required by law, ordinance, or charter.
- B. Non-Repeal. No ordinance of the City of Hastings or Rutland Charter Township is intended to be repealed by this Joint Planning Commission Zoning Ordinance. However, upon the effective date of this Ordinance the area within the zoning jurisdiction of the Joint Planning Commission shall be governed by this Zoning Ordinance, with respect to zoning regulation and requirements, rather than by the provisions of any Zoning Ordinance of the City of Hastings or Rutland Charter Township.

Article XX
Special Land Uses

§ 220-20-1. Explanation of special land uses.

In order to make this chapter a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as Special Land Uses within the various zoning classifications. Such special land uses have been selected because of the characteristics of the use which, in the particular zone and location involved, might cause the use to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto, without prior review pursuant to approval standards and in appropriate circumstances also approval conditions.

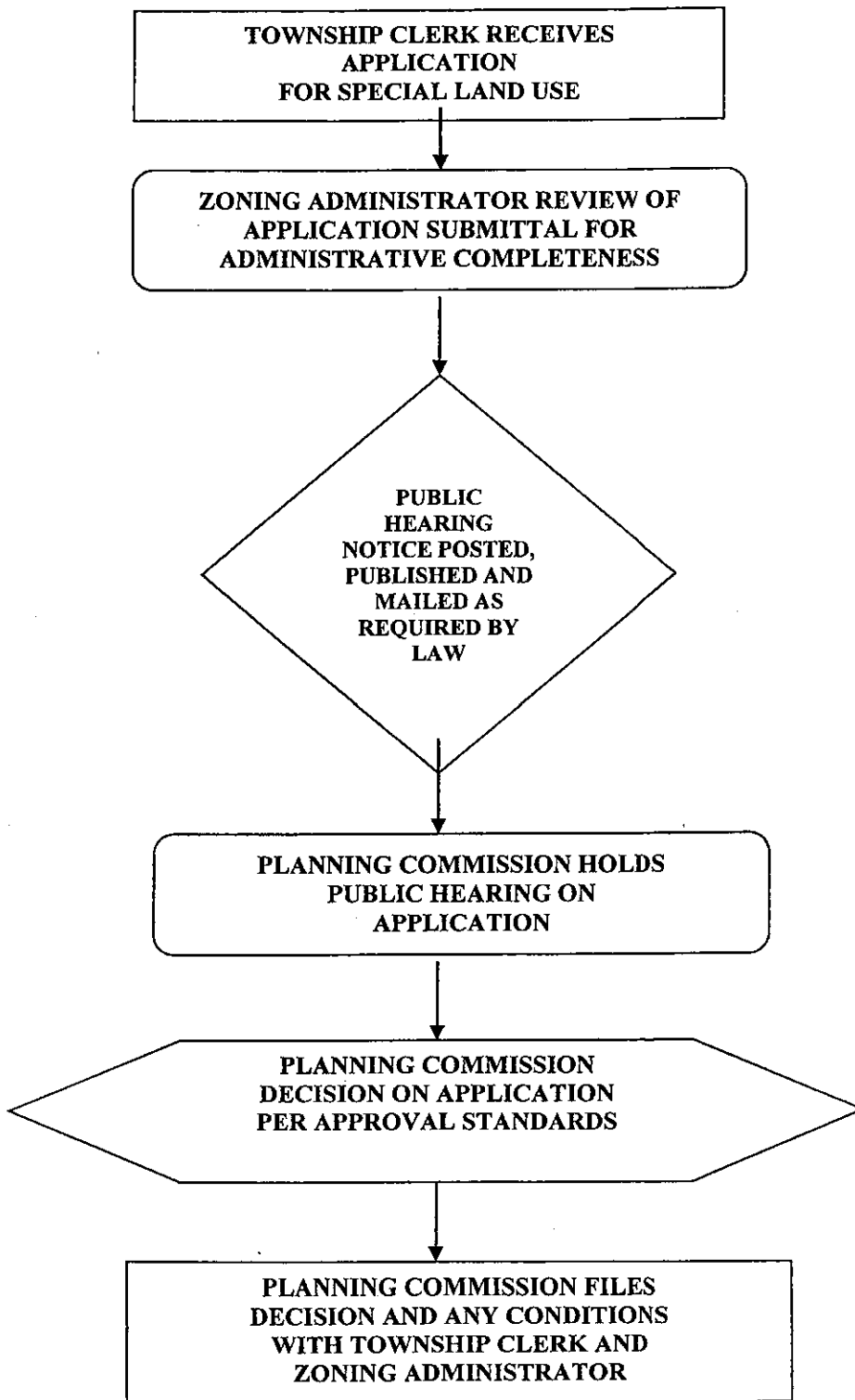
§ 220-20-2. Special land use procedure.

- A. All applications for special land use approval shall be submitted and processed under the following procedures:
1. The application shall be filed in duplicate with the Township Clerk, and shall include all of the following:
 - a. A completed application form, using the special land use application form prescribed by the Township.
 - b. A site plan substantially complying with the requirements for the content of a final site plan as specified in § 220-21-2.
 - c. All specifications, data, and other materials on which the applicant intends to rely to show all applicable standards for special land use approval are met.
 - d. Payment of the fee set by the Township Board for special land use applications.
 2. The Township Clerk shall promptly refer one copy of the application submittal to the Zoning Administrator. The Zoning Administrator shall promptly review the submittal to determine whether it is administratively complete, and shall notify the applicant of any deficiencies in the content of the application submittal. An application shall not be processed for public hearing unless and until it is administratively complete as determined by the Zoning Administrator.
 3. When the Zoning Administrator has determined an application submittal to be administratively complete the Zoning Administrator shall notify the applicant of that determination, and request eight copies of the complete application submittal. Upon receipt of such copies the Zoning Administrator shall promptly refer individual copies of the administratively complete application to the members of the Planning Commission, the Township Attorney, and to the Township Clerk to be available for public examination.

4. The Planning Commission shall hold a public hearing on an administratively complete application. The Planning Commission shall review the application subsequent to the public hearing, at the same meeting or at a subsequent meeting, and may require the applicant to provide additional information about the proposed use relevant to any standard for special land use approval specified in this chapter. The applicant has the burden of proving compliance with all special land use approval standards.
5. The Planning Commission shall approve a special land use application if the application is in compliance with all applicable standards, other applicable ordinances, state and federal statutes, and any conditions lawfully imposed under this chapter. The Planning Commission's decision shall be incorporated in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. The decision of the Planning Commission on a special land use application is a final decision, subject to appeal to a court of competent jurisdiction as authorized by law. The Zoning Board of Appeals does not have jurisdiction to hear an appeal from any decision of the Planning Commission on a special land use application.
6. An approved special land use is subject to site plan review pursuant to Article XXI of this chapter.

(see next page for flow diagram for special land use applications)

FLOW DIAGRAM FOR SPECIAL LAND USE APPLICATIONS



§ 220-20-3. Standards for special land use approval.

- A. An application for special land use approval shall not be approved by the Planning Commission (with or without conditions) unless the Planning Commission finds from the evidence that all of the following standards and requirements are met:
1. The size, nature and character of the use will be compatible with the other uses and buildings and structures expressly permitted within the zoning district, especially where the location of the use is adjacent to or in the approximate area of residential dwellings;
 2. The use will be compatible with the natural environment of the area;
 3. The use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area;
 4. The lot upon which the use is proposed is able to accommodate all off-street parking facilities required by this chapter;
 5. The use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
 6. The use will not adversely affect the public health, safety, and general welfare of the community;
 7. The use will be in accordance with the character and adaptability of the land at issue;
 8. The standards required in subsections 1-7 above for approval of any special land use can and will, in the Commission's judgment, be met at all times;
 9. The standards specifically applicable to the particular use in § 220-20-7 or elsewhere in this chapter can and will, in the Commission's judgment, be complied with at all times.

§ 220-20-4. Conditions imposed upon approved special land uses.

- A. The Planning Commission is authorized to impose conditions on the approval of a special land use, if the Planning Commission determines it has authority to approve the special land use application. Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The Planning Commission shall have the right to impose a condition limiting the duration of a special land use only where the use is by its nature a temporary use, and may reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.
- C. The Planning Commission is also authorized to require a performance guarantee as a condition on a special land use approval, as follows:
1. To insure compliance with this chapter (and/or conditions imposed at the time of approval), the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Planning Commission, covering 100% of the estimated costs of improvements associated with a project for which the approval is sought, be deposited with the clerk of the township to insure faithful completion of the improvements.
 2. The Planning Commission shall by resolution request the Township Clerk to rebate said security deposit in reasonable proportion to the ratio of work completed on the required improvements as the work progresses. The amount of rebate shall be determined from time to time at regular or special meetings of the Planning Commission based upon evidence presented by the applicant and/or appropriate township officials demonstrating the ratio of work completed on the required improvements.
 3. If any improvements are not constructed within the time limit established as part of the approval or within any extension thereof, then the Planning Commission shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.
 4. As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

§ 220-20-5. Compliance with approval.

- A. The site plan submitted with the special land use application, the specifications in the application, and all conditions imposed by the Planning Commission shall be recorded with the Township Clerk and Zoning Administrator, and shall be incorporated as a part of the special land use approval. An approved special land use which at any time fails to comply with the terms of the approval, or any provision of this chapter, shall cease to be a lawful use, and shall be subject to revocation in accordance with § 220-20-6 of this chapter, in addition to the legal penalties and remedies generally applicable to any violation of this chapter.
- B. Every special land use approval shall be subject to an automatically imposed approval condition pursuant to which the approval lapses if the approved use has not substantially begun within one year from the date of approval. Upon request of the applicant, filed prior to the lapse of special land use approval, the Planning Commission may save its prior approval from lapsing where the applicant shows good cause for the delay, and the Planning Commission finds there have been no changed conditions that would potentially affect the prior findings of the Planning Commission with respect to any standard for approval of the use.

§ 220-20-6. Revocation of special land use approval.

- A. All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use:
 - 1. Zoning Administrator Revocation Recommendation. The Zoning Administrator may recommend revocation of a special land use approval upon determining a probable violation of the terms and conditions of a special land use approval or related provisions of this chapter. The Zoning Administrator shall provide written notice of the revocation recommendation to the approval holder/property owner by personal delivery or regular mail, and also to the Township Clerk by personal delivery or regular mail.
 - 2. Planning Commission Review of Revocation Recommendation. The Planning Commission shall review the Zoning Administrator's recommendation to revoke a special land use approval, and shall hold a public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters.
 - 3. Revocation of Special Land Use Approval. After notice and public hearing as provided herein the Planning Commission may vote, by a majority of its membership, to revoke a special land use approval upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured, and are not likely to be cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use approval shall be provided to the approval holder and property owner by personal delivery or regular mail.

4. Appeal of Revocation of Special Land Use Approval: Premises for which a special land use approval has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant sections of this chapter for the applicable use district. A determination of the Planning Commission revoking a special land use approval may be appealed to the circuit court as provided by law.

§ 220-20-7. Specific standards required of particular special land uses.

The following specific standards shall be required of the particular special land uses designated in this section, pursuant to § 220-20-3 A.9, in addition to the standards specified in § 220-20-3 A.1-8. The required standards for each such use are referred to in the following table and included in the subsequent applicable text for the corresponding item number.

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Aggregate processing/quarrying/commercial excavations	AG/OS	1
Bed and breakfast facility	AG/OS, ACLI	2
Day care facility	MU	3
Family business	AG/OS, CR, MDR, HDR, PRC	4
Foster care (large group) home	AG/OS, CR, MDR, HDR, MHCR, PRC	5
Group day care home	AG/OS, CR, MDR, HDR, MHCR, PRC	6
Kennel	AG/OS, CR	7
Marihuana Grower (Class A, B, or C)	AG/OS, LI	14
Marihuana Micro Business	AG/OS, MU	14
Marihuana Processor	AG/OS, MU, LI	14
Marihuana Retailer	MU	14
Marihuana Safety Compliance Facility	MU, LI	14
Marihuana Secure Transporter	AG/OS, MU, LI	14
Medical Marihuana Grower (Class A, B, or C)	AG/OS, LI	14
Medical Marihuana Processor	AG/OS, MU, LI	14
Medical Marihuana Provisioning Center	MU	14
Medical Marihuana Safety Compliance Facility	MU, LI	14
Medical Marihuana Secure Transporter	AG/OS, MU, LI	14
On-farm biofuel production facility (Type II or Type III)	AG/OS	8
Open space preservation development	AG/OS, CR, MDR, HDR, PRC	9

SPECIAL LAND USE	ZONING DISTRICT	ITEM NUMBER
Outdoor storage yard for recreational vehicles and boats	LC, LI	15
Parks, playgrounds, recreation areas and summer camps	AG/OS, CR, MDR, HDR, MHCR, PRC	10
Small wind energy conversion system	AG/OS, CR, MDR, HDR, MHCR, MU, ACLI, LI, PRC	11
Utility-Scale Solar Energy Electricity Generating Facility	AG/OS, CR	13
Wireless communications support structure (including equipment compound and wireless communications equipment)	AG/OS, LI	12

Item 1---Aggregate Processing/Quarrying/Commercial Excavations.

A. Location:

1. All such operations shall be located on a primary road, as defined by the Barry County Road Commission, for ingress and egress thereto, or, on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to approval of such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. All excavation operations shall be at least 150 feet from interior boundary lines of the property, and the Planning Commission may increase such setback if required to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support is at all times maintained. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
3. All excavation operations shall be at least 50 feet from adjoining public rights-of-way except for lowering of land adjoining the rights-of-way to the grade level of the rights-of-way. Excavation operations shall not be allowed where adequate lateral support for the maintenance of adjoining lands is not maintained.

4. A processing plant and its accessory structures shall be located at least 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment. However, notwithstanding the foregoing, all excavation operations shall be at least 400 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.
5. All excavation operations, processing plants, and accessory structures shall be at least 250 feet from the banks of any lake, stream, or other watercourse unless a lesser setback is approved, in writing, by the Michigan Water Resources Commission or such other State agency having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. Where it appears that substantial sediment may be carried into any nearby watercourse, the Planning Commission may require, as a condition of approval, that the applicant construct an adequate sediment basin.
6. All private drives and private access routes serving excavation or processing operations shall be located at least 250 feet from any dwelling, regardless of the zoning district in which such dwelling may be located.

B. Sight Barriers:

1. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
 - a. Earth berms constructed to a height of 6 feet above the mean elevation of the center line of the adjacent public highway or 6 feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of 1 foot vertical to 3 feet horizontal and shall be planted with grass, trees or shrubs.
 - b. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than 4 feet in height at the time of planting and which grow to not less than 6 feet in height at maturity and sufficiently spaced to provide effective sight barriers when 6 feet in height.
 - c. Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than 6 feet and maintained in good repair.

C. Nuisance Abatement:

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization

and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution potentially injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. and no operations shall be allowed on Sundays or legal holidays.
4. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

D. Environmental Protection:

1. Earth removal operations shall not create erosion problems, or alter the ground-water table of the area.
2. Earth removal operations shall not cause the creation of sand blows, stagnant water pools, or stagnant swampy areas.
3. Earth removal operations shall not cause a permanent adverse affect to the environment, the natural topography, or any natural resource, other than the earth materials involved.

E. Reclamation of Mined Areas:

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected with one year of termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than 5 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:

- (1) that the excavated area shall not collect stagnant water and not permit the same to remain therein; or
- (2) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
- (3) The banks of all excavations 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 1 foot vertical to 3 feet horizontal.
- (4) Top soil of a quality at least equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of 4 inches and sufficient to support vegetation.
- (5) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (6) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (7) A performance bond or cash shall be furnished to the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$5,000 per acre proposed to be mined or excavated in the following 12-month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this section and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shore line thereof and to the extent of the shore line where the same has been sloped to a grade of not more than one foot vertical to three foot horizontal, for the purpose of this financial guarantee. The Zoning Administrator and/or

Planning Commission may review such financial guarantee annually, on or about the anniversary date of the excavation permit, for adjustment and compliance with the foregoing requirements. In no event shall such financial guarantee be less than \$5,000 in amount.

F. Submission of Operational and Reclamation Plans:

1. No earth removal, quarrying, gravel processing, mining, and related mineral extraction shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of this chapter or the manner in which compliance will be secured by the applicant. Such plans shall comply with the final site plan content requirements in Article XXI of this chapter, and shall also include the following:
 - a. A contour map of the tract of land involved in the operations, including dimensions of the same, access to abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - b. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
 - c. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
 - d. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
 - e. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

G. Review and Approval Criteria:

1. Planning Commission review and approval of a special land use request and site plan review for an aggregate processing/quarrying/commercial excavation operation shall be in accordance with all applicable provisions of this chapter; and, recognizing the unique land use aspects of earth removal operations, shall also be based on a consideration of the following factors:
 - a. The most advantageous use of the land, resources and property.

- b. The character of the area in question and its peculiar suitability, if any, for particular uses.
- c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
- d. The protection and preservation of the general health, safety and welfare of the Township.
- e. The scarcity or value of the minerals sought to be mined as compared with the affect of the proposed operations upon the adjacent community.
- f. Whether or not the operations were previously in existence prior to the adoption of the text provisions of this chapter concerning the same, and the extent and character of such previous operations.
- g. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary and within the scope of its authority under Articles XX and XXI of this chapter. It may also limit the length of time the special land use approval is to be effective and may provide for a periodic review of the operations to ascertain compliance with the conditions and limitations imposed upon the same. The Planning Commission shall renew or extend a special land use approval where all standards and conditions are complied with, and may revoke or refuse to renew the same where non-compliance exists, in accordance with this chapter. No revocation or failure to renew or extend a prior approval shall release the applicant from the duty of rehabilitation and reclamation of the mined or disturbed area. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

H. Liability Insurance:

1. All owners/operators of property involved in such operations shall be required to carry personal injury and property damage insurance while any unreclaimed or un-rehabilitated area exists, in the amount of not less than \$100,000 for each person or property injured or damaged and not less than \$300,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions, or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk.

Item 2---Bed and Breakfast Facility.

- A. All bed and breakfast facilities shall be subject to and comply with the characteristics of a "home occupation" as set forth in § 220-2-2.
- B. A dwelling in which a bed & breakfast facility is allowed shall be occupied by the owner of the premises as his/her principal residence.
- C. Sufficient off-street parking area shall be available on the premises so as to provide one parking space per sleeping room, not including spaces required for the permanent occupants of the premises.
- D. All bed & breakfast facilities shall have a smoke detector in proper working order in every sleeping room, and a fire extinguisher in proper working order on every floor of the dwelling.

Item 3--- Day Care Facility.

- A. The premises shall be accessed by an all-weather public road, as defined by the Barry County Road Commission for ingress or egress thereto.
- B. [The specific standards in Item 6 of this section for a Group Day Care Home are all hereby incorporated by reference; with the proviso that for purposes of this provision sub-part A.(1) therein shall read "Another state licensed day care facility of any type"].

Item 4---Family business.

- A. The premises shall have a lot area of at least 100,000 square feet (approximately 2.3 acres). Note: this provision is intended to accommodate a "family business" use on a parcel of at least 100,000 square feet in the AG/OS District; it is not intended to change the 1 acre minimum lot area requirement applicable to new lots in that district.
- B. All work in connection with the family business shall be conducted solely within an enclosed building (the dwelling itself, an attached garage, or otherwise permissible garage or other accessory building).
- C. The business shall be located on the same premises as the family's dwelling.
- D. In addition to those family members residing on the premises, no more than four other individuals may work on the premises in connection with the business.
- E. All goods sold from the premises shall either be created on the premises or be incidental to services sold on the premises.
- F. There shall be a minimum distance of 150 feet between any building where the business activity is conducted and any existing dwelling on adjoining property.

- G. Noise, smoke, odor, electrical disturbance, lighting or other objectionable characteristics associated with the business activity shall not be discernable beyond the boundaries of the premises upon which the business is conducted.
- H. No outdoor storage shall be allowed unless same cannot be reasonably stored within a building or structure. Such outdoor storage area shall be located to the rear of the building in which the business is conducted, and shall be screened to effectively block all view from adjoining properties and roads.
- I. There shall be no public display on the premises of articles offered for sale; and no exterior evidence indicating the premises are being used for any non-residential purpose, except a nameplate sign not exceeding four square foot in area containing only the name and occupation or business activity of the occupant of the premises.
- J. Off-street parking shall be provided on the premises sufficient to accommodate all employees and customers of the business, in addition to the residents of the premises.
- K. The Planning Commission may limit the family business to a particular type of business, and may impose additional conditions pursuant to this chapter and applicable law.
- L. There shall be no expansion of the physical area of the business without the further approval of the Planning Commission.

Item 5---Foster Care (Large Group) Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas intended for children, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.

- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall meet all applicable sign regulations in this chapter.
- E. It shall meet all applicable off-street parking requirements in this chapter; and in addition shall provide a designated passenger loading/unloading area near a barrier-free entrance to the facility, and a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.
- F. A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking and loading/unloading areas visible from adjacent properties or streets.
- G. All exterior lighting of entryways, parking spaces, and loading/unloading areas shall be directed and/or hooded so as to not reflect onto adjacent properties or streets.

Item 6---Group Day Care Home.

- A. It shall be located at least 1,500 feet from any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
 - 1. Another state licensed group day care home;
 - 2. Another adult foster care small group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (1979 Public Act 218, as amended --- MCL 400.701 et seq);
 - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under article 6 of the Michigan Public Health Code (1978 Public Act 368, as amended --- MCL 333.6101 et seq);
 - 4. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- B. It shall have appropriate fencing enclosing all outdoor play areas, as determined by the Planning Commission. Such fencing shall be at least 54" high and non-climbable in design.
- C. It shall maintain the property consistent with (or better than) the visible characteristics of the neighborhood.
- D. It shall not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.

- E. It shall meet all applicable sign regulations set forth in this chapter.
- F. It shall meet all applicable off-street parking requirements set forth in this chapter.

Item 7---Kennel.

- A. All kennel facilities, including animal run areas, shall be located at least 200 feet from all property lines. Each kennel facility shall provide sufficient square footage for each animal kept, boarded, bred or trained on the property, in accordance with applicable state laws, and the recommendations of the American Kennel Association. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
- B. Noise, odor, or other objectionable characteristics incident to the facility shall not be discernible beyond the boundaries of the premises upon which the facility is conducted.
- C. All kennel facilities shall be designed, constructed, operated and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred or trained upon the premises.

Item 8---On-Farm Biofuel Production Facility (Type II or Type III).

- A. The facility has all of the characteristics for the term "On-Farm Biofuel Production Facility (Type II or Type III)" as defined in Section 220-2-2.
- B. The application for special land use approval included, in addition to the content required by any other provision of this chapter, all of the following:
 - 1. A description of the process to be used to produce biofuel.
 - 2. The number of gallons of biofuel anticipated to be produced annually, and the designed annual biofuel production capacity (in gallons) of the facility.
 - 3. An emergency access and fire protection plan that has been reviewed and approved by the Barry County Sheriff's Department and the B.I.R.C.H. Fire Department.
 - 4. For an ethanol production facility that will produce more than 10,000 proof gallons (as defined in 27 Code of Federal Regulations 19.907) annually, completed United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau Forms 5000.29 (Environmental Information) and 5000.30 (Supplemental Information on Water Quality Considerations Under 33 USC 1341(a)), or successor forms, required to implement regulations under the National Environmental Policy Act of 1969, 42 USC 4321 to 4347, and the Federal Water Pollution Control Act, 33 USC 1251 to 1387.
 - 5. Information that demonstrates the biofuel production facility will comply with all of the special land use approval standards specified herein.

6. Any additional information requested by the Planning Commission relevant to compliance with any provision of this chapter pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.
- C. (required condition on approval) Before the facility begins operation, all buildings, facilities, and equipment used in the production or storage of biofuel shall comply with all applicable local, state and federal laws.
 - D. (required condition on approval) Before the facility begins operation, the owner or operator of the biofuel production facility has provided the Township with proof that all necessary approvals have been obtained from the Michigan Department of Environmental Quality (or a successor agency) and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 1. Air pollution emissions.
 2. Transportation of biofuel or additional products resulting from biofuel production.
 3. Use or reuse of additional products resulting from biofuel production.
 4. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
 - E. (required condition on approval) Before the facility begins operation, the biofuel production facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Note: the Planning Commission is required to hold a hearing on an application for special land use approval of an On-Farm Biofuel Production Facility (Type II or Type III) not more than 60 days after a (complete) application is filed. *MCL 125.3513(4)*.

Item 9---Open space preservation development.

- A. Purpose. The purpose of an open space preservation development is to preserve the rural character of Rutland Township while permitting reasonable use of the land consistent with the Master Land Use Plan. Provisions set forth provide incentives to encourage innovative residential development, which results in an enhanced living environment by preserving natural features and rural landscape. By grouping dwellings together in clusters on a limited portion of a development property, much of the rural land and natural features will be preserved, and construction and maintenance of streets, utilities, and public services will be achieved in a more economical and efficient manner.
- B. Open space preservation development option. Within the AG/OS, CR, MDR, and HDR Districts, a landowner shall have the option to develop land located outside a platted or condominium subdivision in accord with the terms of this section.

C. Permitted uses. An open space preservation development may include the following land uses:

1. Detached single-family dwellings.
2. Attached single-family dwellings which shall number no more than 25% of the total number of dwellings and which shall not exceed four dwelling units in one building.
3. Accessory buildings.
4. Common open space.
5. Recreational uses, provided such uses are accessory to the residential uses and designed primarily to be used by residents of the open space preservation community.
6. Farming activities conducted in the common open space in such a manner as to not pose a nuisance or hazard to residents.

D. Development requirements.

1. Ownership and control. The proposed open space preservation development shall be under a single ownership, such that one person or legal entity shall be empowered to apply for Township approval and make reliable and binding commitments on behalf of the applicant. The applicant shall provide documentation of ownership or control in a form acceptable to the Township.
2. General approval standards. In addition to specific standards set forth in this section, the Planning Commission shall evaluate all open space preservation development applications based on standards for site plan approval in § 220-21-3.
3. Dimensional standards. The following dimensional standards shall apply to residential parcels and condominium units in open space preservation developments:
 - a. Setbacks.
 - (1) In open space preservation developments, the following minimum yards shall be provided:
 - (a) Front yard setback: 25 feet.
 - (b) Rear yard setback: 30 feet.
 - (c) Side yard setback: 10 feet (25 feet for corner lots).

- (2) Accessory buildings shall meet the minimum setbacks specified in [1] above, except the rear yard may be reduced to 20 feet.
 - (3) Open space preservation development that include attached units shall be exempted from side yard requirements pertaining to dwelling units attached to one another.
- b. Lot or parcel width and area. The following minimum parcel area and width standards shall be applied in an open space preservation development:

Zoning District	Detached Units		Attached Units					
			2 Units		3 Units		4 Units	
	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)	Area (square feet)	Width (feet)
AG/OS	30,000	100	40,000	135	60,000	165	80,000	190
CR	30,000	100	40,000	135	60,000	165	80,000	190
MDR	7,500	70	20,000	135	45,000	165	60,000	190
HDR	7,500	70	15,000	110	22,950	140	30,600	160

- c. Cluster size and isolation. A cluster may not exceed 12 dwelling units, and clusters shall be separated from one another and from adjoining developments by a minimum of 150 feet of common open space.
 - d. Common open space area. Common open space may not constitute less than 50% of the adjusted parcel acreage.
 - e. Departures from standards. The Planning Commission may approve departures from the standards in subsection D.3.a-d where the applicant demonstrates the proposed open space preservation development will include features or design techniques that achieve the objectives of such standards.
4. Density standards.
- a. The total number of residential dwelling units permitted in an open space preservation development may be up to 125% of the number provided by the base density as allowed in the underlying zoning district. The base density shall be determined by a comparison plan, which shall illustrate the total area of regulated wetlands, bodies of water with surface area greater than one acre, streams, rivers, and permanent easements that restrict development. These areas shall be subtracted from the gross area of the site to determine adjusted parcel acreage. In the event the parcel includes more than one underlying zoning district, this calculation shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed.

b. The comparison plan shall meet the development requirements to illustrate a feasible development pursuant to the underlying zoning. The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of the underlying zoning. The Zoning Administrator shall provide an evaluative report on the feasibility of the comparison plan.

5. Rural and scenic easement. A rural and scenic easement shall be incorporated into an open space preservation development, consisting of a natural area located parallel to and abutting any existing public roads. Such rural and scenic easement may be included in the required common area and shall be of sufficient depth and/or include sufficient year-round vegetation to preserve the character of the abutting roadway and minimize the visibility of the proposed development from the roadway. For the purposes of this subsection, the rural and scenic easement shall be measured from the edge of the public right-of-way and shall be considered sufficient if it meets the following dimensions, regardless of vegetation:

a. In the AG/OS Districts: 150 feet.

b. In the CR District: 100 feet.

c. In the MDR and HDR Districts: 30 feet.

E. Open space preservation development review process. The following steps shall be completed to implement an open space preservation development:

1. Prior to proposing an open space development project design, the applicant shall conduct a preliminary development review with the Zoning Administrator. The purpose of this review will be to discuss the nature of the site and the development, the potential for use of the site as an open space preservation development, and to advise the Township of the applicant's intent to proceed.

2. The applicant shall then complete a site analysis and prepare a detailed site inventory including a narrative description of the site. The site analysis shall address and locate water features, wetlands, topography, significant wooded areas, wildlife habitat areas, views, easements and rights-of-way, historic or cultural resources, steep slopes and any other features deemed important by the applicant. In a written narrative, the applicant shall discuss each of the features identified on the site and make an evaluation of each relative to the existing rural character of the Township. The site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The Planning Commission may require the site analysis to illustrate the topography of the site with not greater than two-foot contour intervals where dwellings will be located, and not greater than ten-foot intervals where common open space will be located.

3. Based on the site analysis, the applicant shall identify common open space areas in the order of their importance to the protection of the overall natural features of the site and its immediate vicinity. The applicant may use the Rutland Township natural features inventory and community opinion survey as guidance in completing the ranking of natural features. As a general guideline, the following listing of important natural features is presented:
 - a. Preservation of plant and animal habitat.
 - b. Preservation of open fields and vistas.
 - c. Protection of wetlands, streams, and lakes.
 - d. Preservation of large woodlots and hunting land.
 - e. Potential recreation and hunting areas.
 - f. Important agricultural land.
 - g. Educational and cultural enrichment.
 - h. Historic and cultural resource protection.
4. Common open space may not constitute less than 50% of the adjusted parcel acreage. The applicant shall calculate the base density for the proposed development in accordance with the provisions of this chapter. A majority (more than 50%) of the common open space shall be contiguous.
5. Potential building sites shall be identified in areas outside the common open space areas. The number of potential building sites shall not exceed the permitted density determined in accord with this chapter. The Planning Commission may require the potential building sites to be illustrated on a tracing paper or acetate overlay on the site analysis. The clustering requirements shall be met in laying out building sites. The lot or condominium lines may also be required to be illustrated for each building site. These may be reflected on a tracing paper or acetate overlay on the site analysis. The dimensional requirements of this chapter shall be met in the layout of the lot lines.
6. The road system shall comply with the terms of this chapter, including where applicable § 220-17-13 pertaining to private roads. The road system may be illustrated as an overlay on the site analysis.
7. A preliminary site plan shall be prepared which illustrates the proposed project layout, including the common open space, scenic easements, trails, building sites, road systems, and lot or condominium lines. If the project will be undertaken in phases, an implementation schedule for each phase shall be provided as a part of the site plan, and failure to comply with the phasing schedule shall require an amendment to the site plan. The preliminary site plan

shall meet the standards of above subsection D (development requirements), and shall include a detailed narrative description of the site analysis and the management plan for the perpetual preservation of the proposed common open space. Any clearance, earth changes or recreational uses proposed to be included within the common open space shall be clearly described.

8. The preliminary site plan and the site analysis with all overlays shall be presented to the Zoning Administrator and the Township Planner for review and comment. Within 30 days of submission of all required information, the Zoning Administrator and the Township Planner shall provide to the applicant written comments on the preliminary site plan. Based on the comments of the Zoning Administrator and the Township Planner, the applicant may make needed adjustments to the preliminary site plan and prepare a final plan as directed by the Zoning Administrator or seek advisory judgment from the Planning Commission on any issues in dispute prior to preparing a final plan. When the final plan is prepared, it shall be submitted for Planning Commission review and approval.
9. The Planning Commission shall hold a public hearing on the open space preservation development final plan, pursuant to § 220-20-2.

F. Use and preservation of common open space and natural features.

1. Further subdivision of open space lands, or their use for other than recreation, conservation or agricultural use by site owner(s) shall be prohibited.
2. All dwellings and accessory structures shall be located at least 100 feet from any lakes, ponds, rivers, or streams. A roadway may be placed within 100 feet of lakes, ponds, rivers, or stream area only with the approval of the Planning Commission.
3. If the open space lands are common lands owned jointly by an association or group, the applicant and all subsequent owners shall establish, register and maintain a viable legal entity, which may be a homeowners' association, a condominium association or other organization acceptable to the Township which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the Township. All forms of ownership intended to protect common open space within an open space preservation development shall be subject to the review of the Township Attorney.

G. General development standards. The following standards shall be observed in the preparation of an open space preservation development:

1. Siting. Dwelling units shall be carefully sited and designed to screen homes from off-site vantage points whenever possible, away from environmentally

sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.

2. Sanitary sewer. If either public sanitary sewer or private sanitary sewers are provided within the development, all provisions for review and approval by the Township must be followed.
3. Stormwater. An open space preservation development shall meet the requirements of the Barry County Drain Commissioner for containing stormwater within the development.
4. Septic system. If not served by public or private sanitary sewer system, the proposed open space preservation development shall fully comply with the requirements of the County Health Department and/or the Michigan Department of Environmental Quality as they apply to siting and development of on-site wastewater treatment and disposal. With the approval of the Planning Commission, the County Health Department, and the homeowners' or condominium association, an approved drainfield may be located within an area dedicated as common open space.
5. Prior to construction. All required approvals shall be completed prior to the start of any construction.
6. Performance guarantees. The Township may require the posting of a performance bond or irrevocable letter of credit to assure the completion of the proposed open space preservation development.
7. Minor amendments. A minor change to a final plan approved by the Planning Commission may be approved by the Zoning Administrator, after notifying the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required by the Commission. Should the Zoning Administrator determine the requested modification to the approved final plan is not minor, the proposed change shall be submitted to the Planning Commission for review pursuant to all applicable provisions of this chapter.
8. Suitable name. The applicant shall give the development a suitable name, subject to Planning Commission approval.

Item 10---Parks, playgrounds, recreation areas and summer camps.

- A. Public, private and municipally owned parks, playgrounds and recreation areas, and summer camps are subject to the following standards and regulations, as applicable:
 1. All park/playground/recreation area facilities shall close a half-hour after sundown and remain closed until sunrise.

2. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least five feet in height at the time of planting. Further, all parks and recreation areas shall be provided with gates adequate to insure compliance with park closing regulations.
3. Structures shall not be constructed to a height exceeding 35 feet and must be a minimum distance from adjoining property lines of 250 feet. Concession stands shall sell or dispense only those items designed or intended for use and consumption on the premises.
4. No person shall deposit or abandon in any park, recreation area, playground or adjoining property any garbage, sewage, refuse, trash, waste or other obnoxious material except in receptacles provided for such purpose and the area must be maintained in a clean and orderly manner at all times.
5. All group park activities must be limited to designated areas and adequately supervised by the Park Director or his or her designated agent.
6. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the park or recreation area or playground facilities.
7. Vehicular entrances into and exits from the park, playground or recreation facilities shall be constructed with approach lanes so as to not interfere with moving traffic.
8. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed so as to meet the requirements of the Barry County Health Department.
9. Swimming shall be restricted to those areas specifically designated for said purpose as posted by the Park Director at which facilities a lifeguard must be employed at all times during which swimming is allowed.
10. The park owners shall provide adequate public liability insurance covering all facility activities.
11. Vehicular raceways, trail bike trails, snowmobile trails, runs, etc., shall be limited to designated areas provided for said purpose by the Park Director, which facilities may not be located nearer than 500 feet from any adjoining residentially developed land or residentially zoned land.
12. No overnight camping shall be allowed.
13. In approving plans, the Township Planning Commission shall seek the advice and recommendations of the Barry County Soil Conservation District.

14. Shooting ranges may be allowed if in a safe location and remote from permanent habitation.
15. Dogs and other pets allowed within the park, playground or recreational area shall be kept on a leash not longer than 10 feet in length.
16. Peddling, hawking, soliciting, begging, advertising or carrying on any business or commercial enterprise shall be strictly prohibited.
17. No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, fence, thing or enclosure along or within any park, playground or recreation area, except for necessary informational signs placed under direction of the Park Director.
18. Fires may be built only in picnic stoves or other equipment or space approved by the Park Director and only in such areas as shall be designated by him or her. It shall be unlawful to start or cause to be started any other fire whatsoever in any park, playground or recreation area.
19. Drunkenness, immorality, gambling or gaming devices shall not be allowed within the limits of any park, recreation area or playground.
20. All vehicular raceways, trail bike trails, roads and other trails of every kind shall be so treated so as to eliminate and prevent dust from said trails from drifting onto adjoining properties.

B. Seasonal tent and recreation vehicle campgrounds are also subject to the following additional conditions and limitations:

1. Seasonal tent and recreation vehicle campgrounds, including recreation areas incidental thereto, must contain at least five acres in area.
2. Areas designated for recreation vehicles, or for cabins, shall comply with the applicable requirements of the Michigan Public Health Code *MCL §333.12501 et. seq.*, as amended, and such rules and regulations as may be promulgated thereunder by the State of Michigan.
3. Any sale of foodstuff or merchandise shall be clearly incidental to the needs of the occupants and users of the property while therein and shall consist of packaged merchandise only.
4. Activities shall be adequately screened from adjoining residentially developed or residentially zoned property by an evergreen planting at least three feet in height at the time of planting. In addition, the area must be fenced by a fence constructed in a manner approved by the Planning Commission.

5. All facilities shall be provided with safe and adequate sanitation and drinking facilities constructed to meet the requirements of the Barry County Health Department.
6. Fires may be built only in picnic stoves or other equipment or space designated by the park owner. It shall be unlawful to cause any other fire whatsoever in any park, playground or recreation area.
7. No person shall deposit or abandon any garbage, refuse, sewage, trash, waste or other obnoxious material except in receptacles provided for such purpose, and the grounds must be maintained in a clean and orderly manner at all times.
8. The owner or operator shall be responsible to regulate noise and litter so as to not be detrimental to the use and enjoyment of adjoining property, as determined by the Planning Commission.
9. Overnight camping shall be restricted to areas designated and posted for this purpose as authorized in the campground permit, which areas shall be a distance of at least 75 feet from any adjoining property.
10. Adequate off-street parking must be provided to insure adequate parking space to meet the reasonably foreseeable demands anticipated for the campground or recreation area.
11. Vehicular entrances into and exits from the campground or recreation area shall be constructed with approach lanes approved by the County Road Commission so as not to interfere with moving traffic.
12. Dogs and other pets allowed in the campground and recreation area shall be kept on a leash.

Item 11---Small Wind Energy Conversion System.

- A. The system may be portable, or attached to a building, tower, or other structure, subject in each instance to the following applicable height limitation, measured from grade directly below the supporting base of the system to the uppermost component of the system at its highest vertical position:
 1. For parcels of less than two acres in area---35 feet.
 2. For parcels of two-five acres in area---60 feet.
 3. For parcels greater than five acres in area---not exceeding such height as is permissible to comply with the setback/location requirements in subsection C below.
- B. The minimum vertical blade tip clearance from grade shall be 20 feet.

- C. No part of the system, including guy wire anchors, may extend closer than ten feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the height of the system in its highest vertical position.
- D. The system shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. The system shall be equipped with the following safety-related components: an automatic braking, governing or feathering system to prevent uncontrolled rotation or over-speeding; lightning protection; and a locking safety ladder for a tower installation.
- F. A building/electrical permit application for the system shall be accompanied by standard drawings of all components of the system, including any tower, base, and footings.
- G. The system shall comply with applicable federal and state regulations pertaining to tall structures that may interfere with aircraft, including any necessary approvals for installations in close proximity to an airport.
- H. The system shall not be connected to a utility grid electric system until utility company approval of the connection has been filed with the Zoning Administrator.
- I. The system shall not be operated until the applicant has provided to the Zoning Administrator the statement of a licensed professional engineer certifying the system was installed in compliance with all applicable building and electrical code requirements, and otherwise complies with all the foregoing standards and requirements.

Item 12---Wireless Communications Support Structure (including equipment compound and wireless communications equipment).

- A. Purpose. The purpose of this portion of Chapter 220 is to establish standards for the siting of wireless communication support structures/equipment compounds and wireless communications equipment (for convenience sometimes referred to as "towers" or "communication towers" and "antennas") based on the following goals: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

B. Definitions. The following terms used herein shall be defined as follows:

1. "Alternative tower structure" means man-made trees, clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or minimize the presence of antennas or towers.
2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.
3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more wireless telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Colocation" has a corresponding meaning.
5. "Communication Tower" or "Tower" means the same thing as wireless communications support structure, except where the context of the usage of the term is clearly applicable to only a tower type of support structure.
6. "Equipment Compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
7. "Height" means, when referring to a wireless communications support structure, the distance measured from the finished grade to the highest point on the structure, including the base pad and any antenna.
8. "Wireless Communications Equipment" means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables; but does not include any wireless communications support structure, alternative tower structure, or other structure or device designed to support or capable of supporting wireless communications equipment.
9. "Wireless Communications Support Structure" (see definition in § 220-2-2).

C. Information Required with Special Land Use Application.

1. In addition to any information required for applications for special land use permits pursuant to § 220-20-2, applicants for a special land use permit for a communication tower/antenna shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, specifications on all proposed antennas, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in subpart D(3), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator or Planning Commission to be necessary to assess compliance with the standards for approval in this section.
- b. Legal description and ownership of the parent parcel (and leased parcel, if applicable).
- c. The setback distance between the proposed tower and the nearest dwelling unit, and the nearest property in a Residential zoning district.
- d. An inventory of existing towers, antennas, or sites approved for towers or antennas, that are owned/used by the applicant or any affiliated entity within Barry County, or within any adjoining township/county within 1 mile of Rutland Charter Township. This inventory shall include the location, height, and design of each existing tower. The location of all such existing towers, and sites approved for towers or antennas, shall also be depicted on a single scaled map. The applicant shall also designate on this map the location of all existing towers not owned/used by the applicant or any affiliated entity located within Rutland Charter Township or within 1 mile of any boundary thereof, and indicate the owner/operator of such towers if known.
- e. A landscape plan showing fencing and specific landscape materials.
- f. Finished color and, if applicable, the method of camouflage and illumination.
- g. A description of compliance with all applicable federal, state and local laws.
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other wireless sites owned or operated by the applicant or any affiliated entity in the Township.
- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or

structures to provide the services to be provided through the use of the proposed new tower.

- k. A description of the desirable characteristics justifying the suitability of the proposed location.
- l. Point of view renderings of how the proposed tower will appear from the surrounding area.
- m. Any additional information requested by the Planning Commission relevant to compliance with any provision of Chapter 220 pertaining to special land use application, review, or approval, including any lawful conditions imposed on approval.

All information of an engineering nature, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

Note: Section 3514 of the Michigan Zoning Enabling Act, as amended by 2012 Public Act 143, requires a special land use application for this land use to be reviewed by the Zoning Administrator to determine whether it is administratively complete. The application shall be considered administratively complete 14 business days after receipt of the application, unless the Zoning Administrator determines the application is administratively complete within that 14 day period, or before expiration of that 14 day period notifies the applicant (in writing, or electronically) that the application is not administrative complete and specifies the information and/or application fee payment necessary to make the application administratively complete. The statute also requires the Planning Commission to approve or deny a special land use application for this land use not more than 90 days after the application is considered to be administratively complete.

D. Specific Standards for Approval of Special Land Use Permit for Wireless Communication Support Structure. In addition to the generally applicable standards for approval of special land use permit applications pursuant to § 220-20-3, the applicant for special land use approval of a wireless communications support structure, also sometimes referred to as a "tower", shall present evidence demonstrating compliance with the following standards specific to this land use:

- 1. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. The applicant shall demonstrate that no existing tower, other structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna, based on information submitted by the applicant showing any of the following:
 - a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. There are other limiting factors that render existing towers and structures unsuitable.
 - g. An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
2. Setbacks. The tower base must be set back a distance equal to 110% of the height of the tower from any adjoining lot line; provided that the Planning Commission is authorized to approve a lesser minimum setback in circumstances where the tower is designed, in the event of failure, to fold-over or otherwise collapse within a fall zone less than the total height of the tower. The Planning Commission determination as to the appropriate minimum required setback shall be based on the tower design and other pertinent circumstances of each individual application, and shall be made pursuant to the general standards for special land use approval in § 220-20-3. Tower support apparatus, including guy lines and accessory buildings, must satisfy the minimum building/structure setback requirements for the applicable zoning district.
3. Separation.
- a. Separation from off-site uses/designated areas. The tower shall comply with the minimum separation requirements from off-site uses and designated areas as specified in Table 1, measured from the base of the tower to the lot line of the off-site uses and/or designated areas (straight line measurement):

Table 1

Off-Site Use/Designated Area

Separation Distance

Single-family, two-family or multiple-family residential uses	200 feet or 300% of height of tower, whichever is greater
Areas in any Residential zoning district	200 feet or 300% of height of tower, whichever is greater
Non-residentially zoned lands and non-residential uses	None; only setbacks apply

- b. Separation distances between towers. The tower shall comply with the minimum separation requirements from other towers as specified in Table 2, measured between the bases of the proposed tower and preexisting towers (straight line measurement).

Table 2

Existing Towers - Types

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

4. Maximum Tower Height. The maximum tower height is 300 feet.
5. Colocation. The tower shall be designed and constructed (structurally, electrically, and in all other respects) to accommodate the applicant's antennas and compatible antennas for at least two other users, unless the Planning Commission determines pursuant to specific information submitted by the applicant that this multiple user requirement is not technically feasible for the site, or would result in a tower that fails to otherwise comply with all applicable special land use approval standards. Where a multiple user tower is proposed, or is otherwise required by the Planning Commission pursuant to this Item 12, the applicant shall furnish a written agreement providing that the applicant shall not prevent or deny

space on the tower for compatible antennas of other users, and shall make the tower available to share at a fair market rate as determined by customary industry standards.

6. Security fencing; safety. The equipment compound shall be enclosed by security fencing or other suitable enclosure not less than six feet in height, to be determined by the Planning Commission, sufficient to restrict access to authorized personnel only. The tower shall be equipped with an appropriate anti-climbing device.
7. Landscaping and Site Maintenance. A six foot tall landscape screen is required to effectively screen the equipment compound from adjacent residential property, streets and public property, except in locations where the Planning Commission determines the visual impact of the equipment compound would be minimal. The tower site shall be mowed or otherwise maintained in such a manner as to effectively control undesirable or noxious weeds.
8. Lighting. The tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other federal or state authority for the tower. If lighting is required it shall be oriented inward so as to not project onto surrounding property or roadways, shall be designed to cause the least disturbance to surrounding properties, and shall be designed to minimize bird collisions with the tower.
9. Signs. The use of any portion of a tower/antenna or equipment compound for signs other than warning or equipment information is prohibited.
10. Weather Resistance. The tower and all antennas located on the tower shall be designed, constructed and maintained so as to withstand all generally expected weather conditions in the area.
11. Non-Interference. The tower and all antennas located on the tower shall not interfere with any radio or television transmission or reception in the area.
12. Abandonment of Unused Towers or Portions of Towers. The applicant shall be required by deed, land contract, lease, or license agreement provisions to remove the tower or portion of tower and associated facilities upon cessation of the use of same. A tower or portion of tower that has no users for a continuous period of at least 1 year shall be considered abandoned, and shall be dismantled and removed from the premises within 90 days after receipt of notice of such abandonment to the owner of the subject premises.
13. Aesthetics. Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Notwithstanding the foregoing, the Planning Commission may also require tower and guy wire devices designed to minimize bird-tower collisions.

14. **Accessory Structures.** The design of the buildings and other accessory structures at or in an equipment compound shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them in with the surrounding environment. All such buildings/structures shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
15. **Inspection and Maintenance.** An approved tower/antenna shall be inspected at regular intervals, not less than once a year, and shall be serviced as frequently as may be necessary to maintain same in a safe and weather-withstanding condition. Reports of all inspections and maintenance shall be made available to the Township upon written request.
16. **Minimum Lot and Yard Requirements.** For purposes of determining whether a proposed tower site complies with zoning regulations for the applicable district, including minimum lot area, maximum lot coverage, and yard requirements, the dimensions of the entire lot shall control where a proposed tower site is created pursuant to a lease or license agreement encompassing less than the entire lot.

E. **Installation of Antenna or Other Wireless Communications Equipment on Existing Tower or in Existing Equipment Compound.** The following provisions govern the installation of antenna apparatus and other wireless communications equipment on an existing communication tower or other wireless communications support structure or within an equipment compound on the site of an existing communication tower:

1. Where the existing tower has been granted special land use and site plan approvals, no further zoning approvals are required if the Zoning Administrator determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures and proposed changes to the existing equipment compound, are in complete conformance with the underlying special land use permit and approved site plan for the tower with respect to the total approved number of antenna apparatus on the tower, the array of the antenna apparatus, and the number, size and location of associated accessory buildings/structures.

2. Where the existing tower has been granted special land use and site plan approvals, or has not been granted such approvals but is determined by the Zoning Administrator to otherwise be in compliance with Chapter 220, no further zoning approvals are required if the Zoning Administrator further determines the proposed wireless communications equipment and, where applicable, proposed associated accessory buildings/structures, or proposed changes to the existing equipment compound comply with all of the following (as applicable):
 - a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
 - b. The existing wireless communications support structure/existing equipment compound is itself in compliance with Chapter 220.
 - c. The wireless communications equipment will not increase the overall height of the existing support structure by the greater of 20 feet or 10% of its original height.
 - d. The wireless communications equipment will not increase the width of the existing support structure by more than the minimum necessary to permit collocation.
 - e. The wireless communications equipment will not increase the area of the existing equipment compound so as to be more than 2,500 square feet.
 - f. The proposed change(s) will comply with the terms and conditions of any previous final approval of the existing support structure/compound.

A proposed change that does not comply with c, d, e, or f, but which otherwise is compliant with sub-part (2), is subject to zoning approval pursuant to approval of an amended site plan in accordance with all applicable provisions of Chapter 220, but without further special land use approval.

3. Where a proposed installation of wireless communications equipment on an existing wireless communications support structure is not subject to either preceding sub-parts (1) or (2) of this subsection E, the installation shall be subject to special land use and site plan approvals in a zoning district where Wireless Communications Support Structure is designated as a special land use.

Item 13---Utility-Scale Solar Energy Electricity Generating Facility.

- A. No part of the facility shall exceed the generally applicable maximum structure height limit for the District pursuant to the Schedule of Regulations in Article XV (35 feet).
- B. All collector panel structures shall be set back from lot lines a distance equal to at least twice the generally applicable principal structure setback requirements for the District pursuant to the Schedule of Regulations in Article XV; provided, the Planning

Commission may approve lesser setbacks (but not less than the minimum yard requirements for principal structures in the District as specified in the Schedule of Regulations in Article XV) pursuant to findings that all applicable approval standards and requirements, including the standards for special land use approval applicable to all special land uses as specified in § 220-20-3.A, will be met with the approved lesser setbacks due to existing and/or planted non-deciduous trees/shrubs, the isolation of the site from public roads and developed properties, or other characteristics specific to the site. Accessory buildings shall observe the setback requirements generally applicable to principal buildings in the District as specified in the Schedule of Regulations in Article XV.

- C. The total lot coverage of the facility shall not exceed 75%, or such lesser percentage as is necessary on a site-specific basis to meet all applicable setback requirements (as measured by drawing an imaginary line around the perimeter of all the collector panel structures, and adding to the area of that calculation the area of all other buildings/structures on the site).
- D. The collector panels and supporting structures shall be designed and/or located on premises so as to avoid any projection of glare onto public or private streets or any other premises; and/or shall be sufficiently screened to meet this standard.
- E. The facility shall be designed for interconnection to a public utility electrical power grid, and shall be operated with such interconnection.
- F. The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.
- G. The facility shall have a decommissioning plan, documenting the anticipated useful life of the facility, including any collector panel replacements/upgrades, and detailing how the facility will be dismantled and the site restored when the facility is no longer in use. A facility shall be deemed no longer in use, for purposes of this provision, when it has not been operated for its designed and intended purpose for six months or more. The decommissioning plan shall be fully implemented and completed within six months after a facility is deemed no longer in use.
- H. The facility shall not be made operational until the applicant or the applicant's designee has provided to the Zoning Administrator the statement of a licensed professional engineer certifying all aspects of the facility, including the interconnection to a public utility power grid, complies with all applicable building and electrical code requirements, and complies with all the foregoing standards and requirements.

Item 14---Marihuana Business

- A. Each allowed type of Marihuana Business shall meet all of the following locational standards:

1. A Marihuana Business shall not be located in any dwelling unit.
 2. A Marihuana Business shall not be located within 1000 feet of a pre-existing private or public school providing education in kindergarten or any grades 1-12. This separation distance shall be measured in a straight line from the nearest property line of a protected use to the nearest portion of the building occupied by the Marihuana Business, and shall apply even if the protected use is located across the boundary line of the Township with another municipal entity.
- B. A Marihuana Microbusiness, Marihuana Retailer, and Medical Marihuana Provisioning Center shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building.
 2. The business shall open no earlier than 9:00 a.m. local time and close no later than 9:00 p.m. local time.
- C. A Marihuana Grower, Marihuana Processor, Marihuana Safety Compliance Facility, Medical Marihuana Grower, Medical Marihuana Processor, and Medical Marihuana Safety Compliance Facility shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building.
 2. The business shall be designed and operated to prohibit any unlawful discharge of pesticides, fertilizers, nutrients, marijuana, and other potential contaminants into the public wastewater and/or stormwater systems.
 3. No marijuana shall be cultivated, grown, manufactured, processed, handled or tested in any manner that allows the emission of odors beyond the interior of the building or which is otherwise discernable to another person outside of the building. Such odor emissions shall be prevented by the installation of operable filtration or ventilation and exhaust equipment.
 4. No marijuana shall be cultivated, grown, manufactured, processed, handled or tested in any manner that allows the emission of noise beyond the interior of the building or which is otherwise discernable to another person outside of the building.
 5. The business shall maintain a secure, closed environment where marihuana is to be stored, grown, processed, or tested, in order to prevent the inadvertent and/or unauthorized removal of marihuana from the facility.

- D. A Marihuana Secure Transporter and Medical Marihuana Secure Transporter shall comply with the locational standards in preceding subsection A, and shall also comply with all of the following additional standards:
1. All activities shall be conducted within an enclosed building, except where such activities are necessarily and lawfully conducted within a motor vehicle.
 2. All businesses, vehicles, and processes shall be designed and operated to comply with the odor emission requirements in preceding subsection C.3.
 3. All businesses, vehicles, and processes shall have security sufficient to prevent access to the marihuana by non-authorized personnel, including unauthorized removal.
 4. A secure transporting vehicle shall not bear any markings or identification that it is carrying marihuana.
- E. Signs for any marihuana business shall comply with the Township sign ordinance.
- F. All Special Land Use Permits granted to a Marihuana Business pursuant to Chapter 220 of the Rutland Charter Township Code shall be conditioned on issuance of a Municipal License for that Marihuana Business by the Rutland Charter Township Clerk pursuant to Ordinance No. 2022-180, and on issuance of a license to operate the business by the State of Michigan pursuant to MRTMA and/or MMFLA.
- G. Consistent with the Michigan Zoning Enabling Act, Special Land Use Permits shall be designated to the property where the Special Land Use is approved, not to the entity or individual applying for the Special Land Use Permit.

Item 15---Outdoor storage yard for recreational vehicles and boats.

- A. Storage on the premises is limited to recreational vehicles, boats (including boat trailers), and non-commercial vehicles only. This land use is not a storage yard for semi-trailers or other such commercial vehicles or conveyances.
- B. If access to the storage yard is restricted by a gate at the point of access to the premises from an adjoining public roadway, the gate shall be set back sufficiently from the roadway to allow any vehicle entering the premises to be completely off the public right-of-way when stopped at the access gate.
- C. All items permissibly stored on the premises shall be placed in the rear yard and/or side yard and so as to comply with the minimum yard requirements (setbacks) for a principle use in the LC Lake Commercial District or the LI Light Industrial District, as applicable, as specified in § 220-15-1 (Schedule of Regulations). No such stored items shall be placed within any part of the front yard area.

- D. No recreational vehicle, boat, or other item permissibly stored on the premises shall leak fuel, oil, grease, or any other substance that may contaminate soil, groundwater, or air.
- E. All lighting on the premises shall comply with § 220-17-5.A.
- F. If the storage yard abuts any premises in any Residential District, the storage area shall be screened from view on those premises by screening devices as specified in § 220-17-5.B. The Planning Commission may also require such screening if the storage yard abuts any premises not in a Residential District but lawfully used for existing residential dwelling purposes.
- G. The storage yard shall be designed and operated so as to comply with § 220-16-6 regarding obnoxious or dangerous conditions.

Chapter 95

CONSTRUCTION REGULATIONS

ARTICLE I Construction Standards

§ 95-1. Title.

§ 95-2. Assumption of certain State Construction Code/Act responsibilities by Township.

§ 95-3. Designation of enforcing agency; reservation of right to provide for joint enforcement.

§ 95-4. Establishment of fee schedule.

§ 95-5. Floodplain management.

§ 95-6. Violations; sanctions and enforcement.

[HISTORY: Adopted by the Township Board of the Charter Township of Rutland as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal civil infractions — See Ch. 45.

Zoning — See Ch. 220.

ARTICLE I Construction Standards [Adopted 3-10-1993 by Ord. No. 38]

§ 95-1. Title.

This article shall be known and may be cited as the "Charter Township of Rutland State Construction Code Ordinance."

§ 95-2. Assumption of certain State Construction Code/Act responsibilities by Township.

- A. In accordance with and pursuant to MCL § 125.1501 et seq. of the Stille-DeRossett-Hale Single State Construction Code Act, as amended, the Charter Township of Rutland hereby assumes responsibility for the administration and enforcement of portions of said Act within its political boundaries, and hereby adopts by reference portions of the State Construction Code currently in effect and as same may from time to time be modified or amended; specifically, the portions of said Act and State Construction Code constituting and pertaining to the Building Code and Electrical Code of the State of Michigan, and all other administrative portions of said Act/State Construction Code pertinent thereto.¹
- B. This section shall be construed to reverse any previous actions of the Township exempting the Township from said specified portions of the act and the State Construction Code by adopting and enforcing nationally recognized model building and electrical codes.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 95-3. Designation of enforcing agency; reservation of right to provide for joint enforcement.

In accordance with the aforereferenced Act, and pursuant to the provisions of the State Construction Code, the Rutland Charter Township Board is hereby authorized to designate by resolution an enforcing agency that shall discharge the responsibilities of the Township under the portions of said Act and the State Construction Code promulgated thereunder and adopted herein, which shall be any person or persons qualified by experience or training to perform the duties associated with construction code administration and enforcement, and otherwise in accordance with the Building Officials and Inspectors Registration Act (1986 Public Act 54; MCL § 338.2301 et seq.). The Board is further authorized to remove by resolution any such person(s) from said position, in the sole discretion of said Board. The Township specifically reserves the right to provide by agreement or contract with any other township, village, city or county in the State of Michigan for joint enforcement and administration of this article and the portions of the Act and the State Construction Code promulgated thereunder and adopted herein.

§ 95-4. Establishment of fee schedule.

The Rutland Charter Township Board is hereby given the authority to establish by resolution at any public meeting a schedule of fees, rates and charges for the administration and enforcement of this article and the portions of the Act and the State Construction Code promulgated thereunder and adopted herein, and for the conducting of various activities authorized by said Act/Code and this article; provided that the same shall be reasonable and bear a reasonable relationship to the cost and expense of such administration, enforcement and activity. The Township Board shall further have the right to amend by resolution the aforementioned schedule from time to time within the foregoing limits of reasonableness.

§ 95-5. Floodplain management. [Added 4-21-2009 by Ord. No. 2009-134]

- A. Agency designated. Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended,² the Building Official of Rutland Charter Township is hereby designated as the enforcing agency to discharge the responsibility of Rutland Charter Township under Act 230 of the Public Acts of 1972, as amended, State of Michigan. Rutland Charter Township assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of Rutland Charter Township with respect to the subject matter of this section as a supplementation of the responsibility previously assumed by Rutland Charter Township pursuant to Ordinance No. 38, adopted March 10, 1993, known as the "Charter Township of Rutland State Construction Code Ordinance."³
- B. Code Appendix enforced. Pursuant to the provisions of the State Construction Code, in accordance with Section 8b(6) of Act 230 of the Public Acts of 1972, as amended,

2. Editor's Note: See MCL § 125.1508b.

3. Editor's Note: Said Ord. No. 38 forms the basis of Art. I of this chapter.

Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within Rutland Charter Township.

- C. Designation of regulated flood-prone hazard areas. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Barry County, Michigan (all jurisdictions) and dated May 4, 2009, and the Flood Insurance Rate Map(s) (FIRMS) panel _____ number(s) _____ of _____ 260656C (26015C-0175C-0189C-0190C-0191C-0193C-0300C-0306C-0325C) and dated May 4, 2009, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.
- D. All ordinances or parts of ordinances inconsistent with the provisions of this section are hereby repealed; provided this section shall be considered to amend but not repeal any provision of the existing State Construction Code Ordinance referenced herein.

§ 95-6. Violations; sanctions and enforcement. [Amended 8-8-2001 by Ord. No. 2001-84⁴]

Any person or entity, including an officer, director or employee, or a governmental official or agent charged with the responsibility of issuing permits or inspecting buildings or structures, who does any of the following commits a violation of this article:

- A. Knowingly violates the State Construction Code Act (MCL § 125.1501 et seq.) or any provision of the State Code promulgated thereunder and adopted herein, or a rule for the enforcement of said Act or Code.
- B. Knowingly constructs or builds a structure or building in violation of a condition of a building permit.
- C. Knowingly fails to comply with an order issued by an enforcing agency, a construction board of appeals, a board, or the State Construction Code Commission pursuant to the State Construction Code Act, including the failure to comply with a stop construction order validly issued by an enforcing agency.
- D. Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval or appeal to an enforcing agency, a construction board of appeals, a board, or the State Construction Code Commission.
- E. Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to the State Construction Code Act.
- F. Unreasonably interferes with an authorized inspection.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- G. Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit or license in violation of the State Construction Code Act or a rule promulgated under said Act or other applicable laws.
- H. Having a duty to report violations of the State Construction Code Act or a rule promulgated under the Act or other applicable laws, knowingly conceals a violation.
- I. In any other manner violates a provision of the Code adopted herein.⁵

5. Editor's Note: Original Sec. VII, Repeal of conflicting ordinances/savings clause, which previously followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 200

SUBDIVISION OF LAND

ARTICLE I

Land Division/Combination/Boundary Adjustment

- § 200-1. Title.
- § 200-2. Purpose.
- § 200-3. Definitions.
- § 200-4. Prior approval requirement for land divisions, combinations, and boundary line adjustments.
- § 200-5. Application for land division approval.
- § 200-6. Review of applications for land division approval.
- § 200-7. Requirements for approval of land divisions.
- § 200-8. Significance of approval of application; appeal of administrator determination; retention of records.
- § 200-9. Boundary line adjustments and combinations.
- § 200-10A. Implementation of approved land division, combination or boundary adjustment.
- § 200-10B. Enforcement and violations; sanctions for violation; other consequences of noncompliance.

ARTICLE II

Subdivisions/Condominiums

- § 200-11. Title.
- § 200-12. Purpose.
- § 200-13. Definitions.
- § 200-14. Prepreliminary condominium plat plan development.
- § 200-15. Preliminary condominium plan; plat plan development.
- § 200-16. Planning Commission: review and recommendation of preliminary plan (Step One approval).
- § 200-17. Township Board review: preliminary condominium plan and preliminary plat plan (Step Two approval).
- § 200-18. Submission of final plat plan or final condominium plan for final approval (Step Three approval).
- § 200-19. Amendments to plat or condominium project.
- § 200-20. Variance procedure.

GENERAL REFERENCES

Planning Commission — See Ch. 36.

Zoning — See Ch. 220.

Municipal civil infractions — See Ch. 45.

ARTICLE I
Land Division, Combination, and Boundary Adjustment
[Adopted 12-14-2016 by Ord. No. 2016-159, as amended]

§ 200-1. Title.

This ordinance shall be known and cited as the Rutland Charter Township Land Division, Combination, and Boundary Adjustment Ordinance.

§ 200-2. Purpose.

The purpose of this Ordinance is to carry out those provisions of the Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) enacted by 1996 PA 591 and 1997 PA 87, and as subsequently amended (MCL 560.101 et seq) pertaining to the division of unplatted land; to prevent the creation of parcels of property which do not comply with applicable ordinances or the Act; to minimize potential boundary disputes; to maintain orderly development of the community; and to otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing requirements for prior review and approval of land divisions, combinations, and boundary line adjustments.

Note: the division of platted lots (lots in subdivisions) and the development of land into plats/subdivisions is regulated by the Rutland Charter Township Subdivision/Site Condominium Ordinance (Ordinance No. 2002-93; §200-11 through §200-20 of the Rutland Charter Township Code), under provisions of the Land Division Act generally not applicable to the division of unplatted land as addressed in this Land Division, Combination, and Boundary Adjustment Ordinance. That Ordinance also regulates the development of land into a “site condominium” under the Condominium Act (*MCL 559.101 et. seq.*).

§ 200-3. Definitions.

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. “accessible” or “accessibility” – means, in reference to a parcel, that the parcel meets one or both of the following requirements:
1. the parcel has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-247.329); or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
 2. the parcel is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the County Road Commission or, where applicable, the Michigan Department of Transportation, under Act No. 200 of the Public Acts of 1969 (MCL 247.321-

247.329); or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

- B. "Administrator" or "Land Division, Combination, and Boundary Adjustment Ordinance Administrator" – means the Township Assessor, or such other official as may be designated by the Township Board to administer the provisions of this Ordinance.
- C. "applicant" and "proprietor" – means a person, firm, association, partnership, corporation, or other entity of any kind, or combination of any of same, that holds a recorded or unrecorded ownership interest in land.
- D. "area" – means, with reference to the area of a parcel, the total horizontal area within the boundary lines of the parcel, except any portion of the parcel within a public street right-of-way.
- E. "boundary line adjustment" – means the splitting and intended transfer of land from one parcel to a contiguous parcel where the result moves the common boundary line between the contiguous parcels but does not create a new parcel.
- F. "buildable" – means, in reference to a parcel of land, that the parcel meets the requirements of this Ordinance and any other applicable ordinances and laws to be developed for a legally permissible use involving a building or other structure.
- G. "combine" or "combination" – means, in reference to property, the putting together (combining) of two or more existing parcels or lots into a lesser number of parcels than existed before being combined.
- H. "depth" – means, with reference to the depth of a parcel, the average horizontal distance from the front property line to the rear property line of the parcel.
- I. "development site" – means any parcel or lot on which exists a building, or which is intended for building development, other than any of the following:
 - 1. agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stocks; fruits; vegetables; Christmas trees; and other similar uses and activities.
 - 2. forestry use involving the planting, management, or harvesting of timber.
- J. "divided" or "division" – means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, or lease of more than one year, or for the purpose of building development, that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108

and 109 of the Land Division Act (MCL 560.108-109) and this Ordinance. “Divided” or “division” does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel (a “boundary line adjustment”).

- K. “exempt split” or “exempt division” – means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.
- L. “40 acres or the equivalent” – means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- M. “front property line” – means that portion of a parcel abutting the right-of-way of a public street (or the right-of-way of a lawful private road or easement, in the case of a lawfully created parcel abutting a lawfully established private road or easement).
- N. “Land Division Act” or “Act” – means the Land Division Act of the State of Michigan as cited in Section 2 of this Ordinance (*MCL 560.101 et. seq.*).
- O. “lot” – means a measured portion of a parcel or tract of land which is described and fixed in a recorded plat.
- P. “parcel” – means a contiguous area or acreage of land which can be described as provided for in the Land Division Act.
- Q. “rear property line” – means that boundary line of a parcel which is opposite and most distant from the front property line; provided that in the case of a parcel pointed at the rear, the rear property line shall be that assumed line parallel to the front property line not less than 10 feet long lying farthest from the front property line and wholly within the parcel.
- R. “side property lines” – means any parcel boundary line that is not the front property line or the rear property line.
- S. “survey” – means a map, prepared by a professional surveyor licensed in the State of Michigan, that certifies the boundaries, dimensions, and description of the land surveyed and that otherwise meets all the requirements of the Survey Act (1992) Public Act 183, as amended) for a survey of land not in a platted subdivision or condominium.
- T. “tract” – means two or more parcels that share a common property line and are under the same ownership.
- U. “parent parcel” or “parent tract” – means a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- V. “width” – means, with reference to a parcel, the horizontal distance between the side property lines measured at the front property line; or as otherwise specified by the

definition of the terms “lot frontage” and “lot width” in the Rutland Charter Township Zoning Ordinance.

- W. “Zoning Ordinance” –means the zoning regulations of Rutland Charter Township as set forth in Chapter 220 of the Rutland Charter Township Code.

§ 200-4. Prior approval requirement for land divisions, combinations, and boundary line adjustments.

- A. Land shall not be divided without the prior approval of the Administrator in accordance with Sections 5-7 this Ordinance and the Land Division Act; provided that the following shall be exempted from this requirement:
1. A parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act and any corresponding Township subdivision development ordinance.
 2. A lot in a recorded plat proposed to be divided in accordance with the Land Division Act and any corresponding Township subdivision development ordinance.
 3. An exempt split, where all resulting parcels are accessible, as defined in this Ordinance.
 4. An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size, where the parcel or tract is not accessible, and either of the following applies:
 - a. The parcel or tract was in existence on March 31, 1997.
 - b. The parcel or tract resulted from an exempt split or other partitioning or splitting under Section 109b of the Land Division Act (MCL 560.109b).
- B. Boundary line adjustments and combinations of land shall be subject to the prior approval of the Administrator in accordance with Section 9 of this Ordinance and the Act.

§ 200-5. Application for land division approval.

An applicant for approval of a proposed land division shall file all of the following with the Administrator to constitute a complete application:

- A. A completed application form on such form as may be provided by the Township.
- B. Evidence of land title sufficient to establish that the parent parcel or parent tract which is the subject of the proposed division was lawfully in existence on March 31, 1997.
- C. An adequate and accurate legal description of each parcel proposed to result from the division.

D. A tentative parcel map, drawn to an identified scale, showing all of the following with respect to each parcel proposed to result from the division:

1. Dimensions.
2. Area.
3. Parcel boundary lines.
4. Public utility easements.
5. Accessibility.
6. The location of all existing buildings and structures, and the distances from the building/structures to all existing and proposed parcel boundary lines.

If the Administrator determines any of the content required by D. 1-6 above is not adequately or accurately shown on the tentative parcel map, the Administrator may require the applicant to supplement the initial filing with an adequate and accurate tentative parcel map or with a survey, in the reasonable discretion of the Administrator.

E. One of the following with respect to the status of property taxes and special assessments due on the property subject to the proposed division for the five years preceding the date of the application, as required by Section 109(1)(i) of the Act effective September 16, 2019:

1. A certificate from the County Treasurer certifying all such property taxes and special assessments have been paid.
2. A statement by the Assessor that all such property taxes and special assessments that have not been paid have been apportioned by the Assessor as provided by MCL 211.53, and are a lien against the subject property as apportioned by the Assessor and shall be collected as required by law.

F. Such additional information as may be reasonably required by the Administrator to make a determination on the application pursuant to the requirements of this Ordinance and the Land Division Act; including, where applicable, information pertaining to a proposed transfer of division or development rights.

G. The fee as may from time to time be established by motion of the Township Board for land division, combination, and boundary line adjustment reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the Land Division Act.

§ 200-6. Review of application for land division approval.

- A. Within 45 days after the filing of a complete application, as provided in Section 5 of this Ordinance, the Administrator shall determine whether the proposed land division qualifies for approval pursuant to Section 7 of this Ordinance.
- B. The Administrator shall provide the applicant with written notice of the determination, by personal delivery or by regular first class mail at the address of the applicant on the application form.
- C. If an application is not approved the Administrator's notice of such determination to the applicant shall state the reason(s) for the disapproval.
- D. A notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size shall include a statement that the Township and its officers and employees are not liable if a building permit is not issued for the parcel for the reason that the parcel does not have the applicable approvals of a water supply and sewage disposal required by law.

Note: the statement required by the preceding paragraph is required by Section 109a of the Act with a notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size (*MCL 560.109a(2)*). Notwithstanding this statutory requirement to only include such a statement in a notice of approval of a proposed land division resulting in a parcel of less than 1 acre in size, the approval of any proposed land division as required by this Ordinance and by the Act shall not be interpreted as making any determination or representation with respect to the potential issuance of a building permit or applicable approvals of a water supply and sewage disposal system for any resulting parcel, regardless of the size of such parcel.

- E. The Administrator shall consult with the Zoning Administrator as necessary to determine the potential implications under the Rutland Charter Township Zoning Ordinance of an application filed pursuant to this Ordinance, and shall not knowingly approve an application under this Ordinance that creates a violation of the Zoning Ordinance or this Ordinance.

§ 200-7. Requirements for approval of land divisions.

- A. An application for a proposed land division shall be approved if all the following requirements are met:
 - 1. The applicant has filed a complete application pursuant to the requirements of Section 5 of this Ordinance.
 - 2. The total number of parcels proposed to be created does not exceed the number allowed pursuant to Section 108 of the Land Division Act (*MCL 560.108*) and otherwise complies with same.
 - 3. The width of each resulting parcel complies with the applicable minimum parcel (lot) width requirements of the Township Zoning Ordinance.

4. The area of each resulting parcel complies with the applicable minimum parcel (lot) area requirements of the Township Zoning Ordinance.
 5. The depth of each resulting parcel is not more than four times its width; provided that this requirement does not apply to the remainder of a parent parcel or parent tract retained by the proprietor.
 6. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
 7. Each resulting parcel is accessible.
 8. The division does not isolate a cemetery so that it is not accessible.
 9. All property taxes and special assessments due on the subject property for the five years preceding the date of the application have been certified by the County Treasurer as paid; or, in the alternative, all such unpaid property taxes and special assessments have been apportioned by the Assessor as provided by MCL 211.53 and are a lien against the subject property as apportioned by the Assessor, as required by Section 109(1)(i) of the Act.
 10. Each resulting parcel complies with all other applicable requirements of the Land Division Act.
- B. The Administrator shall disapprove an application for a proposed land division that does not meet all the requirements for approval in the above Section 7.A of this Ordinance, or that will otherwise create or cause a violation of another ordinance or law, unless the application was submitted for approval of a division to create one or more parcels not intended to be buildable and the application is approvable pursuant to Section 7.C of this Ordinance.
- C. The Administrator shall approve an application for a proposed land division where the width and/or area and/or depth-to-width of each resulting parcel does not comply with Section 7.A.3, 4, or 5 of this Ordinance (the applicable minimum width/area/depth-to-width requirements) if all of the following requirements, circumstances and conditions are met:
1. The application includes the explicit statement of the applicant that “the requested land division is not intended to create a new separate buildable lot”.
 2. The Administrator determines all of the requirements for land division approval specified in Section 7.A of this Ordinance are met, other than Section 7.A.3 and/or 4 and/or 5.
 3. The Administrator determines, after consultation with the Zoning Administrator, that the requested division will not cause any remaining portion of the property associated with the proposed land division which is already developed, or intended for development and previously approved, to violate any provision of the

Zoning Ordinance concerning minimum lot frontage/width, minimum lot area, minimum building/structure setbacks, or maximum lot coverage requirements in effect at the time of such application.

4. The Administrator explicitly designates the resulting parcel(s) as “not buildable” in the approval determination on the application, and assures this same designation in the assessing and zoning records of the Township.
 5. The approval determination is subject to the condition that before the approval becomes effective the applicant shall file with the Administrator a copy of a document (on a form either prepared or approved by the Township) as recorded with the Barry County Clerk/Register of Deeds explicitly and conspicuously identifying the parcel(s) as “not buildable” and “not a development site”, and “not subject to a request by the applicant or any successor owner to render the property buildable by variance relief granted by the Rutland Charter Township Zoning Board of Appeals”.
- D. A parcel designated as “not buildable” pursuant to this provision shall itself be subject to further division to create a parcel(s) intended for building development only to the extent all the following requirements are met:
1. The applicant has retained the right to make such division(s) or is otherwise the lawful transferee of such division rights under the Land Division Act.
 2. Any resulting parcel created by such division and intended for development complies with the applicable minimum parcel (lot) width and area requirements of the Zoning Ordinance for a buildable lot, and can otherwise be lawfully developed under the Zoning Ordinance.
 3. The division is otherwise approvable pursuant to this Ordinance and the Land Division Act.

§ 200-8. Significance of Approval of Application; Appeal of Administrator Determination; Retention of Records

- A. The approval of an application for a land division is only a determination that the land division complies with the requirements of the Land Division Act and the applicable requirements of this Ordinance, and is not a determination that the resulting parcels comply with other applicable ordinances or regulations pertaining to the use or development of the parcels.
- B. Any person aggrieved by the determination of the Administrator on an application for a land division may appeal the Administrator’s determination to the Township Board by filing a written appeal with the Township Clerk not later than 21 days after the date notice of the Administrator’s determination was mailed or personally delivered to the applicant. At least 7 days written notice of the date, time and place of the Township Board meeting at which the appeal will be considered shall be given to the applicant (and

the appellant where other than the applicant) by personal delivery or regular first class mail directed to the address of the applicant/appellant as shown in the application/written appeal. The Township Board shall affirm or reverse the determination of the Administrator, in whole or in part, pursuant to the requirements for approval of land divisions in Section 7 of this Ordinance and in the Land Division Act, but shall in no event reverse the Administrator's determination unless and except to the extent that determination was clearly erroneous under all applicable provisions of this Ordinance and the Act. The decision of the Township Board on such an appeal shall be a final decision of the Township for purposes of such judicial review as may be provided by law.

- C. The Administrator shall maintain an official record of all land division applications and the determinations thereon, including any appeals.

§ 200-9. Boundary Line Adjustments and Combinations.

- A. Land shall not be subject to a boundary line adjustment, or a combination, without the prior approval of the Administrator in accordance with this Section.
- B. An applicant for approval of a proposed boundary line adjustment, or a combination, shall file with the Administrator an application with all of the information required by Section 5 of this Ordinance for a proposed land division, as applicable to the proposed boundary line adjustment/combination.
- C. An application for a boundary line adjustment or combination shall be subject to the review requirements for a land division application as specified in Section 6 of this Ordinance.
- D. An application for a boundary line adjustment or combination shall be approved if all of the following requirements are met:
 - 1. The applicant has filed a complete application as required above.
 - 2. The proposed boundary line adjustment or combination will not violate any provision of the Act.
 - 3. The proposed boundary line adjustment or combination will not cause any existing parcel that is a conforming lot under the Township Zoning Ordinance to become a nonconforming lot under that ordinance, and will not cause any existing nonconforming lot under that ordinance to become more nonconforming.
- E. Any person aggrieved by the determination of the Administrator on an application for a boundary line adjustment or combination may appeal the Administrator's determination to the Township Board as provided by Section 8 of this Ordinance with respect to an appeal of a land division application determination.

§200-10A Implementation of Approved Land Division, Combination, or Boundary Line Adjustment.

- A. The approval of an application for a land division, combination, or boundary line adjustment pursuant to this Ordinance does not itself implement the approved division, combination, or boundary line adjustment.
- B. An approved land division, combination, or boundary line adjustment is void unless the approved land division, combination, or boundary line adjustment is implemented by subsequent execution of a deed or other applicable instrument of conveyance, within 90 days from the date of approval.
- C. An executed deed or other applicable instrument of conveyance implementing an approved land division, combination, or boundary line adjustment, and any survey associated with same, shall be recorded with the Barry County Clerk/Register of Deeds as required by law, by the applicant or the applicant's designee/agent within 21 days after such instrument is executed.
- D. If an executed deed or other applicable instrument of conveyance implementing a land division, combination, or boundary line adjustment, or a survey associated with same, is not required by law to be recorded with the Barry County Clerk/Register of Deeds, the applicant or the applicant's designee/agent shall file a certified copy of such executed deed or other instrument of conveyance, and survey, with the Administrator of this Ordinance within 21 days after such instrument is executed.
- E. If the Administrator of this Ordinance is not the Assessor, the Administrator shall forthwith provide to the Assessor a copy of each such executed instrument and survey filed with the Administrator.

§ 200-10B Enforcement and Violations; Sanctions for Violation; Other Consequences of Noncompliance.

- A. This ordinance shall be enforced by the Land Division, Combination, and Boundary Adjustment Ordinance Administrator, and by such other person or persons as the Township Board may designate.
- B. Each of the following constitutes a violation of this Ordinance, including the aiding or abetting of any of same:
 - 1. Including materially false information on any application submitted under this Ordinance.
 - 2. Executing a deed or other instrument of land conveyance involving a land division, boundary line adjustment, or combination, that is subject to an application and approval requirement under this Ordinance, before the approval of such application.

3. Executing a deed or other instrument of land conveyance for any land division, boundary line adjustment, or combination, that is subject to an application and approval requirement under this Ordinance, for any property other than the property for which an application was approved under this Ordinance, or in any other manner contrary to any such approval.
4. Failing to timely record with the Barry County Clerk/Register of Deeds any document required by this Ordinance (such as a document identifying a parcel as “not buildable” and “not a development site” as required by Section 7.C of this Ordinance).
5. Any other action violating any provision of this Ordinance.

C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute, punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine
--- 1st offense	150.00
--- 2nd offense	300.00
--- 3 rd or subsequent offense	500.00

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

- D. Any violation of this Ordinance shall also constitute a basis for injunctive relief against the violator, restraining and prohibiting continuation of the violation, in addition to any other relief or sanction herein set forth or allowed by law.
- E. Any division or combination of land or boundary line adjustment created in noncompliance with this Ordinance shall not be recognized on the Township real property assessment and taxation records, or zoning records, and shall be subject to such other consequences as may be provided by law.

ARTICLE II
Subdivisions/Condominiums
[Adopted 6-12-2002 by Ord. No. 2002-93]

§ 200-11. Title.

This article shall be known as the "Township Subdivision/Site Condominium Ordinance."

§ 200-12. Purpose.

The purpose of this article is to regulate and control the subdivision of land into plats pursuant to 1967 PA 288; 1996 PA 591; and 1997 PA 87¹ to regulate preliminary and final plats and the minimum standards to be met by the subdivider and to regulate the development of land within the Township under the provisions of the Condominium Act, PA 59 of 1978², and set the minimum standards to be met by the developer, and shall be reviewed with the objective interest of achieving the same source characteristics and land use results as if the development and improvements were being proposed in accordance with general subdivisions, including all requirements of Chapter 220, Zoning. It is the intent of the Township to insure that the appearance of each type of project, the size of the lots or building sites are equal to the minimal lot size of the zoning district in which the project is located and in so doing to treat each type of development in the same manner.

§ 200-13. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUILDING SITE — Within a condominium development the same shall mean that portion of a lot or parcel which is a two-dimensional condominium unit of land (i.e., envelope, footprint), along with any and all limited or general common elements designed for the construction of a principal condominium building in addition to accessory condominium buildings. All building sites shall have access to a public or private street or road.

COMMON ELEMENTS — The portions of a condominium project other than the condominium units.

CONDOMINIUM PLAN — The plan as required in this article, including but not limited to the survey and utility plans, building site, the existing and proposed structures and improvements, including their location on the land.

CONDOMINIUM PROJECT — A development or project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, Act No. 59 of the Public Acts of 1978, as amended.²

¹ Editor's Note: See the Land Division Act, MCL § 560.101 et seq.

² Editor's Note: See MCL § 559.101 et seq.

CONDOMINIUM UNIT — 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.

CONSOLIDATING MASTER DEED — The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

CONTRACTIBLE CONDOMINIUM — A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the expressed provisions in the condominium documents and in accordance with this article and the Condominium Act.²

LIMITED COMMON ELEMENTS — The 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 condominium units in the project.

LOT — A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered or otherwise designated, which has frontage on a public or private street or road.

MASTER DEED — The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

PARCEL — A continuous area, tract or acreage of land which has not been divided or subdivided (i.e., platted) pursuant to, and/or in accordance with the Land Division Act, 1967 PA 288, as amended; 1996 PA 591 and 1997 PA 87.³

PLAT — A map or chart of a subdivision of land.

SETBACK — The minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the property lines of the lot, parcel or building site upon which the same is situated from adjacent buildings or structures or from public or private rights-of-way.

§ 200-14. Prepreliminary condominium plat plan development.

Nothing in this article shall prohibit a developer from submitting a prepreliminary condominium or plat plan for general input by the Planning Commission prior to the submission of the preliminary plan. Developer may submit the plan in sketch format without meeting the formal requirements of this article. The general discussions of the Planning Commission shall not in any way be binding upon the Planning Commission at the time of its final review and recommendation for Step One approval.

³ Editor's Note: See MCL § 560.101 et. seq.

§ 200-15. Preliminary condominium plan; plat plan development.

Every person, firm or corporation which shall hereafter submit a proposed preliminary condominium plan or preliminary plat plan to the Township Planning Commission for tentative approval shall submit not less than four nor more than 10 legible copies of said proposed preliminary plan. Said condominium plan or preliminary plat plan should be drawn by a registered civil engineer. Said copies must contain, as a minimum, the following information and fees:

- A. Proposed name of the project.
- B. Full legal description to adequately describe the lots, parcels or building sites comprising the project.
- C. Names and addresses of the applicant, owners, and professionals who designed the project.
- D. The names and addresses of the proprietors and the ownership interest in each in the land included in the preliminary plan, including a legal opinion showing the legal and equitable owners of the land to be platted, plus all grants, reservation, deed restrictions and easements of record which condition the use of the property.
- E. Scale of the plan (maximum scale shall be 100 feet to an inch).
- F. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium or platted subdivision including those areas across abutting roads.
- G. Show relief of area proposed to be development with not more than four-foot contour intervals.
- H. Indicate road layout and the type of street construction and drainage structures or facilities intended to be installed.
- I. Indicate lot layout, showing size and shape of proposed lots, including the square foot calculations for each individual lot.
- J. Indicate whether proposed site condominium or platted subdivision plan will be served by sanitary sewer and/or water.
- K. Location of existing sewers, water mains, storm drains, and other underground utilities within or adjacent to the tract being proposed for a subdivision.
- L. The location of significant natural features such as natural watercourses, bodies of water, stands of trees, and individual trees within the projects area having a caliper of 12 inches or greater at a height of two feet above existing grade.

- M. Indicate the general location and size of any floodplain possibly located within the area to be platted.
- N. Indicate in general the methods proposed for stormwater disposal.
- O. When the proprietor owns and anticipates platting adjoining land, he or she shall submit, with the preliminary plan for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.
- P. Letter from the Barry County Road Commission and the State Highway Department, where applicable, with said agencies' recommendation to the Township as to the suitability of the street layout and conformity to the location, alignment and construction requirements of such Commission and/or Department as well as a copy of the soil erosion and sedimentation permit issued by the Barry County Planning Commission.
- Q. Indicate the location of proposed streetlights with a letter of agreement by the developer that the same shall be added to the Township's general streetlight district unless a waiver is granted from such requirement by the Township Board.
- R. Fee to be set by a resolution of the Township Board.

§ 200-16. Planning Commission: review and recommendation of preliminary plan (Step One approval).

- A. Upon receipt of copies of said proposed preliminary condominium plan or plat plan for tentative approval, the Township Planning Commission shall examine said proposed preliminary plan with such assistance and review by an engineer and Township Attorney as the Township Board shall require. The Township Planning Commission shall determine whether said proposed preliminary condominium subdivision plan or plat plan complies with all Township ordinances and state statutes as well as makes adequate provision for the following:
 - (1) Streets.
 - (a) The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new condominium project or plat.
 - (b) Where adjoining areas are not developed, the arrangement of streets in the proposed condominium project or plat shall be extended to the boundary line of the tract to make provision for the future projection of streets into the adjoining areas; provided, however, that minor streets within the subdivision shall be so laid out that their use by through traffic will be discouraged.
 - (c) Direct access to a county primary road or major thoroughfare shall be prohibited for all building sites or lots abutting such roads or thoroughfares. Where the proposed development abuts or contains a county primary road or major thoroughfare, the Township Board may

require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through from local traffic.

- (d) Private streets may be permitted by the Township Board, after preliminary review by the Planning Commission, provided that the same are reviewed and approved pursuant to the private road provisions contained in § 220-99, Private roads, of Chapter 220, Zoning.

(2) Lots.

- (a) The minimum size of lots or building sites shall be those contained in Chapter 220, Zoning.
- (b) The minimum size of lots or building sites abutting more than one street must be sufficient to provide area to meet building setback requirements contained in Chapter 220, Zoning, from all such abutting streets.

(3) General provisions.

- (a) Privately held reserve strips controlling access to streets shall be prohibited.
- (b) Existing natural features which add value to residential development, that enhance the attractiveness of the community (such as streams, watercourses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision.
- (c) Lands subject to flooding or otherwise determined by the Township Board to be uninhabitable should not be developed for residential, commercial or industrial purposes. Such lands within a subdivision may be set aside for other purposes such as parks and/or open space.

- B. If the Township Planning Commission determines that the proposed preliminary condominium subdivision plan complies with all applicable ordinances and statutes, plat plan or preliminary plan, the Planning Commission shall recommend approval of the preliminary plan to the Township Board which approval shall confer upon the proprietor for a period of one year from date of approval for development purposes, the lot size, lot orientation and street layout. Such tentative approval may be extended in the discretion of the Township Board upon application of the proprietor.

§ 200-17. Township Board review: preliminary condominium plan and preliminary plat plan (Step Two approval).

- A. Every person, firm or corporation which shall hereafter submit copies of a proposed preliminary plat plan or preliminary condominium plan to the Township Board for final approval shall submit the relevant data and fees.

- (1) Evidence that all requirements imposed by the Township Planning Commission at the time of granting tentative approval have been incorporated into the proposed plan.
 - (2) Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public and/or private roads within and adjoining said condominium project. Prior to submitting copies of the preliminary condominium plan or preliminary plat plan to the Township Board for final approval, the developer shall document consultation with all public utilities which will be servicing the subdivision to resolve any conflicts in location between public utility facilities and other improvements.
 - (3) Fee to be set by a resolution of the Township Board.
 - (4) A letter from the Barry County Health Department together with percolation tests and test analysis, with respect to the suitability of the land included in the plat for the use of septic tank, dry wells and tile fields, if individual sewage disposal systems are proposed and public sewage facilities are not available.
- B. Upon receipt of all required copies of the final condominium plan or plat plan for final approval, the Township Board shall examine the same with such assistance and review by an engineer and Township Attorney as said Township Board shall request. Upon completing its review, the Township Board shall determine whether said plat plan or condominium plan complies with the requirements imposed by the Township Planning Commission at the time of tentative approval, has obtained the required statutory approval of other governmental agencies:
- (1) All roads both public and private shall be completed in accordance with plans approved by the Planning Commission.
 - (2) All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins must not be spaced further apart than 300 feet except upon express approval of the Township Board, upon recommendation of an engineer, to be granted only where other equivalent and sufficient drainage inlets are provided. Where such outlets are not thus available, such drainage structures may consist of leaching basins so spaced that water shall not be required to run on the surface of the road further than 250 feet to such basin, or so spaced as to afford equivalent and sufficient drainage. The determination of what is equivalent and sufficient drainage shall be left to the Township Board upon the recommendation of the Township Engineer.
 - (3) Connection to sanitary sewers and/or water mains may be required by the Township Board when the Township Board determines, in its discretion, that said sewers and/or water mains are reasonably available to the proposed subdivision.
 - (4) In the discretion of the Township Board, the proprietor shall make arrangements for all distribution lines of telephone, electric, television and other similar services

distributed by wire or cable to be placed underground entirely through the residential subdivided area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the Michigan Public Service Commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plan.

- (5) Stormwater disposal methods proposed for the subdivision must be adequate to insure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
- (6) No lot or building site, out-lot or land within the subdivision may be isolated from a public highway, nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare thereby creating land-locked parcels. Such isolation may be avoided and direct access to a public street or highway be satisfied and accomplished through a dedicated easement for ingress and egress, and all public utilities, shown upon the recorded plat, which easement shall be of suitable width of not less than 66 feet assuring permanent access to such lot, out-lot or parcel of land.
- (7) Indicate the location of proposed streetlights if a Township-wide streetlight special assessment district is in place at the time of Step Two approval, the application shall be accompanied with a letter of agreement by the developer that the same shall be added to the Township's general streetlight district unless a waiver is otherwise granted from such requirement by the Township Board.
- (8) Sidewalks may be required by the Township Board when the Township Board determines, in its opinion, that sidewalks are necessary for pedestrian safety, public health and welfare. When required, sidewalks shall be constructed of concrete four feet in width, four inches in depth, upon a two-inch minimum sand base with expansion joints set at a minimum of 50 feet; sidewalks built across driveways shall be constructed of concrete six inches in depth.
- (9) The proprietor shall make arrangements for and assume the costs of the assignment of a street number for each lot proposed to be included within the subdivided area.

C. If the Township Board determines that the preliminary plat plan or preliminary condominium plan has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth above in this article, the Township Board shall grant final approval of the preliminary condominium development plan which shall confer upon the proprietor for a period of two years from date of approval the

conditional right that the general terms and conditions under which said approval was granted will not be changed. Said two-year period may be extended in the discretion of the Township Board upon application by the proprietor.

§ 200-18. Submission of final plat plan or final condominium plan for final approval (Step Three approval).

- A. Every person, firm or corporation which shall hereafter submit a proposed final plat or condominium development plan to the Township Board for final approval shall also submit the following relevant data and fees:
- (1) An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision.
 - (2) Evidence that all requirements imposed by the Township Planning Commission and Township Board at the time of the preliminary approval have been incorporated into the proposed plan.
 - (3) Fee to be set by a resolution of the Township Board.
 - (4) Letter from the Barry County Health Department confirming that construction of septic tank, dry well or tile field area has been completed as shown on the preliminary plat.
- B. Review by Township Board; final approval. The Township Board shall review the proposed final plat or condominium development plan and determine that:
- (1) All monuments required to be placed in the plat or condominium project have either been placed or a cash or equivalent deposit has been made with the Township and deposit agreement executed by the proprietors.
 - (2) All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Township and a deposit agreement executed by the proprietors.
 - (3) If the plat or condominium project has any waterways or lagoons, etc., that all such waterways, etc., shall be installed or a cash or equivalent deposit made to the Township and a deposit agreement executed by the proprietors.
 - (4) If any floodplain are involved in the proposed plat or condominium project, then such floodplain shall be restricted as provided by the Land Division Act³ *Editor's Note: See MCL § 560.101 et seq.* or Condominium Act², *Editor's Note: See MCL § 559.101 et seq.* and such restrictions shall be submitted to the Township Board for review and approval prior to recording and thereafter shall be recorded in the Office of the Register of Deeds as part of the plat or master deed or contemporaneously with the recording of the master deed.

- (5) All utilities servicing the plat have been installed and water and sanitary sewer mains have been stubbed to the lot line or building site line or a cash or equivalent deposit has been made with the Township Board sufficient in amount to insure completion thereof within the time specified and a deposit agreement executed by the proprietors.
- (6) All underground utility installations, including lines for streetlighting systems, which traverse privately owned property shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the plat or master deed as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side lot lines provided for utilities shall be at least 12 feet wide, usually six feet dedicated from each lot or parcel except side lot easements three feet wide granted for streetlighting dropouts. These easements shall be direct and continuous from block to block.
- (7) All public improvements, such as streetlights, fire hydrants, sidewalks, parks, etc., which have been required by the Township Board, have been completed and installed and reviewed and approved by an engineer or a cash or equivalent deposit has been made with the Township sufficient in amount to insure completion within the time specified and a deposit agreement executed by the proprietors.
- (8) The proposed final plat or condominium project complied with all applicable state statutes and Township ordinances and has received the requisite statutory approval of other governmental agencies.
- (9) That the plat or master deed is executed by all required owners and recorded with the County Register of Deeds and filed with the Township before issuance of any building permits.

C. In the event the developer shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. In order to accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the security deposit which the subdivider has deposited with the Township or it may take such steps as may be necessary to require performance in accordance with the deposit agreement executed by the proprietors.

§ 200-19. Amendments to plat or condominium project.

All amendments to the plat or condominium project shall be submitted for review and approval under §§ 200-15 and 200-16, above.

§ 200-20. Variance procedure.

Where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this article, the Township Board shall have power in passing upon proposed condominium or plat projects to modify any of the terms and provisions of this article so that the spirit of this article shall be observed and public health, safety and welfare secured. *Editor's Note: Original Sec. 7, Enforcement; violations and penalties, and Sec. 8, Amendment procedures, which previously followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 45, Violations Bureau; Municipal Civil Infractions.*⁴

⁴ Editor's Note: Original Sec. 7, Enforcement; violations and penalties, and Sec. 8, Amendment procedures, which previously followed this section were deleted at the time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 45, Violations Bureau; Municipal Civil Infractions.

Chapter 36

TOWNSHIP PLANNING COMMISSION

§ 36-1. Establishment.

§ 36-2. Membership, composition and voting rights.

§ 36-3. Member appointments, qualifications, terms and vacancies.

§ 36-4. Removal.

§ 36-5. Powers and duties.

§ 36-6. Compensation.

§ 36-7. Bylaws.

§ 36-8. Meetings and records.

[HISTORY: Adopted by the Township Board of the Charter Township of Rutland 2-11-2009 by Ord. No. 2009-133. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 200.

Zoning — See Ch. 220.

§ 36-1. Establishment.

The Rutland Charter Township Board hereby confirms and reestablishes by this chapter under the Michigan Planning Enabling Act¹ the Rutland Charter Township Planning Commission previously established by resolution under the former Township Planning Act.

§ 36-2. Membership, composition and voting rights.

- A. The Rutland Charter Township Planning Commission (herein sometimes referred to as the "Planning Commission") shall have a total membership of five members, including one member who is also a member of the Township Board and referred to herein as the "ex officio" member.
- B. The membership of the Planning Commission shall be representative of important segments of the Township, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. In addition, the membership of the Planning Commission shall be representative of the entire geography of the Township to the extent practicable.
- C. The Supervisor is not eligible for appointment as a member of the Planning Commission. An elected officer or employee of the Township is not eligible to be a member of the Planning Commission except for the required ex officio member.

1. Editor's Note: See MCL § 125.3801 et seq.

- D. Each member of the Planning Commission has the same voting rights, including the ex officio member.

§ 36-3. Member appointments, qualifications, terms and vacancies.

- A. The Township Supervisor shall appoint all members of the Planning Commission, subject to approval by a majority vote of the members of the Township Board elected and serving.
- B. All Planning Commission members shall be qualified electors of the Township (U.S. citizen, at least 18 years old, resident of Michigan for a least six months, and resident of Rutland Charter Township for at least 30 days); except one member may be appointed who is not a qualified elector of the Township.
- C. Members of the Planning Commission shall be appointed for three-year terms, except for the ex officio member whose term on the Planning Commission shall expire with his or her term on the Township Board. A Planning Commission member shall hold office until his or her successor is appointed. The terms of the members of the Planning Commission, other than the ex officio member, shall be staggered such that as nearly as possible the terms of one-third of the Planning Commission members will expire each year.
- D. A vacancy on the Planning Commission shall be created when a member no longer meets all of the legal qualifications for membership on the Planning Commission, a member resigns from the Planning Commission, or a member is removed from the Planning Commission by the Township Board. A vacancy on the Planning Commission shall be filled for the unexpired term in the same manner as an original appointment.
- E. Upon adoption of this chapter, the Township Board shall by resolution make such adjustments of the existing Planning Commission members and terms as may be necessary to effect compliance with the requirements of this chapter as to membership, composition and staggered terms.

§ 36-4. Removal.

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing preceded by reasonable notice to the member and the public.

§ 36-5. Powers and duties.

- A. The Planning Commission shall have all the powers and duties provided for a township planning commission by the Michigan Planning Enabling Act,² the Michigan Zoning Enabling Act,³ any other applicable laws, Chapter 220, Zoning, and this chapter,

2. Editor's Note: See MCL § 125.3801 et seq.

3. Editor's Note: See MCL § 125.3101 et seq.

including all of the following powers and duties which shall be exercised in accordance with all applicable legal requirements:

- (1) Adopt bylaws for the transaction of Planning Commission business.
- (2) Elect officers of the Planning Commission.
- (3) By resolution determine the time and place of not fewer than four regular meetings each year.
- (4) Make and recommend to the Township Board a Master Plan as a guide for development within the Township (public hearing required).
- (5) Review the Master Plan at least every five years after adoption and determine whether to commence the procedure to amend the Master Plan or adopt a new Master Plan.
- (6) Review and make recommendations to the Township Board on such amendments of the Master Plan as may come before the Planning Commission by individual application (public hearing required).
- (7) Consult with and advise public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens, concerning the promotion or implementation of the adopted Master Plan.
- (8) Review and where considered appropriate comment on other community's proposed master plans submitted to the Planning Commission for that purpose.
- (9) Prepare and recommend Township Board action on proposed amendments of the existing Township Zoning Ordinance/map or a proposed new Township Zoning Ordinance/map (public hearing required).
- (10) Conduct all public hearings as required by law or ordinance.
- (11) Review and decide applications for special land use approval (public hearing required); and, where applicable, planned unit development approval.
- (12) Review and decide applications for site plan approval.
- (13) Review and make recommendations to the Township Board on the provisions of an ordinance governing the subdivision of land, or a proposed amendment thereof, as may be referred to the Planning Commission by the Township Board for such purpose.
- (14) Review and make recommendations to the Township Board on every proposed plat before the Township Board takes action on a proposed preliminary plat submitted for tentative approval; and similarly review and make recommendations to the Township Board on such other steps of the plat review process at the Township level as may be required by any applicable ordinance or as otherwise requested by the Township Board (public hearing required).

- (15) Review and approve or disapprove the location, character, and extent of such proposed street, square, park, playground, public way, ground, other open space, or public building or other structure, proposed to be constructed in an area covered by the Township Master Plan, submitted to the Planning Commission by the Township Board or other body having jurisdiction over the authorization or financing of the project, pursuant to MCL § 125.3861(1).
 - (16) Make an annual report to the Township Board concerning Planning Commission operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development. Unless otherwise required by the Township Board, the Planning Commission shall be considered to have complied with this annual report requirement pursuant to the availability of the minutes of its meetings to the members of the Township Board.
- B. The Planning Commission is hereby exempted from the requirement of MCL § 125.3865(1) to prepare a capital improvements program for the Township; provided the Planning Commission may in its discretion recommend programs for public structures and improvements and for the financing thereof to the appropriate public officials pursuant to MCL § 125.3867.

§ 36-6. Compensation.

Members of the Planning Commission, including the ex officio member, may be compensated for their services as provided by Township Board resolution.

§ 36-7. Bylaws.

The Planning Commission shall adopt bylaws for the transaction of its business. The bylaws shall include provisions providing for the election of Planning Commission officers, and provisions defining and otherwise pertaining to conflict of interest. The bylaws may also include such other provisions for the transaction of Planning Commission business as the Planning Commission may deem advisable, and as authorized by law. Bylaws of the Planning Commission and any amendments of same shall be adopted by a majority vote of the entire membership of the Planning Commission. Planning Commission bylaws shall not be contrary to or supersede any applicable law, any Rutland Charter Township ordinance, or any Township policy approved by the Township Board.

§ 36-8. Meetings and records.

- A. The Planning Commission shall hold at least four regular meetings each year. The time and place of all regular meetings shall be determined by resolution of the Planning Commission. The Planning Commission may also hold special meetings as provided by the bylaws of the Planning Commission and applicable law.
- B. All business of the Planning Commission shall be conducted at a public meeting held in compliance with the Open Meetings Act of the State of Michigan (MCL § 15.261 et seq.) and such other laws as may be applicable. The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations, as required by

law. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act (MCL § 15.231 et seq.).

Chapter 37

HASTINGS-RUTLAND JOINT PLANNING COMMISSION

§ 37-1. Approval of agreement to establish Hastings-Rutland Joint Planning Commission, as amended in 2016.

HISTORY: Adopted by the Township Board of the Charter Township of Rutland 11-13-2013 by Ord. No. 2013-144; amended by Ord. No. 2016-155 adopted 5-11-2016.

GENERAL REFERENCES

Township Planning Commission — See C. 36.
Subdivision of Land — See Ch. 200.

Zoning — see Ch. 220.

§ 37-1. Approval of agreement to establish Hastings-Rutland Joint Planning Commission, as amended in 2016.

The “Agreement by Rutland Charter Township and the City of Hastings to Establish a Joint Planning Commission, as amended in 2016,” approved by the Hastings City Council and the Rutland Charter Township Board, a copy of which is appended hereto, is hereby approved.¹

§ 37-2. Effective date.

This Ordinance shall take effect on the latter of: (1) 15 days after enactment by both the City and Township, or (2) upon publication of a notice of ordinance adoption as required by law; provided, however, if a notice of intent to file a petition under *MCL 125.139* is timely filed with the Clerk of Rutland Charter Township, and/or the right of referendum under applicable provisions of the charter of the City of Hastings is initiated by a timely filing with the Clerk of the City of Hastings, this ordinance shall then only take effect as provided by applicable provisions of *MCL 125.139* and/or City charter.

¹ Editor’s note: The Joint Ordinance/Agreement was approved by City of Hastings Ord. No. 531 adopted June 13, 2016.

**AGREEMENT BY RUTLAND CHARTER TOWNSHIP AND THE CITY OF HASTINGS
TO ESTABLISH A JOINT PLANNING COMMISSION, AS AMENDED IN 2016**

Rutland Charter Township and the City of Hastings, both being municipalities located in Barry County, State of Michigan, are entering into this Amended Agreement to establish a joint planning commission pursuant to the Joint Municipal Planning Act (Michigan Public Act 226 of 2003, as amended: *MCL 125.131 et. seq.*), and also pursuant to the provisions of the Rutland Charter Township – City of Hastings Urban Services and Economic Development Agreement dated November 26, 2012 and any amendments of same (herein referred to as the “USEDA”) pertaining to land use planning and zoning (including the Rutland Charter Township-City of Hastings 2016 Urban Services and Economic Development Agreement).

**ARTICLE 1. JOINT PLANNING COMMISSION NAME, MEMBERSHIP
COMPOSITION AND QUALIFICATIONS, AND OTHER MEMBER MATTERS**

Section 1.1. Joint Planning Commission --- Name. The Joint Planning Commission established pursuant to this Agreement shall be known as the Hastings-Rutland Joint Planning Commission (referred to herein as the “Joint Planning Commission”, or the “JPC”).

Section 1.2. JPC Membership --- Composition and Qualifications. The JPC shall consist of six members, as provided below.

- a. Qualifications. Each member shall be a resident or land owner of the municipality by which they are appointed; provided one of the City appointed members and one of the Township appointed members, as specified in subsections b. and c. below, may be individuals who are qualified electors of a unit of local government other than the City or Township but who have a business interest or other discernible interest in the Rutland-Hastings community.
- b. City appointed members. Three of the members shall be appointed by the Mayor of the City of Hastings, subject to confirmation by the Hastings City Council. At least one of the City appointees shall be a member of the Hastings City Council; and one City appointee shall be a member of the Hastings City Planning Commission.
- c. Township appointed members. Three of the members shall be appointed by the Rutland Charter Township Supervisor, subject to confirmation by the Rutland Charter Township Board. At least one of the Township appointees shall be a member of the Rutland Charter Township Board; and one Township appointee shall be a member of the Rutland Charter Township Planning Commission.

Section 1.3. Terms of Office. The initial members of the JPC appointed by each municipality shall be appointed for staggered terms, with one of the initial members from each municipality appointed to a three-year term, one to a two-year term, and one to a

one-year term; provided the terms of each of these initial members shall be adjusted as necessary so as to expire on January 1 of the applicable year, and shall be subject to Sections 1.4.-1.6. below. The subsequent terms of office for all members shall be three-years ending on January 1 of the applicable year, subject to Sections 1.4-1.6.

Section 1.4. Limitation on Terms of Office. The term of office of a member of the JPC serving by virtue of his or her membership on the governing body or planning commission of the appointing municipality shall terminate if that person ceases to be a member of the governing body/planning commission during the JPC term of office, for any reason.

Section 1.5. JPC Member Removal. A member of the JPC may be removed by the governing body of the appointing municipality, upon written notice and an opportunity to respond. Grounds for removal are: misfeasance in office (which may include conviction for a felony, for any crime involving a breach of trust or fiduciary responsibility, or any misdemeanor with a maximum penalty of more than 93 days in jail); malfeasance in office (which may include the failure to disclose to the JPC a potential conflict of interest); nonfeasance in office (which may include the failure to attend JPC meetings); and any other conduct considered by the appointing body to be inappropriate and unbecoming a public official.

Section 1.6. JPC Vacancies. A vacancy in the office of any member of the JPC shall be created by any of the following events: ceasing to meet the qualifications for the office as specified above; death; resignation; or removal as specified in Section 1.5. All vacancies shall be filled for the remainder of the unexpired term by the original appointing municipality.

Section 1.7. JPC Member Compensation. Each municipality is responsible for determining any payments to its appointed JPC members for meeting attendance and educational incentives or other compensation and reimbursable expenses not included in the Joint Planning Commission's annual operating budget approved pursuant to Section 5.1.

ARTICLE 2. JURISDICTION OF JOINT PLANNING COMMISSION

Section 2.1. Joint Planning Commission Jurisdictional Area --- Planning. The jurisdiction of the Joint Planning Commission established pursuant to this Agreement with respect to land use planning functions, as further specified in Section 3.1, shall be limited to the following property areas:

- a. The initial "Urban Services District" described and depicted in Exhibit B of the USEDA, and such additional area(s) as may be designated as a "Future Urban Services District" pursuant to that USEDA (including any amendments of and any successor agreement to that Agreement).
- b. The area referred to as the "Preliminary Initial Urban Services Area" (PIUSA) on the attached map.

Section 2.2. Joint Planning Commission Jurisdictional Area --- Zoning. The jurisdiction of the Joint Planning Commission established pursuant to this Agreement with respect to land use zoning functions, as further specified in Section 3.2, shall be limited to the following property areas:

- a. The initial "Urban Services District" described and depicted in Exhibit B of the USEDA, and such additional area(s) as may be designated as a "Future Urban Services District" pursuant to that USEDA (including any amendments of and any successor agreement to that Agreement); and any such additional area(s) within the PIUSA designated as being within the zoning jurisdictional area of the Joint Planning Commission pursuant to the Zoning Ordinance/Zoning Map of the Hastings-Rutland Joint Planning Commission jointly adopted by the Hastings City Council and the Rutland Charter Township Board (including any jointly adopted amendments of same).

ARTICLE 3. POWERS AND DUTIES OF JOINT PLANNING COMMISSION

Section 3.1. Joint Planning Commission Powers and Duties --- Planning. The JPC shall have all of the powers and duties of a planning commission under the Michigan Planning Enabling Act (2008 Public Act 33, as amended: *MCL 125.3801 et. seq.*) as applied to the jurisdictional area of the JPC for land use planning functions as specified in Section 2.1 of this Agreement, including preparation of a master plan for that jurisdictional area. A master plan prepared by the JPC and any amendments of same shall be subject to the final approval of the City Council and Township Board.

Section 3.2. Joint Planning Commission Powers and Duties --- Zoning. The JPC shall have all of the powers and duties of a planning commission under the Michigan Zoning Enabling Act (2006 Public Act 110, as amended: *MCL 125.3101 et. seq.*) as applied to the jurisdictional area of the JPC for land use zoning functions as specified in Section 2.2 of this Agreement; subject to the limitations and procedures derived from Section 3.9 of the USEDA specified below in subsections A-C.

- A. Zoning Administrator. The zoning ordinance applicable to property under the zoning jurisdiction of the JPC shall be administered by a zoning administrator appointed by the Township Board, unless specified otherwise in the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission adopted pursuant to subsection C.2 below. Clerical and similar support for the zoning administrator shall be provided by the City Clerk's office.
- B. Administrative zoning decisions. Where the zoning ordinance applicable to property under the zoning jurisdiction of the JPC provides for the "Planning Commission" to review and make an advisory or final decision on an administrative zoning matter pertinent to the use or development of specific property, such review (including any related public hearing) and decision shall be made by the Hastings-Rutland Joint Planning

Commission, instead of the City Planning Commission or the Township Planning Commission. For purposes of this provision an application for review/approval of any of the following pertinent to the use or development of specific property under the zoning jurisdiction of the JPC shall constitute an "administrative" zoning matter:

- special land use permit
- site plan review
- private road permit
- multiple lot/unit subdivision/condominium plat development (whether planning commission review is required by the zoning ordinance or a separate ordinance regulating such developments)
- any other matter involving "planning commission" review or advisory and/or final decision-making responsibility on an administrative zoning matter pertinent to the use or development of specific property.

If the provisions of the zoning ordinance applicable to property under the zoning jurisdiction of the JPC provide for final or other administrative zoning actions or quasi-judicial zoning actions to be taken by the City Council, or another body or officer of the City, other than the Planning Commission, such final or other administrative zoning actions shall be taken by the City Council or such other City body or officer.

C. Legislative zoning matters. Legislative zoning determinations applicable to property under the zoning jurisdiction of the JPC shall be based on and processed consistent with the following:

1. The JPC shall conduct any required public hearing with respect to adoption of any proposed zoning ordinance/zoning map or amendment of the same.
2. Following a public hearing and recommendation by the JPC to the City Council and Township Board, the City Council and Township Board shall, within a reasonable time, adopt a mutually agreeable zoning ordinance/zoning map governing the use and development of property under the zoning jurisdiction of the JPC, entitled the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission (which shall include a Zoning Map). If the Zoning Ordinance of the Hastings-Rutland JPC adopted by the City Council and Township Board does not actually become effective due to the statutory right of referendum and/or any order of a court of competent jurisdiction, the zoning regulations in the Zoning Ordinance of Rutland Charter Township relevant to the area under

the zoning jurisdiction of the JPC shall continue to apply to that area (with all references therein to the Planning Commission interpreted to refer to the Hastings-Rutland Joint Planning Commission instead of the Rutland Charter Township Planning Commission), but only until such time as a jointly adopted Zoning Ordinance of the Hastings-Rutland Joint Planning Commission does become legally effective.

3. Subsequent to the adoption of the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission as provided for herein, all legislative matters shall be administered consistent with the terms of that Zoning Ordinance.

Section 3.3. Transfer of Powers. The powers and duties of the Rutland Charter Township Planning Commission and the City of Hastings Planning Commission under the Michigan Planning Enabling Act and the Michigan Zoning Enabling Act are hereby transferred to the JPC to the extent relevant and necessary to enable the JPC to carry-out its planning functions and zoning functions pursuant to this Agreement, as applied only to the pertinent jurisdictional area as specified in Sections 2.1 and 2.2 of this Agreement, respectively. For situations in which the powers, duties, or procedures under either such Act depend on whether a municipality is a township or city, the JPC shall follow the powers, duties, and procedures applicable to a township.

Notwithstanding any of the foregoing relating to the powers and duties of the JPC, and the transfer of any powers and duties of a planning commission under the Michigan Planning Enabling Act and/or the Michigan Zoning Enabling Act, the JPC is hereby exempted from any requirement to annually prepare a capital improvements program pursuant to *MCL 125.3865*. Further, the JPC shall be considered to have complied with any requirement to make an annual written report under *MCL 125.3819(2)* concerning its operations and the status of its planning activities, by providing copies of its meeting minutes to the Hastings City Council and Rutland Charter Township Board.

ARTICLE 4. ADMINISTRATIVE AND OPERATING PROCEDURES

Section 4.1. Bylaws/Decisions. The JPC shall adopt bylaws for the transaction of its business, and its internal procedures, and shall make a public record of its resolutions, transactions, findings, and determinations.

Section 4.2. Meetings. The JPC shall hold not less than four regular meetings each calendar year. The date, time and place for each regular meeting shall be determined by the JPC by resolution and as otherwise specified in the JPC bylaws. The JPC may also hold special meetings, as specified in the JPC bylaws.

Section 4.3. Open Government Laws. The JPC shall be a "public body" for purposes of the Michigan Open Meetings Act, and shall be subject to all applicable

requirements of that Act and other laws applicable to public bodies, such as the Michigan Freedom of Information Act.

Section 4.4. Officers. The JPC shall annually select for one year terms a Chair, Vice-Chair, and Secretary, and any such additional officers as the JPC shall consider appropriate, at the time and otherwise in such manner as specified in the JPC bylaws. The Chair and Vice-Chair shall not be appointees of the same municipality. Officers shall serve no more than three consecutive one-year terms in any office, unless serving for an additional consecutive term or terms is unanimously approved by the entire membership of the JPC.

Section 4.5. Consultants/Staff. The JPC may retain the services of professional consultants or other staff to assist the JPC in carrying-out its powers and duties; provided the costs for such services are authorized by the JPC budget approved by the City and Township, or will be paid by an application fee or escrow fee established pursuant to Section 4.8.

Section 4.6. Administrative Tasks. Except as specified herein, or in the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission, or otherwise agreed by the Hastings City Council and the Rutland Charter Township Board, all administrative tasks associated with the lawful and proper operation of the JPC shall be performed by the City of Hastings. These tasks may include, but are not limited to: preparation of public hearing/meeting notices; posting, publication and mailing of public hearing/meeting notices; processing of applications for matters coming before the JPC; and such other related and additional administrative tasks.

Section 4.7. Custody of Records. The Clerk of the City of Hastings shall be the custodian of the original records of the JPC, except as may be otherwise specified in the Zoning Ordinance of the Hastings-Rutland Joint Planning Commission or as may be otherwise agreed by the Hastings City Council and Rutland Charter Township Board. The City Clerk or his/her designee shall timely provide a copy of all records of the JPC to the Rutland Charter Township Clerk.

Section 4.8 Application and Escrow Fees. The JPC may recommend and the Hastings City Council may establish application fees for matters coming before the JPC for review. The JPC may also recommend and the Hastings-City Council may establish an escrow fee intended to cover any costs incurred by the JPC to review an applicant's project including work performed for the JPC by an attorney, planner, engineer, and any other professional services or expenses authorized by the JPC in its review of the applicant's project. Upon receipt an escrow fee shall be deposited into the JPC account established pursuant to Section 5.3 of this Agreement. Any unused portion of an escrow fee shall be returned to the applicant. The JPC bylaws may further address the procedures applicable to establishing and administering escrow fees.

ARTICLE 5. JOINT PLANNING COMMISSION OPERATING BUDGET

Section 5.1. Proposed Budget. The JPC shall annually prepare a proposed budget to fund its anticipated activities for the ensuing calendar year. The proposed budget prepared by the JPC shall be submitted to the Clerk of the City and Township for timely consideration by the City Council and Township Board. The City Council and Township Board shall agree on and approve a proposed budget for the JPC. The budget approved by the City Council and Township Board is not required to be the same as the proposed budget submitted by the JPC.

Section 5.2. Equal Funding Obligation. The budget for the JPC approved by the City Council and Township Board shall be funded in equal shares by the City and Township, at such times as the City and Township shall determine to be appropriate and prudent to assure the timely payment of expenditures of or on behalf of the JPC.

Section 5.3. JPC Accounting Functions. The City of Hastings shall perform all accounting functions relating to the JPC, and shall manage all revenues/expenses of the JPC as a separate accounting fund. The City Clerk shall provide a recap of the status of such fund on a calendar quarterly or more frequent basis to the Secretary of the JPC, and to the Township Clerk.

ARTICLE 6. JOINING AND WITHDRAWING FROM THE JPC

Section 6.1. Adding Other Municipal Members to the JPC. A municipality may request to participate in the Joint Planning Commission by presenting to the JPC a formal resolution of its governing body stating the reasons for the request, and filing a copy of such resolution with the Clerks of the City of Hastings and Rutland Charter Township. The JPC shall consider any such request and may make a formal recommendation thereon to the Hastings City Council and the Rutland Charter Township Board. After receiving the JPC's recommendation, or providing an opportunity of at least 45 days for such a recommendation to be submitted, the City Council and Township Board shall each vote to approve or disapprove the request. If such a request is approved by both the City Council and Township Board the JPC shall develop and present recommendations concerning the revision of this Agreement and the undertaking of any other tasks associated with implementing the participation of the additional municipality in the JPC. The City Council and Township Board may mutually agree on conditions prerequisite to approving a request of another municipality to join the JPC, including the payment of a fee to cover all costs that would otherwise be incurred by the City and Township to facilitate the participation of such municipality in the JPC, including the costs associated with revising or replacing this agreement.

Section 6.2. Withdrawing from Participation in the JPC. Neither the City of Hastings nor Rutland Charter Township shall have any right to withdraw from the JPC while the USEDA dated November 26, 2012 or any amendment of that agreement or any successor to that agreement with provisions comparable to Sections 3.8 and 3.9 of the November 26, 2012 USEDA (as may be amended) remains in effect.

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

§ 1-1. Adoption of Code.

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§ 1-12. Repeal of inconsistent ordinances.

§ 1-13. Ordinances saved from repeal.

§ 1-14. Changes in previously adopted ordinances.

§ 1-15. References to Michigan Compiled Laws.

[HISTORY: Adopted by the Township Board of the Charter Township of Rutland as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code

[Adopted 2-10-2010 by Ord. No. 2010-137]

§ 1-1. Adoption of Code.

Pursuant to MCL § 41.186, the ordinances of the Charter Township of Rutland of a general and permanent nature adopted by the Township Board of the Charter Township of Rutland, as revised, codified and consolidated into chapters and sections by General Code, LLC, and consisting of Chapters 1 through 220, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Charter Township of Rutland," hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

This ordinance shall become effective immediately upon publication as required by law after adoption; except Chapter 220 shall become effective on the eighth day after publication as required by law after adoption.

§ 1-4. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Township Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Charter Township of Rutland by impressing thereon the Seal of the Township, as provided by law, and such certified copy shall remain on file in the office of the Township Clerk, to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-5. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Charter Township of Rutland" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

§ 1-6. Publication; filing.

The Clerk of the Charter Township of Rutland, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance or a legally sufficient summary thereof in a newspaper of general circulation in the Township. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-8. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by the Township Board, or may be furnished electronically. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-9. Altering or tampering with Code; violations and penalties.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Charter Township of Rutland to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine of not more than \$500 or imprisonment for not more than 90 days, or both, in the discretion of the Judge imposing the same.

§ 1-10. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-11. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-12. Repeal of inconsistent ordinances.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Charter Township of Rutland which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-13. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to June 10, 2009.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.

- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise (including gas, electric, and cable franchise agreements), license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Township's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.

§ 1-14. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code, certain grammatical, format, terminology, numbering/lettering, stylistic, and other minor changes were made in one or more of said ordinances. It is the intention of the Township Board that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)¹

1. Editor's Note: In accordance with § 1-14B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 2-10-2010 by Ord. No. 2010-137." Schedule A, which contains a complete description of all changes, is on file in the Township Hall.

§ 1-15. References to Michigan Compiled Laws.

- A. Throughout the Code, a reference to "Michigan Compiled Laws" shall include all sections of law, as last amended, which are assigned a compilation number by the legislative service bureau and are not subsequently repealed.
- B. Unless otherwise specifically provided, a reference to all or part of a statute, regardless of whether the words "as amended" are used in the reference, shall include the existing and future amendments to the statute or part.

ARTICLE IV
AG/OS Agricultural/Open Space Preservation District

§ 220-4-1. Purpose of District.

This zoning district is derived from the Open Space/Agricultural Preserve future land use classification in the Master Plan. The primary purpose of this District is to maintain, preserve and enhance prime agricultural lands which have historically exhibited high crop yields, while allowing maximum freedom of operations for agricultural activities from encroachment of non-agricultural uses; and to promote the conservation of open space by preserving large tracts of land which are contiguous to other large areas of agricultural or preserved land.

§ 220-4-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Farm and agricultural activities, including the sale of farm or agricultural products raised on the premises; provided the keeping or raising of livestock for commercial production or non-commercial purposes is subject to §220-16-13.B.
- B. Single-family dwelling.
- C. Home occupation, in a lawful single-family dwelling.
- D. Family day care home, in a lawful single-family dwelling.
- E. Foster care (small group) home.
- F. Essential services.
- G. On-farm biofuel production facility (Type I).
- H. Roadside stand.
- I. Accessory uses/buildings/structures.
- J. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-4-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Aggregate processing/quarrying/commercial excavations.
- B. Bed and breakfast facility, in a lawful single-family dwelling
- C. Cemetery.

- D. Church/worship facility.
- E. Family business, on the premises of a lawful single-family dwelling.
- F. Farm market.
- G. Farmers market.
- H. Feed mill.
- I. Foster care (large group) home.
- J. Group day care home, in a lawful single-family dwelling.
- K. Kennel.
- L. On-farm biofuel production facility (Type II or Type II).
- M. Open space preservation development.
- N. Park/recreation area/campground.
- O. Small wind energy conversion system.
- P. Storage (for a fee) in an agricultural building, including barns.
- Q. Two-family dwelling for on-farm labor housing.
- R. Veterinarian office/animal hospital.
- S. Wholesale/retail stores or service establishments primarily providing commodities, goods, equipment or services for farm/agricultural uses.
- T. Winery, including tasting and retail sales room accessory to an on-premises vineyard.
- U. Wireless communications support structure.
- V. Utility-Scale Solar Energy Electricity Generating Facility.
- W. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.
- X. Marihuana Grower (Class A, B, or C).
- Y. Medical Marihuana Grower (Class A, B, or C).
- Z. Marihuana Processor.
- AA. Medical Marihuana Processor.

- BB. Marihuana Microbusiness.
- CC. Marihuana Secure Transporter.
- DD. Medical Marihuana Secure Transporter.
- EE. County Fairgrounds/Expo Center.

§ 220-4-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-4-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE XI
ACLI Airport Commercial/Light Industrial District

§ 220-11-1. Purpose of District.

This zoning district is derived from the Airport Commercial/Light Industrial future land use classification in the Master Plan. This District is intended to provide a mix of commercial and light industrial land uses primarily related to and designed to be compatible with the Hastings City/Barry County Airport and surrounding land uses, including residential developments in the immediate area.

§ 220-11-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Air and surface freight delivery surfaces.
- B. Essential services.
- C. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- D. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-11-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Auto repair and collision service.
- B. Community/recreation center.
- C. Convenience stores.
- D. Landscaping sales/services.
- E. Motel/hotel/bed and breakfast.
- F. Professional offices.
- G. Restaurant/bars, including coffee/ice cream/deli shops.
- H. Small wind energy conversion system.
- I. Storage rental units.

- J. Warehousing/inside storage.
- K. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses as determined by the Zoning Administrator.

§ 220-11-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-11-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

§ 220-11-6. Architectural standards.

The architectural standards applicable in the LC Lake Commercial District are also applicable in this District (see § 220-10-6).

ARTICLE XII
LI Light Industrial District

§ 220-12-1. Purpose of District.

This zoning district is derived from the Industrial future land use classification in the Master Plan. The District is intended for light industrial applications that are not likely to require public utilities, and will be designed to be compatible with other land uses in the area. The allowed industrial uses should be developed with appropriate utility and transportation connections, and in harmony with the area's natural features, with minimal impact on the environment or the surrounding community.

§ 220-12-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Essential services.
- B. Industrial establishments involving only the assembly and/or packaging of such products as food products (not including the processing of livestock), candy, musical instruments, optical goods, toys, novelties, electrical equipment, and appliances, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- C. Storage rental units completely within an enclosed building, for items such as household goods, vehicles, and recreational equipment.
- D. Tool and die business, including metal working machine shops involving the use of grinding or metal cutting tools, manufacturing of tool dies/molds/jigs/fixtures (excluding the production of stampings, castings, forging, and similar production run parts), where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- E. Wholesaling and warehousing of goods and products such as automotive equipment, dry goods, apparel, groceries and related products, raw farm products (not including livestock), electrical goods, hardware products, plumbing products, heating equipment and supplies, machinery, alcoholic beverages, paper and paper products, furniture and home furnishings, and any product the manufacture of which is allowed in this District, where all storage of goods/products is completely contained within an enclosed building, and where all loading/unloading areas and facilities are located at or near the rear of the building.
- F. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.

G. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-12-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Automobile service stations, where no junk vehicles, parts, or vehicles not containing all of their body parts are stored overnight unless adequately screened as determined by the Planning Commission pursuant to applicable standards in this Chapter.
- B. Broadcast/transmission towers.
- C. Central laundry plants.
- D. Industrial facilities for the assembly, fabrication, manufacture, packaging or treatment of products from the following previously prepared materials: canvas, cellophane, caulk, cork, felt, fiber, glass, leather, paper/cardboard, plastics, precious or semi-precious metals or stones, sheet metal (excluding large stamping such as automobile fenders or body panels or those requiring in excess of 400 tons of manufacture), textiles, wax, wire, wood (excluding saw and planing mills and yards), where all such operations, equipment and storage are completely contained within a fully enclosed building and where all loading/unloading areas and facilities are located at or near the rear of the building
- E. Laboratories (mechanical or environmental research/testing).
- F. Municipal waste treatment or water treatment facilities.
- G. Refueling stations.
- H. Repossession lots/storage, including retail sales of repossessed items.
- I. Salvage and/or recycling centers.
- J. Wireless communications support structure.
- K. Small wind energy conversion system.
- L. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses as determined by the Zoning Administrator.
- M. Marihuana Grower (Class A, B, or C).
- N. Medical Marihuana Grower (Class A, B, or C).
- O. Marihuana Processor.
- P. Medical Marihuana Processor.

- Q. Marihuana Secure Transporter.
- R. Medical Marihuana Secure Transporter.
- S. Marihuana Safety Compliance Facility.
- T. Medical Marihuana Safety Compliance Facility.
- U. Retail sales of building materials and/or light industrial related products contained in an enclosed building, or screened from view from public streets, and where all loading/unloading areas are located at or near the rear of the building.
- V. Outdoor storage yard for recreational vehicles and boats.

§ 220-12-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-12-5. Site plan review.

Site plan review is required for all permitted uses and special land uses, and for other uses as specified in § 220-21-1.B.

§ 220-12-6 Architectural standards.

The architectural standards applicable in the LC Lake Commercial District are also applicable in this District (see § 220-10-6).

ARTICLE V
CR Country Residential District

§ 220-5-1. Purpose of District.

This zoning district is derived from the Country Residential future land use classification in the Master Plan. This District is designed for large lot single-family residential use, and associated recreational, agricultural, religious and educational facilities. The purpose of this District is to provide for low density development of such uses in areas not served by public utilities, while protecting the natural features of those areas with as little disturbance as possible. This District may also serve as a transitional district between agricultural areas and areas platted or otherwise intended for residential development with greater density.

§ 220-5-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Single-family dwelling.
- B. Home occupation, in a lawful single-family dwelling.
- C. Family day care home, in a lawful single-family dwelling.
- D. Foster care (small group) home.
- E. Farm and agricultural activities, including the sale of farm or agricultural products raised on the premises; provided the keeping of livestock on a non-commercial basis is only allowed as a special land use pursuant §220-5-3.H., and the keeping or raising of livestock for commercial production or non-commercial purposes is also subject to §220-16-13.B.
- F. Essential services.
- G. Library, museum, and similar use owned and operated by a governmental agency or non-profit organization.
- H. On-farm biofuel production facility (Type I).
- I. Roadside stand.
- J. Accessory uses/buildings/structures (except the non-commercial keeping of livestock as an accessory use is designated herein as a special land use pursuant to §220-5-3.H).
- K. Signs, in accordance with the applicable provisions of Article XVIII.
- L. Qualified Residential Treatment Program.

§ 220-5-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Cemetery.
- B. Church/worship facility.
- C. Family business, on the premises of a lawful single-family dwelling.
- D. Farm market.
- E. Foster care (large group) home.
- F. Golf course and country club.
- G. Group day care home, in a lawful single-family dwelling.
- H. Keeping of livestock on a non-commercial basis is allowable accessory to an existing dwelling on the premises, subject to all applicable provisions of this Chapter, including the generally applicable special land use approval standards specified in § 220-20-3, and also the following density, setback, and other requirements:
 - 1. The minimum lot area for the keeping of any such animals is five acres.
 - 2. There shall be at least two acres of lot area per animal unit kept on the premises. (See definition of "Animal Unit" in § 220-2-2)
 - 3. All areas in which the animals are confined shall be located at least 100 feet from all existing residences on adjacent properties.
 - 4. All areas in which the animals are confined shall be located at least 200 feet from any wellhead, and shall not include any drain field.
- I. Kennel, on a lot with an area of at least five acres.
- J. On-farm biofuel production facility (Type II or Type II).
- K. Open space preservation development.
- L. Park/playground, and recreation area.
- M. Public or private school.
- N. Small wind energy conversion system.
- O. Veterinarian office/animal hospital, on a lot with an area of at least five acres.

P. Winery, including tasting and retail sales room accessory to an on-premises vineyard, subject to the following limitation on tasting and retail sales rooms:

1. On parcels with a lot area of at least 2.3 acres but less than 5 acres, the building in which the tasting and retail sales room is located shall not exceed a building area of 1,500 square feet.
2. On parcels with a lot area of at least 5 acres but less than 10 acres, the building in which the tasting and retail sales room is located shall not exceed a building area of 5,000 square feet.
3. On parcels with a lot area of 10 acres or more, the building in which the tasting and retail sales room is located shall not exceed a building area of 10,000 square feet.

Q. Utility-Scale Solar Energy Electricity Generating Facility.

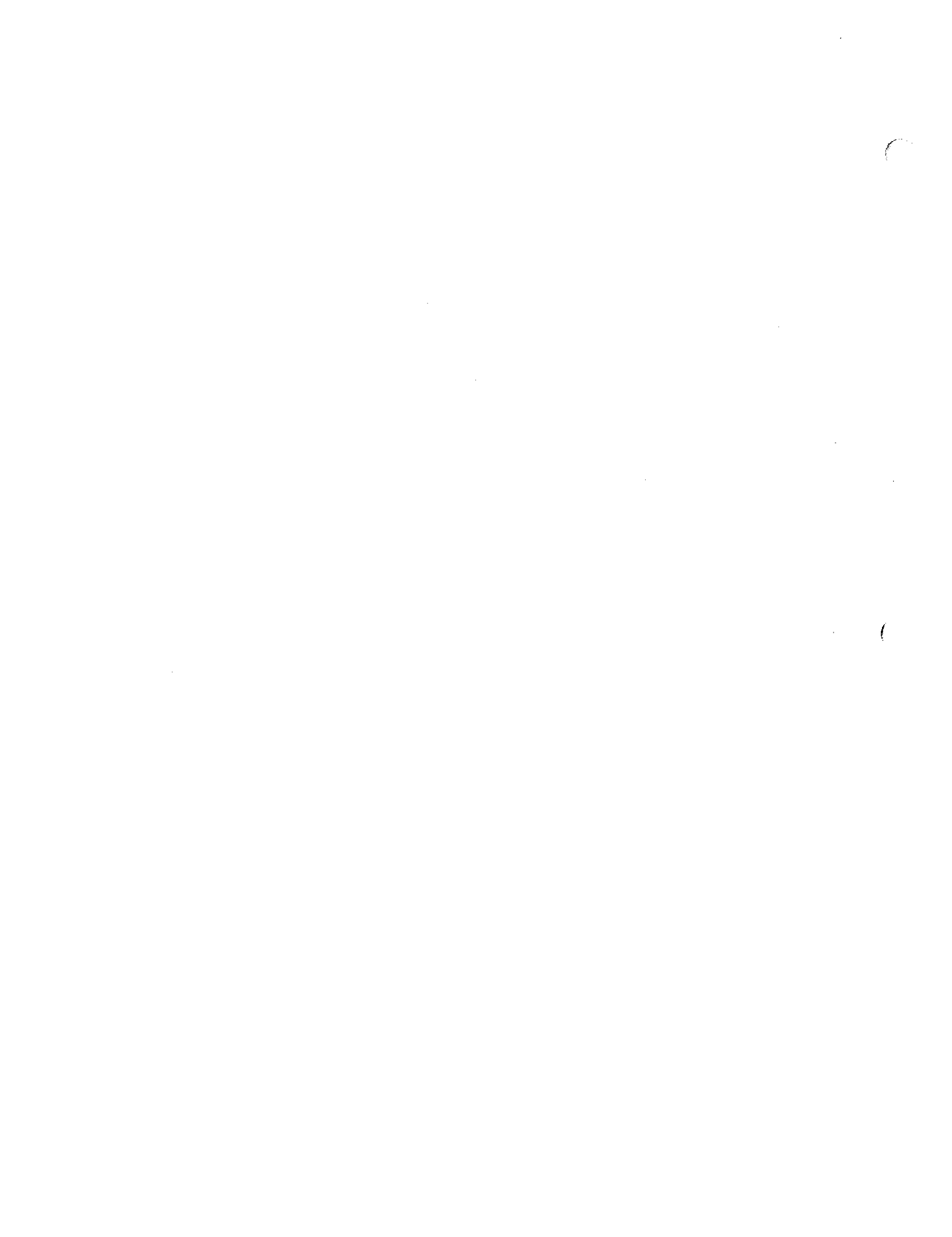
R. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-5-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-5-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.



ARTICLE XIII
PRC Park/Recreation/Camps District

§ 220-13-1. Purpose of District.

This zoning district is derived from the Parks/Recreational future land use classification in the Master Plan. This District is intended to accommodate outdoor recreational activities and parks, playgrounds, and similar outdoor recreational activities. It is not intended for indoor commercial recreational activities.

§ 220-13-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Bed and breakfast facility.
- B. Canoe livery operated in a permanent building and location.
- C. Essential services.
- D. Family day care home, in a lawful single-family dwelling.
- E. Golf course, subject to the following design and use requirements:
 - 1. Pro shop/clubhouse (including for the sale of food and beverages) is allowed, but must be situated at least 250 feet from adjoining residentially developed or residentially zoned land.
 - 2. No overnight accommodations are allowed other than for the owner or manager of the facility, or permanent year-round dwellings.
 - 3. Adequate restroom facilities shall be constructed and properly maintained.
 - 4. Rubbish disposal shall be handled in such a manner as to be adequate for the purpose and avoid any nuisance or annoyance to adjoining property owners.
 - 5. Off-street parking shall be provided to ensure sufficient parking space to meet the reasonably foreseeable demands anticipated for the golf course area.
- F. Home occupation, in a lawful single-family dwelling.
- G. Park/playground, subject to the development and use limitations specified in § 220-20-7 Item 10.
- H. Seasonal tent and travel trailer campground.

I. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.

J. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-13-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

A. Gun club with indoor and/or outdoor range.

B. Marinas, docking facilities, and boat launch areas for use by the public.

C. Motel.

D. Private club/lodge.

E. Riding stable.

F. Seasonal retail establishment, with not more than 3,000 square feet of retail floor area.

G. Summer camp.

H. Temporary location for seasonally related activities, such as canoe rental.

I. All uses designated as a permitted use or special land use in the MDR Medium Density Residential District pursuant to Article VI.

J. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this District, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-13-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-13-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE VII
HDR High Density Residential District

§ 220-7-1. Purpose of District.

This zoning district is derived from the High Density Residential future land use classification in the Master Plan. This primary purpose of this District is to provide for a higher-density single-family development, and also two-family and multiple-family development, in limited areas of the Township where such development is existing or otherwise appropriate.

§ 220-7-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Single-family dwelling.
 - B. Two-family dwelling.
 - C. Multiple-family dwelling.
 - D. Family day care home, in a lawful dwelling.
 - E. Foster care (small group) home.
 - F. Home occupation, in a lawful dwelling.
 - G. Essential services.
 - H. Library, museum, and similar use owned and operated by a governmental agency or non-profit organization.
 - I. Roadside stand.
- Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- Signs, in accordance with the applicable provisions of Article XVIII.
- Qualified Residential Treatment Program.

§ 220-7-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Church/worship facility.
- B. Convalescent or nursing home.
- C. Family business, on the premises of a lawful single-family dwelling.
- D. Foster care (large group) home.
- E. Golf course and country club.
- F. Group day care home, in a lawful dwelling.
- G. Open space preservation development.
- H. Park/playground.
- I. Public or private school.
- J. Small wind energy conversion system.
- K. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-7-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-7-5. Site plan review.

Site plan review is required for all special land uses, and for other uses as specified in § 220-21-1.B.

ARTICLE VIII
MHCR Mobile Home Community Residential District

220-8-1. Purpose of District.

This zoning district is derived from the Mobile Home Community future land use classification in the Master Plan. This primary purpose of this District is to provide for a medium to high density mobile home park, where required public utilities are available or may be available in the future.

220-8-2. Permitted uses.

The following uses are designated as permitted uses this District:

Mobile Home Park, including a residence for the mobile home park owner or operator and family, but excluding any retail sales of mobile homes, unless located upon a developed mobile home site; subject, however, to the following conditions and limitations:

1. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987 and any and all amendments thereto and with any and all regulations promulgated thereunder by the State of Michigan.
2. Off-street parking areas shall be provided in accordance with all applicable provisions of Article XIX of this Chapter.

Accessory uses/buildings/structures incidental to a mobile home park, such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities, or incidental to another allowed use in this District; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.

Child (Family) Day Care Home (within single-family dwelling in a mobile home park).

Foster Care (Small Group) Home (within single-family dwelling in a mobile home park).

Home Occupation (within single-family dwelling in a mobile home park).

Essential Services.

Roadside stand.

Signs, in accordance with the applicable provisions of Article XVIII.

Qualified Residential Treatment Program.

§ 220-8-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Foster care (large group) home.
- B. Group day care home, in a lawful single-family dwelling.
- C. Park/playground.
- D. Small wind energy conversion system.
- E. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.

§ 220-8-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Chapter.

§ 220-8-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

ARTICLE IX
MU Mixed Use District

§ 220-9-1. Purpose of District.

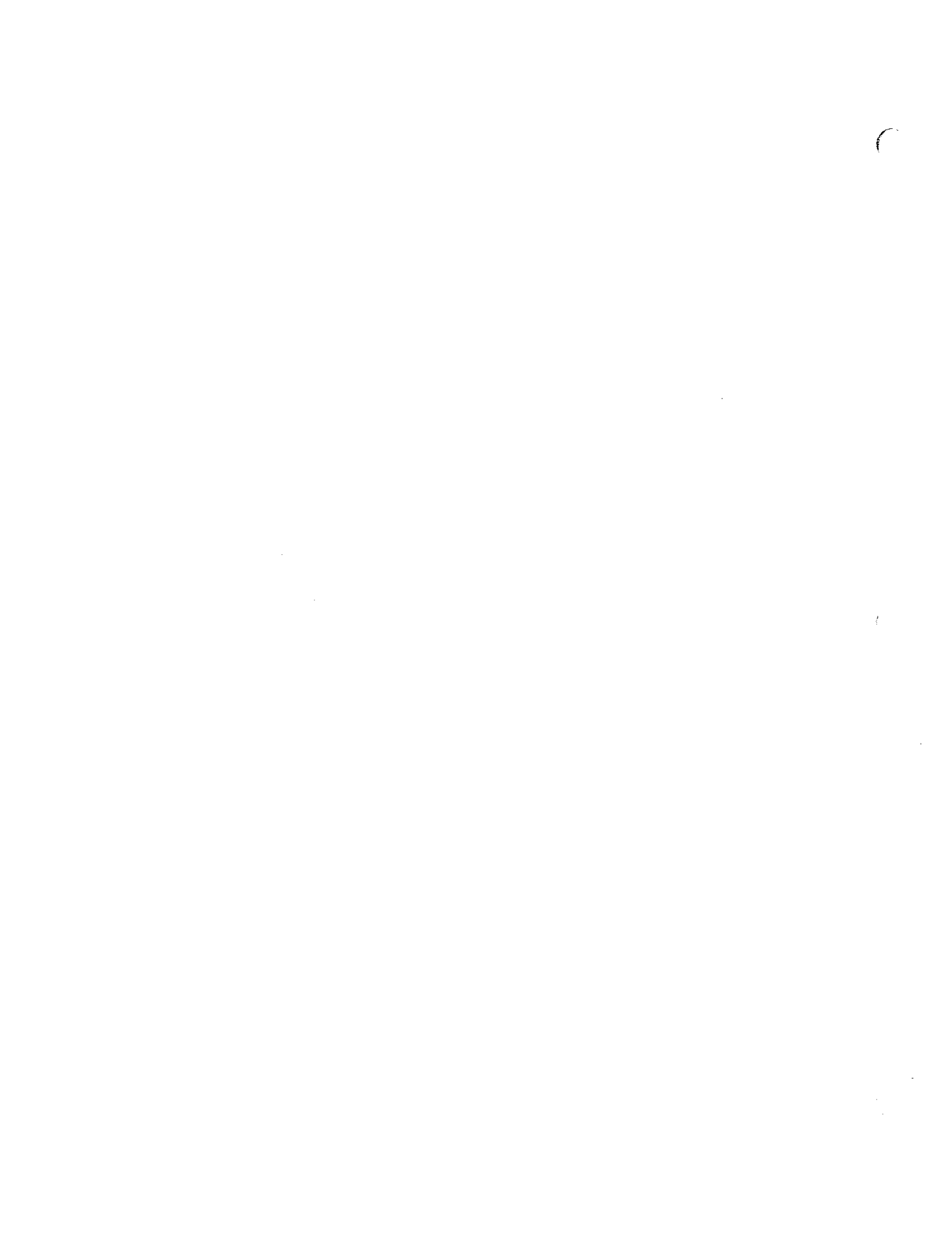
This zoning district is derived from the Mixed Use Area future land use classification in the Master Plan. The intent of this District is to provide a variety of uses and an appropriate mix of uses on the same lot, including high density residential, office, civic, and limited commercial and light industrial activities. This District is intended to allow land use flexibility to maximize utilization of urban infrastructure, such as water and/or sewer facilities, while creating a unique environment designed to function well with the existing natural features, surrounding neighborhood and overall region.

This District is designed to balance development with natural feature preservation, including wetlands, streams, rivers, woodlands, and topography, and create commercial/industrial land use patterns that focus on local surrounding residential development, to enhance the character of the Township and region.

§ 220-9-2. Permitted Uses.

The following uses are designated as permitted uses in this District:

- A. Attached living units or dwellings including condominiums, townhouses or apartments.
- B. A detached single-family home on an individual lot less than 8,000 square feet.
- C. Banks, savings and loan institutions, and similar financial establishments serving the local community, without a drive-through.
- D. Barber shops and beauty shops.
- E. Coffee shops, without a drive-through.
- F. Community facility.
- G. Essential services.
- H. Florist retail operations not including plant production on premises.
- I. Gift shops and antique shops with associated outdoor display areas limited to an area of 200 square feet.
- J. Laundromats, laundry and dry cleaning establishments (retail outlets only, not including large commercial/industrial laundry operations).
- K. Libraries and museums.
- L. Music/dance schools.



- M. Open space preservation development.
- N. Photography studios.
- O. Professional offices or clinics, including but not limited to medical, law, accounting, architectural, engineering, real estate and insurance offices.
- P. Restaurants, without a drive-through.
- Q. Retail clothing shops.
- R. Retail drug and pharmaceutical stores, without a drive-through.
- S. Retail grocery/party stores, which are integrated with onsite residential development.
- T. Retail sale of books, stationery, newspapers.
- U. Retail sales of bakery and dairy products, without a drive-through.
- V. Roadside stand.
- W. Veterinary clinics with indoor boarding facilities for in-patient care only.
- X. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- Y. Signs, in accordance with the applicable provisions of Article XVIII.
- Z. Qualified Residential Treatment Program.

§ 220-9-3. Special Land Uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Auto refueling station (for the retail sale of fuel, lubricants, and other operating commodities for motor vehicles, boats or aircraft, and other incidental merchandise, but not including repair facilities).
- B. Auto parts/supplies completely contained within a building.
- C. Auto repair shops completely contained within a building.
- D. Banks, savings and loan institutions, and similar financial establishments serving the local community, with a drive-through, when deriving access from private internal access drive only.

- E. Bar or pub (providing that such use shall not be within 500 feet of a church, school, hospital, or adult or child care facility).
- F. Coffee shops, with a drive-through, when deriving access from a private internal access drive only.
- G. Crating and packing service.
- H. Day-care facility.
- I. Funeral homes.
- J. Greenhouse/nursery/landscaping/garden shops.
- K. Hospitals/emergency medical facilities.
- L. Hotels/motels.
- M. Laboratories—mechanical, medical, or environmental research/testing.
- N. Machine shop.
- O. Multi-Unit shopping centers or plazas.
- P. Open-air business.
- Q. Outdoor sales.
- R. Printing shops.
- S. Restaurants, with a drive-through, deriving access from a private internal access drive.
- T. Retail drug and pharmaceutical stores, with a drive-through, when deriving access from a private internal access drive only.
- U. Retail sales of bakery and dairy products, with a drive-through, when deriving access from a private internal access drive only.
- V. Self-storage rental units.
- W. Small wind energy conversion system.
- X. Warehouses and inside storage, not including self-storage facilities.
- Y. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.
- Z. Marihuana Processor.

- AA. Medical Marihuana Processor.
- BB. Marihuana Retailer.
- CC. Medical Marihuana Provisioning Center.
- DD. Marihuana Microbusiness.
- EE. Marihuana Secure Transporter.
- FF. Medical Marihuana Secure Transporter.
- GG. Marihuana Safety Compliance Facility.
- HH. Medical Marihuana Safety Compliance Facility.

§ 220-9-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-9-5. Setbacks.

A. Commercial, Office, Industrial, and Residential Building Setbacks:

1. Front Yard – 30 feet
2. Side Yard – 20 feet
3. Rear Yard – 20 feet
4. Commercial, office, and industrial buildings and parking lots shall be setback a minimum of 30' from any residentially zoned property or property located outside the Mixed Use District. This setback shall be landscaped as set forth in § 220-19-8.
5. For each story, or for every ten feet of height, a building or structure shall be set back the same distance from the property line and/or adjacent building, regardless of the otherwise generally required setback.
6. All buildings shall be setback a minimum of 30 feet from the M-37 and M-43 right of way.
7. The Planning Commission may relax building setback requirements by up to 50% when the structure is accessed via an internal access road.
8. Internal access roads may be built within the 30-foot building setback along M-37 and M-43.

§ 220-9-6. Lot Coverage.

The intent of the following lot coverage standards is to minimize unnecessary impervious surfaces, protect watershed quality, and to provide open space on each site. Lot coverage shall include the combination of all ground coverage and impervious surfaces including buildings, parking areas, sidewalks and drives.

A. Lot coverage shall be limited to a maximum of 50%. The fifty percent maximum may be increased with approval from the Planning Commission by 5% for each of the following completed items:

1. Significant natural features, including but not limited to, wetlands and forested areas and open space will be permanently preserved. These areas shall be located adjacent to other preserved areas on adjacent parcels to create interconnected open spaces.
2. Areas with slopes greater than 20% will not be developed or graded. (Note: a 20% slope equals one foot of rise over five feet of run).
3. Shared parking and/or cross access shall be designed within the development site and with adjacent property.
4. Stormwater best management practices are incorporated into the development. The applicant will be required to provide a detailed report and analysis of the proposed facilities.

§ 220-9-7. Lot Size Requirements.

- A. For parcels located within an official sewer district, the minimum lot size is 21,780 square feet or ½ acre.
- B. For parcels not located within an official sewer district, the minimum lot size is 5 acres.

§ 220-9-8. Residential Density.

- A. The maximum residential density shall be 8 units per acre regardless if developed solely as residential or as part of a mixed-use development.
- B. Densities may be increased if permitted as part of an open space preservation development.

§ 220-9-9. Building Design and Architectural Standards.

A. Building Height:

1. The maximum building height in the Mixed Use District is 35 feet or 3½ stories, whichever is less. However, building height may be increased up to 45 feet or 4 stories, whichever is less, if all of the following criteria are met as determined by the Planning Commission:
 - a. The proposed development is designed to provide for shared parking and/or cross access easements with adjacent parcels.
 - b. Access to the proposed development will be derived from a local county road (not a state highway) or internal access road serving multiple lots.

- c. The height of the building shall be designed to blend with adjacent development and shall not create a dramatic height increase causing detrimental impacts to existing structures.
- d. The local fire chief has approved the height of any building over 35 feet.

B. Building Footprint:

1. Individual building footprints are permitted up to 10,000 square feet.
2. Building footprints over 10,000 square feet require a special land use permit subject to the following conditions:
 - a. The lot shall contain a minimum of 5 acres.
 - b. Buildings containing commercial and office uses may exceed 10,000 square feet footprint if the following condition is met:
 - (1) If residential development is incorporated into the development, it shall use and share the parking facilities that are used for the commercial development. However, the applicant may propose an alternate parking configuration which meets the requirements set forth in this chapter and is acceptable to the Planning Commission pursuant to applicable special land use and site plan approval standards.
 - c. Light industrial building footprints may exceed 10,000 square feet if the following conditions are met:
 - (1) Property with existing industrial uses borders the subject property.
 - (2) The proposed use will not be located within 100 feet of any residential use.
 - (3) The proposed use is similar in nature to existing surrounding uses.

Multi-family residential buildings not containing any commercial or office uses shall not exceed 10,000 square feet.

C. Architectural Standards:

1. Façade materials. At least 80% of the "façade" of a building with a footprint under 25,000 square feet, which for purposes of this provision is defined as that portion or portions of such a building which either fronts on a public street or which faces an on-site parking lot, shall be constructed of one or more of the following materials:

- a. traditional hard coat stucco.
- b. brick.
- c. natural or cast stone.
- d. tinted and/or textured masonry block.
- e. glass.
- f. architectural pre-cast panels.
- g. wood, except materials such as T-71, plywood or particle board, or similar processed wood materials.
- h. other materials, as approved by the Planning Commission based on the visual compatibility of such other materials with existing buildings on adjacent properties and within 500 feet in the MU District.

All of the above façade materials requirements (C.1.a.-h.) shall also apply to a building with a footprint of 25,000 square feet or more, and steel is also a permissible façade material for such buildings in this District.

- 2. Facade design devices. All facades shall have a recognizable "top" or upper portion consisting of one or more of the following devices:
 - a. cornice treatments, other than just colored "stripes" or "bands", with integrally textured materials such as stone or other masonry or differently colored materials.
 - b. sloping roof with overhangs and brackets.
 - c. stepped parapets.

In addition, if the building has more than one story, the façade shall have a horizontal expression line which separates each floor.

- 3. Facade wall design and features. That portion of a building which fronts on a public street shall be designed to eliminate large expanses of blank walls by the application of two or more of the following methods approximately every 50 feet in wall length:
 - a. doors with corniced parapets over the main entry door.
 - b. display windows that orient street-level customers to products.
 - c. arched entryways, canopies or awnings.

- d. changes in the plane of a wall, such as offsets, or projecting ribs which are at least 12 inches in width.
 - e. change in texture, color or masonry pattern.
 - f. pilasters, piers or columns.
 - g. other applications as approved by the Planning Commission to meet the intent of this provision.
4. Façade walls exceeding 100 feet in length. Façade walls more than 100 feet in total length shall also incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade and extending at least 20% of the length of the façade.
5. Customer entrances. Building façades shall exhibit clearly defined, highly visible, and articulated front entrances that feature at least two of the following devices:
- a. canopies or porticos.
 - b. overhangs.
 - c. recesses or projections of at least three percent of wall length.
 - d. arcades.
 - e. raised cornice parapets over the door.
 - f. distinctive roof forms.
 - g. arches.
 - h. outdoor patios.
 - i. display windows.

Rear customer entrances, if provided, shall also be subject to the foregoing standards.

6. Side/rear walls. Side or rear walls that face rear walkways or rear or side service drives may include false windows and door openings defined by frames, sills, and lintels, or similarly proportioned modulations of the wall, but only when actual doors and windows are not feasible.
7. Roofs.
- a. Buildings shall be topped with pitched roofs with overhanging eaves, or with flat roofs with articulated parapets and comices. Materials for pitched

roofs shall include shingles (either wood or asphalt composition), slate, tiles, or other material if such other material is similar to the roof material on buildings within 500 feet in the MU District.

- b. Parapets shall be used to conceal flat sections of roofs and rooftop equipment, such as HVAC units, from public view. The average height of such parapets shall not exceed 25% of the height of the supporting wall, and such parapets shall not at any point exceed 1/3 of the height of the supporting wall.
8. Refuse containers. All refuse containers shall be located within a four-sided solid fence enclosure not exceeding six feet in height, constructed of materials and designed so as to coordinate with and complement the principal building or development with which it is associated, and screen the refuse containers from view on any adjoining premises or public street. Refuse container enclosures shall not be located in a front yard.

Modification of standards. The foregoing building design and architectural standards shall be subject to modification by the Planning Commission during the site plan review process upon finding the following factors are met:

- If the modification is approved the resulting development will still be consistent with the purposes of this District.
- If the modification is approved the resulting new building or alteration of an existing building will still be visually compatible with existing buildings on adjacent properties and within 500 feet in the MU District.
- In instances of the reconstruction or conversion of an existing building, approval of the modification is necessary to alleviate practical physical difficulties resulting from strict compliance with the specified standards and requirements.

§ 220-9-10. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

ARTICLE X
LC Lake Commercial District

§ 220-10-1. Purpose of District.

This zoning district is derived from the Lake Commercial future land use classification in the Master Plan. This District is intended to serve as a limited commercial area at the west end of Algonquin Lake. Development in this area should be sensitive to surrounding existing residential development and blend-in with the nautical atmosphere of the area.

§ 220-10-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Bait shop (including fishing supplies and tackle).
- B. Boutique/gift shop.
- C. Essential services.
- D. General/convenience store.
- E. Ice cream shop.
- F. Neighborhood-scale dine-in restaurant.
- G. Neighborhood-scale watercraft sales, service and storage.
- H. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- I. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-10-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Neighborhood-scale restaurant with outdoor patio/dining areas.
- B. Self-storage rental units.
- C. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.
- D. Outdoor storage yard for recreational vehicles and boats.

§ 220-10-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-10-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

§ 220-10-6. Architectural standards.

The following architectural standards shall apply to buildings/structures in this District:

- A. The maximum building/structure height is 35 feet or 2 ½ stories, whichever is less.
- B. Buildings with multiple stories shall be improved with windows that add character to the structure and create a visual delineation between stories.
- C. Building façade shall bays, storefronts, entrances, columns, and other vertical elements in 20-40 horizontal foot increments to avoid uninterrupted horizontal stretches of exposed facing building and “break-up” the building façade.
- D. Exterior materials shall reflect a sense of permanence and community character. All proposed material shall be subject to Planning Commission approval.
- E. Windows shall have sills and trim.
- F. Architectural features shall be complementary with all aspects of the building elevation. For example, building materials and designs shall complement/coordinate on all sides of the building.
- G. Roof design shall be flat, hipped, or front-gabled. Flat roofs shall incorporate a decorative cornice line that clearly identifies the top of a building.
- H. The form, scale and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- I. Mechanical equipment on the ground or on the roof shall be screened from view.

ARTICLE X
LC Lake Commercial District

§ 220-10-1. Purpose of District.

This zoning district is derived from the Lake Commercial future land use classification in the Master Plan. This District is intended to serve as a limited commercial area at the west end of Algonquin Lake. Development in this area should be sensitive to surrounding existing residential development and blend-in with the nautical atmosphere of the area.

§ 220-10-2. Permitted uses.

The following uses are designated as permitted uses in this District:

- A. Bait shop (including fishing supplies and tackle).
- B. Boutique/gift shop.
- C. Essential services.
- D. General/convenience store.
- E. Ice cream shop.
- F. Neighborhood-scale dine-in restaurant.
- G. Neighborhood-scale watercraft sales, service and storage.
- H. Accessory uses/buildings/structures; provided, however, that the keeping or raising of livestock and other agricultural uses are not allowed in this District as an accessory use or otherwise. Also see §220-16-13.B. for potential implications of Michigan Right To Farm Act siting guidelines for new and expanding commercial livestock production facilities.
- I. Signs, in accordance with the applicable provisions of Article XVIII.

§ 220-10-3. Special land uses.

The following uses are designated as special land uses in this District, subject to special land use approval and site plan approval in accordance with this Chapter:

- A. Neighborhood-scale restaurant with outdoor patio/dining areas.
- B. Self-storage rental units.
- C. Other uses similar in character, nature and intensity to a designated permitted use or special land use in this district, and therefore compatible with such uses, as determined by the Zoning Administrator.
- D. Outdoor storage yard for recreational vehicles and boats.

§ 220-10-4. Density, area, height, bulk and placement regulations.

In accordance with Article XV, except as otherwise specified in this Article or Chapter.

§ 220-10-5. Site plan review.

Site plan review is required for all special land uses, and other uses as specified in § 220-21-1.B.

§ 220-10-6. Architectural standards.

The following architectural standards shall apply to buildings/structures in this District:

- A. The maximum building/structure height is 35 feet or 2 ½ stories, whichever is less.
- B. Buildings with multiple stories shall be improved with windows that add character to the structure and create a visual delineation between stories.
- C. Building façade shall bays, storefronts, entrances, columns, and other vertical elements in 20-40 horizontal foot increments to avoid uninterrupted horizontal stretches of exposed facing building and “break-up” the building façade.
- D. Exterior materials shall reflect a sense of permanence and community character. All proposed material shall be subject to Planning Commission approval.
- E. Windows shall have sills and trim.
- F. Architectural features shall be complementary with all aspects of the building elevation. For example, building materials and designs shall complement/coordinate on all sides of the building.
- G. Roof design shall be flat, hipped, or front-gabled. Flat roofs shall incorporate a decorative cornice line that clearly identifies the top of a building.
- H. The form, scale and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- I. Mechanical equipment on the ground or on the roof shall be screened from view.